

Business, Energy and Industrial Strategy Committee

Oral evidence: Post-pandemic economic growth: state aid and post-Brexit competition policy, HC 742

Tuesday 26 April 2022

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Watch the meeting

Members present: Darren Jones (Chair); Richard Fuller; Ms Nusrat Ghani; Paul Howell; Charlotte Nichols; Mark Pawsey.

Questions 253 - 301

Witnesses

[II](#): Paul Scully MP, Minister for Small Business, Consumers and Labour Markets, Department for Business, Energy and Industrial Strategy; Niall Mackenzie, Director, Consumers and Competition, Department for Business, Energy and Industrial Strategy; Alesha De-Freitas, Deputy Director, Competition Policy, Department for Business, Energy and Industrial Strategy.



Examination of witnesses

Witnesses: Paul Scully, Niall Mackenzie and Alesha De-Freitas.

Q253 **Chair:** We are now going to shift over to our second panel and welcome the Minister, Paul Scully, and two officials from the BEIS Department, Niall Mackenzie, the director for consumers and competition, and Alesha De-Freitas, the deputy director for competition policy.

Good morning to all of you. Welcome back to the Committee, Minister. It is nice to see your officials with you this morning as well. My first question is one that I thought was posed interestingly in the first panel. Is competition getting better or worse in the UK economy?

Paul Scully: It is changing. It is clearly changing.

Q254 **Chair:** Is it going up or is it going down?

Paul Scully: It is difficult. There are certain sectors where competition is improving, and certain sectors that the CMA really needs to keep a close eye on. We can talk about the energy markets, for example; we can talk about digital spaces, as Mr Howell was talking about earlier on. They are evolving really quickly. It is difficult to give you a straight answer on that, but, in terms of consumer law and the consumer approach, we are getting the balance largely right in the CMA.

Q255 **Chair:** Does your Department publish figures on competition?

Paul Scully: The CMA reports back.

Niall Mackenzie: Yes, as Lord Tyrie pointed out, the Chancellor and the Secretary of State wrote to the CMA a couple of years ago and asked for a state of competition report, which it produced. The second one of those will be published very shortly.

We have asked CMA, thanks to Lord Tyrie's helpful suggestion, to evidence what the impact is on the economy. We would agree with some of Lord Tyrie's comments in terms of the content of that report. We want to make it more relevant and more measurable. We are working with the CMA and Treasury colleagues to try to improve the quality and the accessibility of that report.

Q256 **Chair:** I always ask this question without much success, but what do you mean by "very shortly"?

Niall Mackenzie: It is the CMA that decides, but my understanding is that the intention is to do it certainly before the House rises.

Q257 **Chair:** That is great. Thank you. Minister, we have left the European Union. We used to be part of the Consumer Protection Cooperation Network, which looked at consumer and competition issues across the whole of the European single market. We are not in the single market any more, but we have had evidence from witnesses that there would be a



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benefit for the UK in collaborating with our partners in the EU, given that we continue to buy and sell goods and services, albeit less of them, from and to the EU. Is this on your agenda? Are you asking for something under the trade and co-operation agreement for collaboration?

Paul Scully: There is nothing directly within the TCA, but we continue to explore how we can support UK consumers in their transactions both ways and with all traders in all the UK's trading partners, including the EU. If you look at the agreements we have negotiated with other countries, like New Zealand for example, there was a consumer chapter within that. We can see how other trading arrangements are developing. As things settle down with the EU, it would be good to continue conversations about how we can develop that closer working.

Q258 **Chair:** You mentioned that consumer rights is not part of the level playing field requirements in the TCA, which means we can go off and do whatever we like in respect of what happens in the EU. We have been asked questions about whether the acquis that we inherited from the EU will remain as a solid baseline. Where we do deviate, will we just be responding, as for example in your Department's response to online subscriptions, as opposed to changing the legislative baseline that we inherited from the EU? Is that correct or do you anticipate more fundamental changes in consumer law?

Paul Scully: There is not a zero-based accounting approach to this in terms of taking everything off the table and putting it back on again. We have an excellent record of consumer protection, which is not dependent on EU membership, and we would want to build on what we have. Things like the subscription traps may well change as we utilise the new freedom to diverge from the EU, but we will be building on what we have, frankly.

Q259 **Paul Howell:** If we try to look at this in a positive sense for a second, how are the Government going to ensure that any changes to the UK competition regime will provide adequate economic opportunities and benefits to our businesses and our consumers?

Paul Scully: First of all, good regulation is of benefit to good markets. It increases competition, confidence from consumers and confidence from businesses that are seeking to invest. Bad regulation clearly just adds cost and bureaucracy to businesses; it does not provide that turbo-charge that you are seeking.

We are looking to make sure the CMA can expedite its investigations quickly, so we can give businesses certainty that we can address any areas of concern quickly.

Q260 **Paul Howell:** I do not mean to interrupt, Minister, but earlier we heard concerns that there was not enough pressure coming on in terms of expedition or primacy for consumers.

Paul Scully: This is exactly one of the changes we are making, as we announced the other day, alongside the changes around subscription



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trap, fake reviews and the like. In terms of competition in particular, we are allowing the CMA to penalise companies that are slowing down investigations, for example. We are also enabling them to expedite their investigations by acting themselves. Should a company be concerned about the findings of the CMA, they will have recourse to the High Court, rather than the other way around.

Q261 Paul Howell: Just picking up on a point we were discussing earlier, as I think you heard, it is not just about having good legislation; it is about the consumer and the business having confidence and clarity in that legislation. Is there anything you are planning to do to make sure that gets to a better situation?

Paul Scully: Greater transparency and greater communication of the CMA's work will help with that. If you look at the cases that are coming through, we are doing the kind of demonstration you are talking about. If you look at subscription traps, the cost of people getting involved in subscriptions that they later cannot get out of is about £60 per household. That kind of thing will give consumers the confidence that the CMA and Government are on their side. They will gain that confidence through that kind of approach.

Q262 Paul Howell: That sits as part of what was earlier described as rip-offs and bad business practices. It is the sort of thing we are trying to address. That is what you are hoping will be achieved. How will you ensure it is achieved? How are you going to measure or evaluate whether it is achieved?

Paul Scully: Yes, this is the close working relationship that we have and that we are looking to build further with the CMA to make sure it is acting in the way that we expect it to. We have clearly given the CMA many more roles, with things like the UK internal market and the subsidy control framework coming on stream.

The CMA, as a respected organisation, has the expertise and capacity to do that. We are giving it those powers. We clearly want to hold its feet to the fire and make sure it is using them wisely. As Niall was saying, the CMA will be reporting back on a regular basis. That is how we will judge it and how Parliament will be able to scrutinise its work as well.

Q263 Paul Howell: One of the points we heard earlier, before you came into the room, was that there were many good people working in the CMA and many good things going on, but, from a capacity point of view, they were not able to deliver on everything they were doing. They are now getting extra responsibilities. Is there extra resource coming? Will there be a change in focus? What is going to happen to make sure we do deliver on the good things that are being proposed?

Paul Scully: We will clearly make sure that they are resourced for the extra duties that we are asking them to do. These are some pretty important and fundamental duties, things like the Subsidy Advice Unit, so it is important that we do resource them right. We are recruiting a new



chair at the moment as well, which I hope to be able to announce very shortly—within weeks, to answer the question you were going to come out with—and, following on from that, a chief executive. That leadership will set the tone for the capacity issues you are talking about and make sure that each area is adequately resourced.

Alesha De-Freitas: The CMA has already increased by 50% in terms of staff from 2018 to now. There has been a sustained investment in growing the organisation in terms of people as well as its overall budget.

Q264 **Paul Howell:** Earlier, Lord Tyrie mentioned connectivity with the Department. I know some of the Department is going to be in Darlington and some down here. We need connectivity between the two. As somebody who lives in Darlington—Darlington is part of my constituency—I am absolutely up for making sure that we have the right people in there and the connectivity up and down is excellent. I am assuming you are very confident that everything should be able to link up.³

Paul Scully: Yes, in the same way that we are working through Government Departments and relocating a number of Government agencies and Departments into Darlington and other parts of the UK. We need to make sure that we are connected with the Government, and that the CMA is. As we place those agencies and Government Departments in those areas, it is also important that they are connected to the consumers in the communities they are in, not just all being here in Whitehall.

Q265 **Ms Ghani:** Good morning, Minister. Talking about competition, there is only one story in town: Elon Musk buying Twitter. Is that good or bad for competition?

Paul Scully: That is an interesting question.

Ms Ghani: No one is listening. It is just between friends.

Paul Scully: I can see my Twitter feed going crazy, whatever I say. It is difficult to say. I say this for two reasons. First of all, it is so early in the game. We will have to see how it develops. It is more interesting for free speech and how that develops.

Secondly, frankly, of all parties, Government are not great at predicting how digital markets move. They tend to be behind the curve on anything to do with social media and the digital space, because people can move so quickly in that area, as Elon Musk has done. He has surprised the world by the speed of his takeover. If he gets it right, the aims he has are noble. It is just whether he can actually achieve the aims of encouraging open free speech by correcting the algorithms to encourage free and open speech.

Q266 **Ms Ghani:** Your Twitter feed is safe, but the next question is more complicated. The Online Safety Bill has extraterritorial powers. Elon Musk



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has said that he will have absolute free speech on Twitter. Unfortunately, the Government's Online Safety Bill mandates that platforms have to remove content that emotionally distresses people. Are we going to be arresting Elon Musk when he arrives in the UK or are we going to change the Online Safety Bill?

Paul Scully: The Online Safety Bill does not sit with me. We will not be arresting Elon Musk. I can leave that with you. That is what I mean, actually.

Q267 **Ms Ghani:** It is an issue, is it not?

Paul Scully: It is. That is what I mean about Government and digital spaces working at totally different speeds.

Q268 **Ms Ghani:** You mean Government not understanding digital spaces and legislating without understanding the powers they have.

Paul Scully: It is really important that we have that debate to make sure we can have a rounded policy that is sufficiently flexible to be able to cope with this fast-paced technological change. Coming back to things like the CMA and the Digital Markets Unit, we have tried to remain largely open and flexible in our approach to competition and to these kinds of things in the technology space and the digital space specifically because it is so fast moving. If we were too prescriptive, we would tie ourselves in knots and end up changing the legislation most years.

Q269 **Ms Ghani:** This legislation is now going to have to be reconsidered, one could argue, as would the powers of Ofcom, if it was going to withdraw British users from Twitter so that Twitter was not breaking the law.

I am going to come on to safer ground for you. The Consumer Protection Partnership brings together the main UK bodies with consumer functions to act against consumer harm, which sounds fantastic. Can you explain to me why the CPP has not published a report since 2017? What are you hiding, Minister?

Paul Scully: We are not hiding anything. We did not actually have an obligation to publish minutes, but we are happy to do so. We have been prioritising, at the early stage, ensuring the CPP can work effectively together rather than necessarily just producing the reports. It is about getting it started. The individual member organisations do highlight their activities as well, including their work on CPP. We can happily publish summary notes of the work in the CPP. We are very keen on transparency and keen to do more in that space.

Ms Ghani: You will be publishing—

Paul Scully: If the Committee thinks that is helpful, we would be happy to publish summary notes of future CPP discussions.

Q270 **Ms Ghani:** It is wonderful to have that transparency. We heard earlier on from Lord Tyrie that the CMA was only able to function on two of its five



key functions, yet it is having to expand and take on more and more responsibilities. How are you going to ensure not only that the CMA has these powers but that it is going to be able to be held accountable? There is some anxiety around how it is being held accountable and how it will continue to do its old job, let alone its new job.

Paul Scully: Again, I come back to transparency. The more open the CMA is, and the more questions we are asking, as Government and as parliamentarians, the more we will enable that accountability. It is not just us. Although there is considerable expertise across the two Houses in terms of competition law, there are clearly a lot of other competition lawyers, experts and, indeed, business practitioners who are subject to the findings and approaches of the CMA, who will be looking on carefully. The media coverage that therefore follows will start to provide that accountability.

I come back to the resources issue that Alesha talked about. We can enable the CMA to conduct these increased responsibilities by making sure it is staffed well and led well, through the new appointments we are making at the moment.

Q271 **Ms Ghani:** You think it will require more resources. We know there has been an increase in resources. It has all the legislative powers it needs. Why is it not able to conduct itself fully at the moment? There must be something much more granular. Can you tell us why it is not able to function?

Paul Scully: I am not sure. In terms of where we are going with it, we are looking to expedite powers; there will be appeal rights there. We are looking to make sure the enforcement administration of the CMA is demonstrably fair and proportionate. The civil courts themselves will have new penalty powers as well. We want to have consistency across the board. I am not sure I recognise what you said. I do not know whether Niall or Alesha has anything to add.

Niall Mackenzie: I am not sure we agree with the proposition. The relationships that the Government, the Minister, the Secretary of State and officials have with the CMA are robust. There is a regular dialogue. We do not always agree. It is an independent regulator. Treasury colleagues have the same dialogue. The CMA sets out its plans. It has an annual report and it has set out forward plans. If there is an accountability gap, it must be more a concern about whether parliamentary committees are summoning them frequently enough to give evidence. You have had them here. The CMA has been in the Lords Communications and Digital Committee recently as well.

If there is a concern about the direction of the CMA, there are a lot of forums and spaces for people to register that concern. The Government have that dialogue largely in private with the CMA. We do give the strategic steer, which is due for a refresh, but which sets out the Government's steer for the body.



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The legislation we are proposing, both that already published on competition and consumer, and that which we are about to publish on digital markets, demonstrates that we see that they need more powers, but also that they need to be more transparent and accountable, so that people can see this. We have the framework there. It is then up to those who are unhappy with particular directions to express that, and then we will work with the CMA.

Q272 **Ms Ghani:** Who is unhappy?

Niall Mackenzie: Lord Tyrie clearly does not believe they are perfect in every way. I am not saying they are perfect in every way, but that is the issue. He says there is an accountability gap. I am not quite clear where the gap is.

Q273 **Ms Ghani:** Mr Mackenzie, it is extraordinary. We have someone who was on the inside and is now on the outside saying that, when they were on the inside, it was not functioning and there were issues with leadership and getting work progressed. You are saying that one of the things we can do to hold it to account is to have more committees. It should not require committees to hold it to account.

Paul Scully: There are always going to be issues within boards, even. Not everyone is going to agree. There may be people within the CMA who do not agree with each other, but there is always a collective responsibility within the CMA, in the same way there is with Government. That does not mean the questions are not being asked of the body from within, from the Government looking in or, indeed, from outside experts looking in. There is always going to be a tension there, not least with the changing landscape of what the CMA is doing and of the markets it is administering.

Q274 **Ms Ghani:** On 20 April, the Government announced enhanced powers for the CMA to tackle rip-offs and bad business practices. Minister, when I go home to my constituents, what tangible thing can I tell them you are doing that is going to help them out?

Paul Scully: There are two things. I talked about subscription traps, which is when you sign up to something and you cannot get out of it very easily. We estimate it at £60 per household of subscriptions that they cannot get out of very easily. In the cost of living situation at the moment, 60 quid would be quite helpful for most people to have in their pocket to spend on other things.

The second is banning fake reviews. Again, per household, something like £900 of online purchases are made each year based on reviews. If you cannot rely on the review you are looking at, you do not know what you are getting. We are looking to ban writing, posting and paying for fake reviews on websites.

Q275 **Ms Ghani:** I am sorry. I said it was my last question, but the Minister then expanded his answer. On online fake reviews, this goes back to the



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Online Safety Bill and the assumption that we will be able to use those extraterritorial powers. How are we going to do that, if those websites are not anywhere close to us?

Paul Scully: If they are posting on UK servers, it is far easier to do. It is complicated when you get to that level of extraterritoriality. If it is a purchase that is made in the UK—I am not an expert on it—I am pretty sure you are subject to UK consumer law. Therefore, that would be—

Ms Ghani: Do you know what would be fantastic? Going back to our supply chain report that we did a year ago, could we have a little marker on those websites that showed if a product was made by Uighur slave labour? If you can do the first, you can definitely do the second, Minister.

Q276 **Chair:** Before we move on to subsidy control, we have heard that the leadership of the CMA needs to come with a different mindset, have a more visible face and be more engaging in public with consumers. Do you agree with that? Are we going to see that in your preferred candidate for the chair and, in the future, the new CEO of the CMA?

Paul Scully: First and foremost, we want to make sure the chair and the CEO have the requisite expertise and ability to lead that team of highly expert people around them and marshal their talents into a cohesive team. If they are going to be transparent and accountable, clearly that is going to be a major part of their job description as well. I am very much someone for transparency, so I would expect that to be right up there.

Q277 **Chair:** On that point about transparency, just now you mentioned legislation. Is there going to be something about this in the Queen's Speech?

Paul Scully: I could not predict what Her Majesty is going to be saying on 10 May.

Chair: It was worth a shot.

Q278 **Paul Howell:** I want to move the discussion on a little bit to the changes to the thresholds for subsidies in the sectors of particular interest that were set out in the policy statement on 25 March. There are two parts to the discussion that I want to go into. First, how will the Government support public authorities and subsidy recipients who might have an increased burden in terms of having to respond to this lower threshold?

The second is a discussion about the sectors that are listed there. We seem to have a continual discussion of what is an important sector. Given Covid, the need to protect supply chains and to become more resilient in the UK, and what is happening in Ukraine at the moment, how much of a moving feast are these particular sectors going to be?

Paul Scully: On that first one, did you ask whether we are going to support public authorities?

Paul Howell: It was public authorities and subsidy recipients.



Paul Scully: A lot of this will be done through guidance. We want to make it as easy as possible; we want to make it transparent. That is why I was pleased that we were able to respond to the many people, including John Penrose, Kevin Hollinrake and others, who were raising greater transparency in the subsidy control framework as important to them, and rightly so. We were not able to match their exact needs, and that is why we ended up with the balance we did. They wanted to have every transaction over £500, in the same way that local authorities do with their spending at the moment. We felt that was too onerous on public authorities, to be honest.

I think this reaches the right balance. Clearly, we have had an impact assessment done. I forget the exact total for the estimated cost on public authorities, but we have got the balance about right on how we will do it. It will be done through guidance; it will be done through work with those local and public authorities, so they know exactly what to expect.

What we have tried to do with the framework in general is make it a permissive framework. Rather than going through the framework that state aid has, where you have to ask permission and jump through a lot of hoops, we have made it as easy as possible. We have said, "Do you know what? This is something you need now either through a scheme or through a payment or assistance. You can have that now. If it is challenged, that is when the administration may come". We have tried to make it easy.

I have forgotten your second question now.

Paul Howell: It was more about the sectors that are defined.

Paul Scully: We are consulting on the sectors of particular interest at the moment. We have given an idea of the amount above which we believe it will be a subsidy of particular interest, but we are consulting on the sectors now. We are working with the devolved Administrations and with public authorities to make sure we get those right.

I talked a lot about the changing nature of things like technology, for example. That does not mean in the future we will not need to change them, clearly, as things adapt and change. We want to get it right first time, if we can.

Q279 **Chair:** In terms of engaging with the devolved Administrations on the subsidy control regime, do you have any updates for us on how that is going since the Bill went through the House?

Paul Scully: Again, you are meeting some of them this afternoon, are you not?

Niall Mackenzie: We are meeting this afternoon, yes. We are seeing and talking to the devolveds regularly. The drafts of the guidance that we are producing are being shared with them. That is all ahead of the public



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consultation. We are moving at pace to try to get the scheme up and running quickly and get the guidance out quickly.

We are doing our best to try to make sure they can keep up with what we are giving them. If the guidance is not helpful to them and to the public authorities in their areas, it will not be sensible guidance. We need their help, and we are working closely with them.

Q280 **Chair:** When are you hoping to get the guidance published?

Niall Mackenzie: It will be as soon as practicable, but it will not be as quick as the previous announcements we have made. I would say autumn.

Q281 **Chair:** Just briefly on the Northern Ireland protocol, I do not know whether you will be able to speak to this, Minister, but one of the issues is the ECJ jurisprudence over subsidies in Northern Ireland. Do you have any update for us on the Subsidy Control Bill and the Northern Ireland situation?

Paul Scully: I do not have anything specifically on the ECJ, but, under article 10, aid for goods and wholesale electricity that affects trade with the EU is subject to EU state aid rules. What we are concerned about is tackling the reach-back. There has to be a genuine connection between Northern Ireland and Great Britain. Say, for example, a company in GB has a subsidiary in Northern Ireland; that might be subject to reach-back. We are trying to get as much clarity for businesses as possible so that they fully understand that.

We continue to work, as part of the Northern Ireland protocol discussions, with the EU on what more we can do, because we still believe that the majority, if not all, of subsidy control can come within the UK subsidy control regime, rather than the state aid regime, if we can get the negotiation right.

Q282 **Chair:** This is rumbling on and probably will continue to rumble on. Your colleagues in the Foreign Office are leading on the negotiations. Is it holding back subsidy decisions in Northern Ireland right now?

Paul Scully: Not in my experience, no. I could not give you chapter and verse, but I have not heard that it is.

Q283 **Charlotte Nichols:** I want to pick up on some points that Nus made earlier about the interaction of digital markets regulation and competition policy with other fields such as online safety. We were in the US as part of our information gathering for this inquiry. Some of the other jurisdictions are looking at things like online harms and online safety in the round with consumer protection. Here, we are siloing it into two separate categories.

I have had some conversations this week with the Internet Watch Foundation, which has some concerns around interoperability. There are some online platforms that are quite good, on the whole, on online



safety, but people could move those conversations to other platforms with greater ease. That is where the concern about potential harms comes in.

I can think of a casework issue in my own constituency. As an example, there was a convicted paedophile, who, upon his release from prison, was then harassing his victim via social media. Facebook was quite quick to act on it and took down his account, and he was not able to contact his victim through Facebook. However, Twitter and some of the other social media platforms were not quite as proactive, and he was able to continue doing that. Of course, there are also instances where people will talk on gaming websites, and then quite quickly the conversation will move to encrypted platforms such as WhatsApp, where the risk of harm is much higher and policing that is much more difficult.

How can the Government ensure that the digital markets regulation that we are putting in place acts and interacts coherently with online safety?

Paul Scully: It is complex. Clearly it is complex for the reasons you have just said. The landscape is really complicated. We work closely with DCMS, which is the lead on digital competition reform, and with Ofcom and the Information Commissioner's Office.

We need to make sure that interaction works well, so that the boundaries are clearly defined and so none of those examples falls between the cracks. I know the CMA works closely with Ofcom as well. They are going to be delivering that online safety regime. The CMA has a memorandum of understanding with Ofcom, and they collaborate via the Digital Regulation Cooperation Forum and in other ways.

Exactly as you say, it is an area where we will have a debate, as the Online Safety Bill goes through its proceedings, to make sure we get it as robust as possible so nothing is falling through the cracks. What your constituent has had to go through does sound horrendous.

Q284 **Charlotte Nichols:** In terms of continued co-operation, these pieces of legislation are coming in separately and at different times. We want to ensure that where they converge and diverge is something that moves with developments in that digital space. You said yourself that Governments do not tend to be very good at reacting to what is going on within that digital space and the pace and scale of change within it. Is there going to be some memorandum of understanding between the different Departments about how they can continue to work together and adapt or amend the legislation, where necessary, in order to meet that challenge?

Paul Scully: That is something we will explore. I talked about Government not necessarily having that flexibility. The CMA, though, has a lot of expertise within it. It already has certain powers under its existing approach for streaming, mobile ecosystems and these kinds of things. Indeed, within the next fortnight the CMA is publishing a report on mobile ecosystems. No; it is not next fortnight, but it is soon.



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The CMA is already doing a lot of work in the digital space. The people we have on the CMA board and who work for the CMA do have a lot of deep experience within these markets. They can be far more flexible than Government. I do not know, Alesha, if you have any thoughts on the MOUs or that closer working.

Alesha De-Freitas: We do not necessarily need an MOU between DCMS and BEIS. We are committed to close working, and we will continue to do that. There is a Digital Regulation Cooperation Forum for regulators, particularly CMA and Ofcom. There are now so many regulators that touch on that digital space. They get together and make sure there is a coherent and cohesive policy, and they share both emerging threats and their understanding of digital markets as they each do their separate pieces of work.

Niall Mackenzie: The other important thing to bear in mind is that the regime—when we publish the Government’s response, you will see this in a bit more detail—on digital markets is regulation of a handful of companies that have strategic market status. It will not have the breadth of application that you have described as being the problem for your constituent in terms of the number of entities that the Digital Markets Unit will ex ante regulate. It will be a much smaller piece of the field, and it will be the field that impacts on competition and consumers rather than safety.

There will be quite a difference in the breadth of companies that are being looked at in terms of what the CMA does and what Ofcom does. The two organisations and the two Departments are working very closely together to try to make sure there are no gaps in between or double regulation.

Q285 **Charlotte Nichols:** Yes, or potential unintended consequences, if something that creates more competition also opens up potential risks.

The Digital Markets Unit has been operating in shadow form since April 2021 and will require legislation to have statutory powers. Andrea Coscelli described the lack of legislation to us as “frustrating” in a previous evidence session. Can we expect legislation for the Digital Markets Act to be included in the next session of Parliament and, if not, why not?

Paul Scully: I have to refer the honourable Member to the answer I gave some moments ago.

Chair: We wait with anticipation, Minister.

Q286 **Paul Howell:** This is a nice easy one on digital markets. International businesses and organisations have significant market dominance. How do you limit or assess that dominance?

Paul Scully: We are leading that global conversation on digital competition overall. When we had the presidency of the G7, we led an



agreement to deepen co-operation on digital competition, looking at exactly this area. We have consulted widely. We have consulted deeply with international businesses, industry groups and other Administrations. We will clearly continue to maintain that dialogue with key stakeholders in the UK and internationally. As we have heard right from the beginning, it is a global field. It is not something we hold the strings or the pen on just here in the UK. It is important that we do get it right, but we will only do that with global co-operation.

Q287 **Mark Pawsey:** Minister, is it a problem that two-fifths of businesses have never heard of the CMA?

Paul Scully: I am not sure. You could say that is a good thing or a bad thing. I would like people to know more about the CMA, but it may be that two out of five businesses have no reason to be concerned about competition. You could make that argument, especially for microbusinesses, for example. It never came across my desk when I was running microbusinesses for 25 years. I did not have to worry about consumer or competition, but that was the field I was in.

Q288 **Mark Pawsey:** Do businesses understand that colluding with their competitors or operating as a cartel is against the law?

Paul Scully: I would certainly hope and expect that they would.

Q289 **Mark Pawsey:** Does the legislation that we have provide tools for the CMA to follow up where those things happen? Do businesses fear a CMA investigation? Should they fear an investigation?

Paul Scully: Yes, they should. Does the legislation achieve that? No, which is why we are changing the legislation. We are keen to do that. I talked about the fact that CMA could not expedite. We want to give it a more expedited role to be able to launch its own investigations, rather than go through the courts, and find against companies. We also are increasing the penalties that it can impose to 10% of global turnover for those companies that are slowing down an investigation or, indeed, are found against. We want the CMA to have more teeth and to be able to do those investigations more quickly.

Q290 **Mark Pawsey:** How important are the needs of the consumer when the CMA carries out its investigations?

Paul Scully: They are important. I take Lord Tyrie's point about having consumer need at the heart of the CMA. Rather than having that broad-brush approach, we have decided to tackle particular areas of consumer detriment more head-on. Having fair competition between companies is right at the heart of the CMA and the CMA's investigations, which ultimately is to the benefit of consumers.

Q291 **Mark Pawsey:** Going back to the digital sector, it is an area that is moving incredibly quickly. We have seen huge dominance by a small number of players. Are you happy that the changes the Government are



bringing forward are flexible enough? We may be creating legislation for today, but the situation may have moved in two or three years' time, because of the speed at which that sector changes.

Paul Scully: Yes, exactly. I hope I have highlighted that right the way through my remarks. Having a flexible system, rather than a tick-box system, as happens within the EU a little bit, will allow the CMA to tailor its approach to the individual firms and specific harms that it comes across, and to cope with that fast-moving landscape that I talked about.

Q292 **Mark Pawsey:** Are you bothered about the dominance of some of these big tech companies? Does it keep you awake at night?

Paul Scully: I am not sure it keeps me awake. It is important to remember that big tech does not automatically equal bad tech. It is important to get that regime right, so that we can prevent harm from the power that they undoubtedly have, but the big tech you talk about can still innovate and bring significant benefits to many people. There is a fine balance, clearly, to be struck there. That is why it is important to consult not just with consumers to see what they think, but with experts in competition law and, indeed, experts from the companies themselves in order to get that balance between benefits and harms.

Q293 **Mark Pawsey:** Nus Ghani referred to the acquisition of Twitter by Elon Musk. Will we be working with other jurisdictions to put our case? Do we have concerns? If we have them, clearly we will not be able to operate on our own. How does our policy work with other regulators?

Paul Scully: In terms of the wider aspects, the CMA can look at it from a competition point of view. Ofcom and DCMS will look at it from a free speech point of view and at the potential harms or detriment in that digital space. I have talked about the collaboration that we already have with our global partners, including Twitter. Clearly, we will continue to do that.

Chair: Minister, we have a few minutes so I am going to ask you a couple of other questions, if that is alright. I did not tell you in advance, so I apologise. There are only a few, you will be relieved to know.

First, you will have seen the ongoing reporting on Post Office Horizon. It is not often I say this to Ministers, but you have been doing some great work on making sure the compensation scheme is fit for purpose. There is a concern that victims are not getting full and fair compensation payments. They are being forced—I think that was the language—to accept settlements that they feel are not adequate for the losses they have suffered. Do you share those concerns?

Paul Scully: I have not seen the detail of the actual settlement offers, but I know that Jo Hamilton and others have been cited. There are a couple of people who are going through the overturned convictions scheme, in the same way that there were a few people who went through the historic shortfall scheme, almost as testbeds to make sure they can



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have those negotiations and get them right. That will benchmark what comes afterwards.

For Jo and others, it will be a little bit slow. I hope they are having good and robust conversations but, when they do reach a proper settlement that they can agree with, it will help speed up the process because it informs the rest of the process.

Q294 **Chair:** So they are just teething problems.

Paul Scully: I would not say teething problems. The Post Office is here; Jo's representatives are here, so they need to work out exactly where they are going to reach on that spectrum. It is just benchmarking, really, as I say. Those early pilot cases, to give it another word, will help inform the rest of the process. By necessity, it needs to be looked at carefully so that we can then roll it out. Rather than just developing a scheme, we can use those as testbeds.

Q295 **Chair:** We wrote to the Post Office recently, because we were concerned that its annual accounts had not been published on time for the second year in a row. We received a response from the CEO of the Post Office that told us they would be coming shortly. We are about to prorogue this week. Do you know when the Post Office accounts will be published?

Paul Scully: I cannot remember off the top of my head. We have been working closely with the Post Office on the settlement we are giving it after the spending review last autumn to make sure we can keep it going with the social value we expect, as well as its economic expectations. I would expect that to be very soon, but I cannot remember off the top of my head, I am afraid.

Q296 **Chair:** In our session on Covid fraud, we were told by the British Business Bank that there is a fraud dashboard that provides you, as the relevant Minister, with data updates on the recovery of public funds where there have been concerns of fraud and on the work the banks have been doing to do that. We were offered sight of that. We have not seen it yet. We have written to the British Business Bank to remind it. Do you feel fully equipped with your fraud dashboard? Do you feel the banks are doing everything they can to recover public funds?

Paul Scully: I was speaking to the chief exec of the British Business Bank just yesterday to see what more we can do. They have set up a lenders group to make sure they are leaning in to each of the lenders. The Secretary of State is also writing to banks to make sure they do everything they can. We want to hold their feet to the fire and keep on pushing away. The dashboard is not something that I have seen directly recently, but I am speaking to Catherine, and I will speak to her successor when appointed. I will keep this at the top of the agenda.

Q297 **Chair:** Just on that, we had not been formally informed that Catherine was leaving as the CEO of the British Business Bank.



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Paul Scully: She was the interim CEO. She was always the interim CEO.

Q298 **Chair:** I see. You are advertising now for her replacement.

Paul Scully: We are going through that process now.

Q299 **Chair:** Lastly, the last time we saw you, Minister, it was jointly with the Transport Select Committee on P&O Ferries.

Paul Scully: Yes, it was.

Chair: The Insolvency Service, a BEIS organisation, was due to report on potential actions against P&O by 8 April. My understanding is that, as of last week, they have not delivered that advice yet. Have you seen it?

Paul Scully: They are taking action. The interim report that they came back with was the full report, apart from the fact that they have decided that they do have space to take action against P&O.

Q300 **Chair:** They did come back to you by 8 April with their initial view.

Paul Scully: I cannot remember the exact date, but, yes, I did not have any worries about that. I am assuming that I would have done if they had not—put it like that.

Q301 **Chair:** We were offered the chance to see that. Are you happy to share that with us?

Paul Scully: I am happy to share what I can. I will go back, find out and give you everything I can.

Chair: Thank you. That is it for today's session. Thank you to all three of you for your time and your contributions. No doubt we will see you again soon, Minister. We will now bring this session to an end.