Prices, competition and consumer protection – CMA submission to the Business and Trade Committee

1. Overview

1.1 The Competition and Markets Authority (CMA) welcomes the opportunity to give oral evidence to the Business and Trade Select Committee as part of its work on prices, competition and consumer protection. To support the Committee's scrutiny, this written submission explains how the CMA's statutory duty[1] and functions relate to prices and pricing practices. Reflecting the Committee's particular interest in the live events sector, we have also provided an update on our investigation into Ticketmaster's sale of tickets for the Oasis reunion UK tour (section 5).

1.2 Ensuring clear and competitive prices has been and continues to be a priority for the CMA, as demonstrated by our work over several years, across a range of tools. From the price of a family holiday, to a cycle of IVF treatment; from the affordability of infant formula, to price competition and pricing practices in the groceries sector; and from buying a mattress to writing a will, we have acted across a range of sectors to help consumers shop confidently and find the best deal for them, to support businesses to comply with the law, and to tackle bad practices.

1.3 In responding to concerns around prices and pricing practices, we must act in a way that is consistent with our statutory duty and functions. In general, competition and consumer law afford businesses significant freedom to set prices, and to use a range of pricing practices. Consumer law requires that consumers are given the information (including about prices and pricing practices) that they need to take an informed decision; and through the Digital Markets, Competition and Consumers (DMCC) Act 2024, it has been clarified to explicitly prohibit 'drip pricing'. Competition law can tackle excessive pricing where a business has a dominant position in a market. This is explained more fully, with reference to recent CMA work, in sections 2 and 3 of this submission.

1.4 Effective competition acts as an important check on high prices. Using its markets tools, the CMA can consider whether competition is working well through reviews, studies and investigations that look across whole markets or sectors. Prices and pricing practices are often considered as part of this work – for example, in the CMA's market studies into road fuel and into infant formula, and its ongoing market investigation into vets. Consistent with its statutory duty, where concerns around pricing have been identified, the CMA has generally looked first to measures that improve the effectiveness of competition, rather than to regulate prices directly. The role of the CMA's markets tools in respect of prices and pricing practices is explained, again with reference to relevant work, in section 4.

1.5 The CMA recognises that prices and pricing practices can lead to a range of issues and concerns, even in markets which are competitive, and where firms are compliant with competition and consumer law. For example, where personalised or dynamic pricing leads to certain groups losing out systematically, this may generate broader public policy concerns.

[1] Enterprise and Regulatory Reform Act 2013, s25(2) – "The CMA must seek to promote competition, both within and outside the United Kingdom, for the benefit of consumers".

The CMA stands ready to support the Committee and the government in considering issues arising from pricing practices that fall outside its direct remit.

2. Consumer protection law

2.1 The CMA has a role in enforcing a range of consumer protection legislation, including provisions to protect consumers from unfair trading in the DMCC Act;[2] the Consumer Rights Act 2015; and the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013. The CMA enforces these laws alongside a number of other bodies, including Trading Standards and sector regulators.

2.2 Provided traders are transparent and don't mislead their customers, consumer law does not provide the CMA (or other enforcers) with explicit powers to set or determine prices, or to intervene in pricing decisions. It does, however, prohibit:

- Certain practices – including pricing practices – that are likely to cause the average consumer to take a transactional decision they would not otherwise have taken, through misleading actions, misleading omissions, aggressive practices or contraventions of the requirements of professional diligence. For example, failing to provide accurate information, or any information at all, about the pricing model a business uses (e.g. dynamic or personalised pricing) could be a misleading action or omission if the average consumer needs that information to take an informed transactional decision.

- The omission of certain specified information from an invitation to purchase.[3] For example, an invitation to purchase must include the total price of a product – including any fees, taxes, charges or other payments that the consumer will necessarily incur if the consumer purchases the product. If the price in the invitation to purchase is different to the price the consumer actually has to pay, then this may infringe the law, for example, changing the price of a product after it has been added to an online shopping basket and the consumer has clicked through to the checkout page to pay.

- 32 specific practices, some of which relate to pricing – for example advertising products at a specific price when there is reason to believe that they will not be available in reasonable quantities at that price for a reasonable period (without making this clear); advertising a product at an attractive price to encourage interest and then refusing to sell at that price in order to persuade the consumer to purchase something different; and falsely stating that a product will only be available at a particular price for a limited time, to persuade a consumer to make an immediate decision.

2.3 Under its consumer law powers, the CMA has taken a wide range of action to ensure that consumers have access to clear pricing information, and that businesses understand their legal obligations. In addition to our investigation of concerns regarding the sale of Oasis concert tickets by Ticketmaster (see Section 5), this includes, for example:

[2] These provisions replace and update the existing Consumer Protection from Unfair Trading Regulations 2008 (CPUTRs), with some changes including new or more detailed prohibitions of practices relating to fake consumer reviews and 'drip pricing'.
[3] An invitation to purchase occurs when a business sets out details of a product and its price.

- Reviewing thousands of grocery products to make sure loyalty prices offered genuine savings – and publishing our findings.

- Reviewing unit pricing practices (i.e. where the price of an item is provided using a standard measure), both in-store and online in the groceries sector – and publishing a short guide for shoppers and writing directly to certain grocery retailers to highlight specific compliance concerns and to tell them to take action to address them.

- Taken action to tackle potentially harmful 'online choice architecture' – including in relation to urgency and price reduction claims used in the online mattresses sector.

- Carried out work in relation to self-funded IVF – including engaging with fertility clinics to ensure patients can compare fertility clinics' prices, and seeking changes from certain clinics to address compliance concerns we highlighted to them.

- Taking action to address concerns in the online hotel bookings sector in relation to reference pricing and drip pricing.

- Taking action to address concerns about drip pricing in the car rental sector.

2.4 Looking ahead, the CMA is committed to using its new direct enforcement powers under the DMCC Act to promote consumer trust and confidence, helping to grow the economy while deterring poor corporate practices.[4] We expect to focus our early action on egregious practices where the law is clear, including:

- Providing objectively false information to consumers. This might include information about prices and the way that prices are set.
- Fees that are hidden until late in the purchase process (sometimes termed 'drip pricing').[5] These can make it hard for consumers to identify the best deals, and hinder effective price competition.

2.5 On dynamic pricing in particular, the CMA is publishing findings from a project looking at how this practice is being used across different sectors of the economy, which have been shared with the Committee. This work has been informed by engagement with businesses in sectors including air travel, hotels, passenger rail and hotels, alongside academics, regulators, trade groups and consumer bodies. As well as setting out the circumstances where dynamic pricing can lead to better (or worse) consumer outcomes, the findings contain considerations for

[4] Under the DMCC Act, for the first time, the CMA is able to decide whether certain key consumer protection legislation has been breached without having to take businesses to court. Where the law has been broken, the CMA may impose fines up to 10% of annual worldwide turnover, as well as directly enforcing undertaking agreed with firms to resolve a problem affecting consumers. The DMCC Act also allows other enforcers of consumer protection law, such as Trading Standards Services and sector regulators, to apply to civil courts for the same monetary penalties issuable by the CMA.
[5] The DMCC Act updated consumer law in respect of 'drip pricing'. Where the law is already clear and largely unchanged (i.e. in relation to untrailed, unexpected charges through the purchase process), the CMA has provided guidance to businesses, and may take enforcement action over the coming year. For other aspects of drip pricing that have created more uncertainty – including fixed-term periodic contracts – the CMA will run a further consultation on revised draft guidance in the summer, and will produce finalised guidance in this area in the autumn.

businesses to help them comply with consumer law, to build trust and confidence in their pricing practices, and to enable their customers to make good decisions.

2.6 The CMA shares consumer enforcement powers with other enforcers, including Trading Standards and sector regulators. Furthermore, other bodies have been appointed and funded to deliver specific programmes of enforcement work, such as scams, e-crimes, property, business advice or direct consumer advice, and support to the general public. We are committed to working closely with these other enforcement bodies to share intelligence; to ensure action is taken by the enforcer best placed to do so; and to ensure action is co-ordinated, avoiding unnecessary business burdens.

3. Competition law

3.1 The CMA can investigate breaches of competition law (which can relate to prices and pricing practices), and take action, including fining companies, and seeking the disqualification of directors through the courts, where it finds an infringement.[6] The CMA can only open a competition law investigation where it has reasonable grounds to suspect an infringement.

3.2 Agreements between businesses to fix prices are anti-competitive and prohibited under competition law. This includes not only agreements between competitors, but also 'vertical' price fixing, whereby suppliers require retailers not to sell below a certain price. The CMA has acted robustly across a number of sectors – including estate agency and replica football kits – to tackle and deter price fixing.

3.3 Where a firm has a dominant position in a market, charging excessive prices may constitute an abuse of that dominance. The assessment of whether a firm has a dominant position includes consideration of a number of factors, such as whether a firm has held substantial market power over a period of time; barriers to entry and expansion by others in the market; and the ability of the firm to behave independently of the normal constraints imposed by competitors. Whether prices charged by a firm in a dominant position are abusive under competition law requires complex, case-specific assessment. A key focus of the CMA's enforcement in relation to excessive pricing has been on the prices charged to the NHS for certain generic (unbranded) drugs by certain pharmaceutical companies –for example, a recent Court of Appeal judgment upheld our penalties of £99 million relating to excessive pricing of liothyronine – a drug designed to treat thyroid deficiency – which saw prices increase by over 1,100% between 2009 and 2017.[7]

3.4 Although we took steps during the Covid-19 pandemic in response to sharp increases in the price of essential goods, such as hand sanitiser, charged by certain retailers, competition law is not designed to swiftly and comprehensively tackle crisis-driven price gouging.[8] As a result, during this period, the CMA also provided advice to government on the design of anti-price gouging legislation, although these measures were not, in the end, taken forward.

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[6] The CMA enforces competition law across the economy. Under concurrency arrangements, competition law is applied in the regulated sectors not only by the CMA, but also by the relevant sector regulators.
[7] [2025] EWCA Civ 578
[8] See, for example, Protecting consumers during the coronavirus (COVID-19) pandemic: update on the work of the CMA's Taskforce - GOV.UK

4. Markets tools

4.1 Sometimes prices and pricing practices can indicate that competition is not working effectively – for example, if prices are sustained across a market at levels that are significantly above costs of production, or if consumers find it hard to access or compare prices. The CMA's markets tools enable it to look at markets where competition may not be working well and recommend steps (or, in certain cases, act directly) to address issues that it finds. The CMA generally completes around 2-3 pieces of markets work each year, and a number of recent projects have been motivated by concerns around high consumer prices.

Road fuel

4.2 The CMA's 2023 market study into road fuel was launched in the context of widespread concern about high fuel prices. It found a lack of effective competition had allowed firms to raise their margins on road fuel, costing drivers filling up at supermarkets an extra 6p per litre on average (and diesel drivers an extra 13p per litre). We recommended a range of measures to improve competition and drive down prices, including a statutory monitoring function (which the CMA is now carrying out), and the introduction of a real-time price data sharing scheme, which would enable other services, such as navigation apps, to help consumers find the cheapest fuel, without them having to drive around to observe prices from the road (which the government has committed to introduce following passage of the Data (Use and Access) Bill).

Infant formula

4.3 The CMA's market study into the supply of infant formula was launched after our 2023 report into price inflation and competition in the groceries sector[9] found that the average price of infant formula had risen by 25% over the previous two years. The CMA published its final report[10] in February 2025 setting out comprehensive proposals to help parents save hundreds of pounds a year – including through better information about the nutritional sufficiency of all infant formula, and strengthened labelling and advertising rules to reduce the influence of branding on consumer choice.

Vets

4.4 Our vets market investigation[11] was launched after a CMA review of the sector found a number of potential concerns, some of which related to prices and pricing practices. As part of the investigation, we are considering evidence that may indicate price rises of more than 60% between 2016 and 2023; medicines sold for 3 to 4 times the purchase cost; and limited price transparency. We are aiming to publish a provisional decision setting out our findings and potential remedies in September 2025, and a final decision in February 2026.

5. Ticketmaster: consumer protection case

5.1 On 4 September 2024 the CMA opened an investigation into Ticketmaster's compliance with consumer protection law in relation to the sale of Oasis concert tickets and invited fans to submit evidence of their experiences in relation to the purchase or attempted purchase of

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[9] Price inflation and competition in food and grocery manufacturing and supply
[10] Infant formula and follow-on formula market study final report - GOV.UK
[11] Veterinary services for household pets - GOV.UK

Oasis tickets. The CMA also used its formal powers to obtain evidence from Ticketmaster and others.

5.2 After a thorough investigation, the CMA identified the following consumer law concerns in relation to the Oasis sale:

- Labelling certain seated tickets as 'platinum' and selling them for near 2.5 times the price of equivalent standard tickets, without sufficiently explaining that they did not offer additional benefits and were often located in the same area of the stadium. This risked giving consumers the misleading impression that platinum tickets were better.

- Not informing consumers that there were two categories of standing tickets at different prices, with all of the cheaper standing tickets sold first before the more expensive standing tickets were released, resulting in many fans waiting in a lengthy queue without understanding what they would be paying and then having to decide whether to pay a higher price than they expected.

5.3 The CMA did not find evidence that Ticketmaster used an algorithmic pricing model to adjust ticket prices in real time according to changing conditions like high demand.

5.4 Due to the date on which the Oasis sale occurred, the CMA is using its powers under Part 8 of the Enterprise Act 2002 (EA02). The new direct enforcement regime under the Digital Markets, Competition and Consumers Act 2024 is not applicable.

5.5 Under Part 8 of the EA02, the CMA is required to consult with Ticketmaster and try to seek a voluntary resolution to its concerns. On 24 March 2025 the CMA therefore set out in detail its concerns that Ticketmaster may have breached consumer law and the voluntary undertakings it would accept from Ticketmaster to address those concerns. Ticketmaster was given an opportunity to respond and agree undertakings.

5.6 Ticketmaster provided its response on 16 June 2025. Having carefully considered Ticketmaster's response, the CMA's view is that there is fundamental disagreement between the CMA and Ticketmaster about whether Ticketmaster's practices infringed consumer law. Ticketmaster has declined to provide undertakings in the terms sought by the CMA or indicate whether there is a form of undertakings which it would be prepared to offer.

5.7 The CMA has written to Ticketmaster to confirm that it has now discharged its obligation to consult with Ticketmaster and, given that no undertakings have been offered or agreed, is now preparing to litigate the matter if necessary.

5.8 The CMA will, in parallel, continue to engage with Ticketmaster in an effort to secure a voluntary resolution, should it indicate a clear and timely commitment to do so.

Competition and Markets Authority – 20 June 2025