

UK COMPETITION AUTHORITY LAUNCHES CONSULTATION ON MERGER REMEDIES: A SHIFT TOWARD FLEXIBILITY AND GROWTH?

By Niels Baeten, Bill Batchelor, Frederic Depoortere, Aurora Luoma, Giorgio Motta, Ingrid Vandenborre, Nick Wolfe and Lycia Ait Arab

Niels Baeten, Frederic Depoortere, Giorgio Motta and Ingrid Vandenborre are partners in the Brussels office of Skadden, Arps, Slate, Meagher & Flom LLP. Bill Batchelor is a partner in Skadden, Arps' Brussels and London offices and Aurora Luoma is a partner in Skadden, Arps' London office. Nick Wolfe is European counsel and Lycia Ait Arab is an associate in Skadden, Arps' Brussels office. Contact: niels.baeten@skadden.com or bill.batchelor@skadden.com or frederic.depoortere@skadden.com or aurora.luoma@skadden.com or giorgio.motta@skadden.com or ingrid.vandenborre@skadden.com or nick.wolfe@skadden.com or lycia.aitarab@skadden.com.

On March 12, 2025, the UK's Competition and Markets Authority ("CMA") launched a consultation on its approach to merger remedies, asking whether the authority should permit more complex remedies in Phase I investigations and whether the distinction the CMA draws between structural and behavioral remedies is helpful. The consultation represents a significant potential policy shift in the CMA's approach to remedies. The authority also introduced a new Mergers Charter, formalizing the CMA's growth agenda¹—reflecting a broader strategic shift in the UK's competition policy and aligning with the government's pro-growth agenda, as stated in the government's March

17, 2025, policy paper “New Approach To Ensure Regulators and Regulation Support Growth.”²

Takeaway Points

- The consultation is open for two months (until May 12, 2025), and the call for evidence³ is focused on modernizing the UK’s merger control framework, particularly in relation to Phase 1 remedies, remedy enforcement and the preservation of pro-competitive effects of mergers.
- Separate from the remedies review, the CMA Mergers Charter⁴ sets out clear principles and overarching expectations for how the CMA will engage with businesses and their advisers during merger investigations.
- Given the CMA’s increasing role in multijurisdictional mergers, the authority may formalize collaboration frameworks with other enforcement agencies to foster a more harmonized approach to remedies and reduce uncertainty for businesses operating across multiple markets.
- These initiatives align with the UK government’s growth-focused Strategic Steer to the CMA to be published in the coming weeks.⁵ The steering guide will set out how the UK government expects the CMA to support and contribute to economic growth.
- These initiatives, along with the Digital Markets, Competition and Consumers (“DMCC”) Act 2024, recent changes to jurisdictional thresholds and ongoing multijurisdictional collaboration, are moving the UK’s merger control regime into a period of significant transformation—one that businesses and regulators will be watching closely.

Background

Since the UK’s exit from the EU in 2020, the CMA has increasingly handled complex, multijurisdictional mergers alongside other competition authorities—

sometimes reaching different conclusions, including regarding remedies, than its peers in Europe and the U.S. The CMA last updated its Merger Remedies Guidance in 2018, and since then has continued its rolling merger remedy evaluations program, publishing the program’s latest findings in 2023.⁶

The CMA has faced criticism for its strong preference for structural remedies over behavioral ones, particularly in fast-moving sectors such as tech and telecoms. The consultation suggests a potential move toward greater flexibility—building on last year’s Phase 2 process changes, which allowed for earlier remedy discussions.⁷

The pro-growth agenda of the UK government also provides an important backdrop for this review. Both CMA chief executive Sarah Cardell’s recent speech⁸ and the government’s March 17, 2025, policy paper emphasize regulatory efficiency, reduced uncertainty and faster decision-making. This push has already led to several competition law changes, and the remedies review is just one element of a wider reform agenda that includes:

- Speeding prenotification and noncomplex Phase 1 reviews to reduce delays for transactions that do not raise significant competition concerns.
- Updating the CMA’s jurisdictional guidance to clarify how the regulator interprets “material influence” and “share of supply” tests—key thresholds for UK merger reviews.
- Exploring a more selective approach to global mergers to distinguish between those with a direct UK impact and those where UK-specific intervention may not be necessary if other regulators address concerns.
- Releasing a consultation in the coming months on legislative reform proposals, including proposals to provide more certainty about when mergers will be subject to investigation in the UK by ad-

addressing uncertainty within the existing share-of-supply and material-influence tests.

Introducing Greater Flexibility in Remedies and Streamlining Merger Control

A More Flexible Approach to Remedies

While the CMA has in theory been open to nonstructural remedies, including at Phase 1 of merger reviews, in practice it has leaned heavily toward structural remedies, citing concerns about enforceability and long-term monitoring. As stated in the March 17 policy paper, the new measures will “ensure that where CMA Market Investigations lead to binding remedies that businesses have to comply with, the necessity for them is regularly reviewed.”

The CMA is now reconsidering whether behavioral remedies could be a viable alternative in certain cases. To inform its review, it is seeking stakeholder input on when behavioral remedies might be more effective. In particular, the CMA is seeking to understand which factors—such as monitoring requirements, industry dynamics and remedy duration—influence the success of behavioral remedies. Additionally, the CMA is reviewing carve-out remedies to determine the risks they pose in different industries and whether enhanced purchaser due diligence could mitigate these risks.

Preserving Pro-Competitive Benefits

Recognizing that some deals—despite raising concerns—may generate efficiencies that benefit consumers, the CMA is reviewing how its framework captures factors such as economies of scale lowering prices and pooled resources driving R&D and innovation. It is assessing whether its approach properly accounts for rivalry-enhancing efficiencies, the evidence required to demonstrate them and how remedies can secure these benefits while maintaining competition.

The Relevant Customer Benefits (“RCBs”) test has historically been a high bar to meet, with only a few cases (such as an NHS hospital merger⁹) successfully demonstrating that a merger’s efficiencies outweighed

competition concerns. The CMA will evaluate whether its current approach to RCBs is too restrictive, and whether it should give greater weight to efficiencies that lower prices, drive innovation or enhance market rivalry. This could make it easier for merging companies to argue that their deals have consumer benefits.

Streamlining the Remedies Process

The CMA is looking for ways to streamline its Phase 1 and Phase 2 remedy processes to facilitate early engagement and enable more complex remedies in merger proceedings. It is also exploring ways to better coordinate with other regulators to ensure its decisions align with parallel actions and leverage government and sectoral expertise in the remedies process. Additionally, the CMA is considering how to incorporate external industry experts to enhance remedy assessment, implementation and monitoring. One key area of reform involves remedy monitoring and enforcement, particularly in light of the new fining powers granted under the DMCC Act.

Establishing the Mergers Charter and the ‘4 Ps’

While nonbinding, the Mergers Charter sets out clear expectations for how businesses and their advisers should engage with the CMA and signals a cultural shift for the regulator, reinforcing its commitment to faster, clearer and more proportionate merger reviews. Supported by the UK government, the charter focuses on four core principles:

- **Pace:** prioritizing key issues early and closing cases quickly when no evidence of harm is found.
- **Predictability:** clarifying jurisdictional scope, encouraging early engagement and improving communication on case progress.
- **Proportionality:** ensuring merger reviews and remedies are appropriately “scoped” to avoid unnecessary burdens.
- **Process:** committing to open, unbiased engage-

ment, clear timelines and increased access to decision-makers.

What's Next?

- Interested parties are invited to provide input on the CMA's approach to determining remedies and preserving pro-competitive merger efficiencies and merger benefits. The consultation will run until 5 p.m. (UK time) on May 12, 2025.
- To complement this call for evidence, the CMA will host a series of outreach and roundtable sessions to gather further input.
- The CMA will use the feedback received to develop specific proposals that will be published for consultation in autumn 2025, with an aim to implement changes by the end of 2025. The UK government expects to see (i) clearly and quickly how the CMA intends to account for the steering guide in its work, and (ii) details in the authority's annual report about how the CMA has applied the steering guide in practice. Accordingly, the CMA's framework agreement will be updated to include relevant reporting requirements.
- In the meantime, the CMA will continue to apply the 4Ps in handling cases.
- In recent years, CMA clearance and potential remedy requirements have been key considerations in merger control deal planning. Now that the UK government announced legislative plans to "tighten" and "limit" the CMA's jurisdiction by amending the share-of-supply test and the material-influence tests, 2025 will feature major changes in CMA jurisdiction and procedure, with potential implications for regulatory considerations in global deals.

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ENDNOTES:

¹See our December 2024 client alert for details about the agenda: <https://www.skadden.com/insights/publications/2024/12/cmas-growth-agenda>.

² <https://www.gov.uk/government/publications/a-new-approach-to-ensure-regulators-and-regulation-support-growth/new-approach-to-ensure-regulators-and-regulation-support-growth-html>.

³ <https://www.gov.uk/government/news/cma-launches-review-of-merger-remedies-approach-and-publishes-new-mergers-charter>.

⁴ <https://www.gov.uk/government/publications/mergers-charter-how-to-work-with-the-cma-on-a-merger-investigation>.

⁵ <https://www.gov.uk/government/consultations/draft-strategic-steer-to-the-competition-and-markets-authority/strategic-steer-to-the-competition-and-markets-authority>.

⁶ https://www.skadden.com/-/media/files/publications/2025/03/uk-competition-authority/cma_report_on_case_study_research.pdf?rev=5a39f6f65a404c0e8de9212c5fff509f&hash=1F986B47B77F43BFF04818CAC45D273F.

⁷See our May 2024 client alert for details about the Phase 2 reforms: <https://www.skadden.com/insights/publications/2024/05/uk-reforms-phase-2-merger-review-process>.

⁸ <https://www.gov.uk/government/speeches/driving-growth-how-the-cma-is-rising-to-the-challenge>.

⁹ <https://www.gov.uk/government/news/manchester-ho>