Slaughter and May Response to DBT consultation on refining the UK competition regime

1. Executive Summary

1.1 We welcome the opportunity to respond to the DBT consultation on "Refining Our Competition Regime" (the "**Government Consultation"** or the **"Proposal"**).

1.2 We also welcome the Government's and the CMA's continued engagement with the legal and business communities, as well as the public, to determine how best to advance our shared interests in structuring a competition regime that promotes growth and innovation. We set out below our responses to the questions raised in the Government Consultation. In summary:

(A) The move away from the use of a panel of independent experts (the "**CMA Panel**") to decide Phase 2 merger cases and market investigations is a significant change. The consultation paper does not address the question of whether the proposed changes require corresponding amendments to the procedural safeguards, and checks and balances on decision making in competition cases. We would like to see the Government propose and consult on a broader range of models that would help the CMA achieve its goals related to the 4Ps while preserving the confidence and integrity of the UK competition regime.

(B) We support the replacement of the existing market study and market investigation model with a single-phase market review tool, although we consider an "adverse effect on competition" legal test to be most appropriate, in addition to implementing appropriate safeguards on timing and pace.

(C) We have no concerns with the proposed reforms to the share of supply and material influence tests, but do not see them as more than a codification of current practice and note that the CMA would still be able to assert jurisdiction in the kinds of cases that have raised the most concerns about overreach in recent years.

(D) We support the extension of the Phase 1 remedies timeframe and consider that it should apply in all cases, rather than being subject to CMA discretion. The purpose here should be to encourage discussion as between the CMA and the merger parties on relevant remedies and not just to extend deadlines for submission of remedy proposals.

(E) We do not support enhanced information gathering powers as we consider such powers to be of limited enforcement value to the CMA and a significant burden for businesses that must comply with the requests.

(F) We do not have concerns with the Secretary of State's being consulted, but we do not support an approval role for the Secretary of State in the development of CMA guidance generally. We are concerned that any benefits of such an approach would be offset by the questions it raises regarding political independence and, by adding another stage to the process, we believe it would be likely to extend timelines to issue updated guidance documents.

(G) Finally, we support a statutory pause during the Christmas holiday and recommend such pause should begin on Christmas Eve and run through the first working day of the new year. We would like the introduction of such a pause to be accompanied by some form of protocol on the approach to case management over this period.

2. Enhancing accountability for CMA decision-making in mergers and markets

1. What impact do you think the proposed reform would have on the consistency and predictability of decision-making in merger and markets cases? Please explain your views.

2. Would the proposed reform for greater accountability for the CMA Board for merger and markets decision-making be something you would welcome? [Yes / No / Not sure]. Please explain your views.

3. Do you support the proposed membership requirements for the mergers and markets sub-committees/committees? [Yes / No / Not sure]. Please explain your views.

Q1-3 Views on the proposed reform in terms of impact on consistency and predictability of decision making, accountability of the CMA Board and proposed membership requirements for the mergers and markets sub-committees/committees.

2.1 For the reasons set out below, our view is that the proposed reforms:

(A) are unlikely to increase consistency and predictability of decision-making in merger and market cases (Q1);

(B) would not materially change the CMA Board's accountability for decisions, although they may affect the amount of direct control that the CMA Board has on specific decisions[1] (Q2); and

(C) are not sufficiently detailed on the operation of the proposed (sub)-committees to enable us to have a clear view – but we have a concern that the proposed model may be difficult to operate at scale because of the resource demands on a smaller pool of senior individuals. Duplication of decision makers at different stages of the process

[1] We note that, while the use of an independent panel may be unique to the UK competition regime, the idea that senior competition leaders are accountable for merger challenge outcomes without the ability to influence those outcomes is not too far adrift from other jurisdictions. In the United States, the Department of Justice ("**DOJ**") and the Federal Trade Commission ("**FTC**") must challenge mergers through litigation and advocate their position to a neutral judge or jury (*Note*: The FTC has an administrative court system but recently committed to bring merger challenges only to district court, specifically to improve its own credibility in light of recent challenges against their administrative tribunal on reasons of fairness and Constitutionality – *see* FTC only seeking to block mergers in federal court, Ferguson says - Global Competition Review (20 February 2026), https://globalcompetitionreview.com/gcr-usa/article/ftc-only-seeking-block-mergers-in-federal-court-ferguson-says. On the decision to only challenge mergers in federal court, **FTC Chair, Andrew Ferguson said, "I think there's a lot more credibility in the agency's enforcement when the final determiner of whether the law has been violated is not the person making the accusation.**").

also raises concerns about confirmation bias, which do not appear to be mitigated by any other changes to the system (Q3).

2.2 We can understand why the Government is reviewing the CMA Panel system, which has its origins in the pre-Enterprise Act 2002 legislation and structures. That the CMA Board is completely excluded from Phase 2 outcomes and has no formal role in the appointment of the Phase 2 panel, but remains accountable to Parliament for those same decisions, is arguably an anomaly of the current system. However, changes to the system need to be considered on a holistic basis as there is a risk that changing one part of the system without considering the whole may lead to a loss of important procedural safeguards that in practice help to maintain the quality of CMA decision making. The independence – and perception of independence – of CMA decision making is also, in our view, important to the perception of the UK as an attractive investment destination, and the CMA as a world-class authority on competition matters, by businesses both inside and outside the UK.[2]

2.3 More specifically, we are concerned that:

(A) There is considerable uncertainty as to how the new proposals would operate. We note that the Proposal requires at least half of the sub-committee members to be "non-executive members of the Board or drawn from the pool of non-CMA staff experts."[3] In theory, this means that this component of a Phase 2 sub-committee could be comprised entirely of non-CMA staff experts, or entirely of non-executive Board members, with no requirement for a particular balance between the two categories. It is also unclear how the composition of each Phase 2 sub-committee would be determined in each case, which raises the prospect that successive sub-committees may differ materially in their composition and, consequently, in their approach.

(B) The proposals would require significant investment of time from the CMA executives -- time that they might not be able to give. A hallmark of Phase 2 investigations is their depth and rigour, generally with significant engagement throughout from Panel members.[4] There is a risk that members of these proposed sub-committees, which would include CMA senior executives and staff who must juggle competing demands

[2] This concern has also been raised with the Business and Trade Committee in Parliament *See* House of Commons, Business and Trade Committee, *Pre-appointment hearing with the Government's preferred candidate for the Chair of the Competition and Markets Authority* (26 February 2026), para. 22 ("*We acknowledge the Government's statement of the importance of independent regulation in the area of competition and its commitment to ensuring the CMA has the powers and statutory framework it needs to fulfil its role. This expectation, together with the appointment of a potentially pro-growth candidate from a big company background as Chair of the CMA,* ***alongside other issues such as the proposal to remove the independent panel from the mergers and market regime, raises the question of whether the CMA will be able to act independently of the Government***.")

[3] *See* Government Consultation, para. 36.

[4] We assume that merging parties would enjoy the same access to the Phase 2 sub-committees that they currently experience with Phase 2 panels, as this is aligned with the CMA's previously stated intention to increase engagement with businesses (*See* New CMA proposals to drive growth, investment and business confidence – Competition and Markets Authority (13 February 2025), https://competitionandmarkets.blog.gov.uk/2025/02/13/new-cma-proposals-to-drive-growth-investment-and-business-confidence/). To the extent that the Government anticipates a change in the level of access or meaningful engagement on the merits due to, for example, decreased bandwidth from sub-committee members, we strongly urge the Government to reconsider the proposed composition of these sub-committees.

on their time, would be unable to engage with the substance of cases to the same degree. While we note that day-to-day decisions would be delegated to the case team, and agree that this would be helpful, this delegation could be equally achieved through modifications to the existing Panel structure.

(C) It is not clear that the "non-CMA staff experts" would be of the same standing as the current Panel. Our understanding is that under the Proposal, Phase 2 sub-committees would be able to draw from a candidate pool of "non-CMA staff experts", who are appointed by the Secretary of State for Business and Trade. However, it is unclear whether this candidate pool would have the same role or influence, and therefore whether the Secretary of State could recruit a pool of experts with the same breadth of sectoral knowledge, professional diversity, and decision-making experience that the current Panel membership provides.

(D) The digital markets regime might not be the right comparator. The digital markets competition regime is a purpose-built, ex ante regulatory framework designed for a specific market. It was only developed after an extensive, multi-year study of digital markets by the CMA and other authorities. By design, it applies only to a very small number of firms that operate in a discrete set of digital activities, and which – following an intensive investigation by the CMA – command substantial market power. It is more akin to regulatory monitoring roles in other markets that are subject to ex ante regulation – such as utilities (energy, water) – rather than the CMA's current ex post regime. It has also only been in effect for a relatively short time, and we consider it premature to draw broad conclusions from its operations.

(E) The Panel currently performs an important role in mitigating confirmation bias risks that does not appear to have been accounted for under this proposal. Under the proposed structure, the CMA Board would oversee decision-making at both Phase 1 and Phase 2, but without a corresponding check to mitigate the risk of confirmation bias infecting the new Phase 2 process. Moving Phase 2 reviews to sub-committees of the CMA Board removes an important structural separation between Phase 1 and Phase 2 decision-making, which has historically served as a check on the quality and impartiality of Phase 2 outcomes.

(F) The proposals further raise concerns about a trend towards increased politicisation of the CMA decision-making process. Whether or not such concerns are well founded, the perception of a loss of independence will be damaging to the perception of the UK as an attractive place to invest.

2.4 We would therefore like to see a more detailed and wider ranging consultation on reform options before a decision is made, which includes a more specific analysis of the issues that the reforms are intended to address.

(A) For instance, whilst this may have been an issue in the past, our recent experience does not suggest that inconsistency in Phase 2 decision-making is a major current concern for businesses. We also do not think that there has been significant recent demand in the legal or business community for reform of the Panel system – recognising at the same time that the current system is in many ways a product of

history and that there may be other ways of organising decision making that might be more efficient whilst preserving the overall balance of the regime.

(B) We would have expected to see consideration of alternative models used in other jurisdictions as a comparator for what the Government hopes to achieve through this reform – for example, the contentious model used in the United States, or the decision-making committees of the Bank of England.

2.5 If the Government nonetheless intends to proceed with the Proposal, then we see it as important that consideration is given to the introduction of additional reforms that would mitigate some of the downside risks of the Proposal in terms of its impact on the independence – and perception of independence – of CMA decision making, in addition to the quality of those decisions. Possible options that the Government could consider include:

(A) Strengthening parties' rights to appeal following a Phase 2 decision so that the substance of the CMA's decision may be scrutinised. This could be a "JR+" model, or a fully contentious appellate model, as in the United States. The current approach to appeals (a JR standard with the prospect, if an appeal is successful, of a mere remittal for consideration to the same panel) is at least partly calibrated on the basis that there has been an independent second stage review. If the CMA is moving towards a less independent second stage, then stronger appeal rights would be an appropriate counterbalance.

(B) The introduction of a robust and comprehensive access-to-file process at Phase 2, ensuring that parties have full visibility of the evidential basis for the CMA's provisional findings and can respond effectively. This is already a gap in the current system.[5] Transparency in the case against the parties becomes more important in the proposed regime, where confirmation bias risks are higher and questions of political independence persist.

(C) Strengthening the role of the hearing officer to provide the parties to a process with additional protections on a timely basis. An appropriately scoped regime could provide a "second pair of eyes" on procedural matters.

(D) Structural safeguards within the CMA to ensure that the individuals involved in the Phase 1 decision play no role in the Phase 2 sub-committee's deliberations, and that appropriate information barriers are maintained between the Phase 1 and Phase 2 case teams. Additionally, the CMA could consider creating structural barriers between

[5] Slaughter and May consider an access-to-file right to be fundamental to procedural fairness, irrespective of whether the government adopts its current proposal. *See Slaughter and May response to CMA Call for information: Phase 2 merger investigations*, para. 2.16-2.18; 3.1(i) (25 August 2023), https://assets.publishing.service.gov.uk/media/6557865d046ed400148b9b2c/Slaughter_and_May.pdf ("[P]arties cannot have a genuine opportunity to respond to the allegations that have been made against them and to express their views on the CMA's provisional conclusions [without an access to file]. In the interests of good public administration – and given what can be at stake for merging parties – we consider the CMA is at a minimum under a duty to provide better and more timely access to the inculpatory and exculpatory evidence on its file.")

the personnel leading the investigation and the decision-makers who determine the outcome.

(E) Enhanced transparency requirements regarding the composition of Phase 2 sub-committees, including the criteria for selecting non-CMA expert members and the process by which potential conflicts of interest are identified and managed.

3. Markets work and market remedies

Enhancing the CMA's markets work

4. Do you agree the existing market study and market investigation model should be replaced with a new single-phase market review tool? [Yes / No / Not sure]. Please explain why.

5. Do you agree the statutory time-limit for market reviews should be 24 months, with a possibility to extend by a maximum of 6 months? [Yes / No / Not sure]. Please explain why.

6. Do you agree there should be a single legal test for single-phase market reviews? [Yes / No / Not sure]. Please explain why.

7. If so, should this be the adverse effect on consumers test? [Yes / No / Not sure]. Please explain why.

CMA market remedies

8. Do you agree the CMA should consider sunset clauses when designing remedies? [Yes / No / Not sure]. Please explain why.

9. Do you agree the CMA should review market remedies at least once every 10 years? [Yes / No / Not sure]. Please explain why.

10. Should the CMA be able to delay reviews beyond 10 years in exceptional circumstances, providing it publishes its reasons for doing so? [Yes / No / Not sure]. Please explain why.

Concurrency

11. Should sector regulators be able to oversee market remedies imposed or accepted by the CMA? [Yes / No / Not sure]. Please explain why.

12. Do you support the proposed consultative approach, where the CMA must consider undertaking a single-phase review following a request from sector regulators? [Yes / No / Not sure]. Please explain why.

13. We welcome any other views or evidence on improving the concurrency framework.

Q4 Introduction of a single-phase review tool

3.1 We agree that the existing two-phase market study and market investigation model could benefit from reform, and a single-phase market review tool has the potential to deliver more timely outcomes.

Q5 Proposed revisions to time limits

3.2 We generally support the proposal as a positive step to shorten the total duration under which parties – or entire industries – are subjected to market studies and investigations. It is unclear from the proposal whether the CMA will be obliged either to publish a final report or to consult on a potential adverse effect after 6-12 months.[6] To the extent this is *not* the case, we consider it important that appropriate incentives are put in place to ensure that the CMA delivers its initial conclusions at pace to prevent undue delay. Ultimately, the statutory 24-month deadline with an option to extend by 6 months is not a significant time saving from current practice.

3.3 We are concerned though that a unified market investigation model "raises the stakes" for parties from the onset. Under the current regime, the decision-maker and the scope of remedies available to the CMA differ as part of the transition from market study to market investigation. From a pragmatic point of view, the unified model provides the CMA with a broader range of enforcement tools, but potentially with less time and information to rely upon when choosing whether to implement remedies. Therefore, the Proposal reinforces the concerns with respect to procedural safeguards that we raised in response to Questions 1-3 above.

Q6 and Q7 Single legal test for market reviews

3.4 We support a unified legal test for market reviews, but we consider that this should be the adverse effect on competition test, which is well understood.

(A) The consumer protection regime introduced by the Digital Markets, Competition and Consumers Act 2024 (the "**DMCC**") has only recently come into force. We believe the reforms brought about by the DMCC regime should be allowed to develop further before considering whether it is appropriate to broaden or change the scope of the market study regime.

(B) Should the Government proceed with a consumer test, we consider it would need to produce additional guidance to clarify how such a test would apply in practice and the circumstances in which it would lead to a different result compared to an assessment against a competition standard. Applying a consumer standard to intermediation markets, for example, where harm to consumers may be indirect or difficult to establish, creates uncertainty.

[6] *See* Government Consultation, para. 48 ("The below explains and illustrates how a single-phase review *is expected to work* …") (emphasis added).

Q8-Q10 Sunset clauses and market reviews

3.5 We support the use of sunset clauses and the periodic review of market remedies for the purposes of determining whether parties should be released from those obligations. But, as the Government Consultation itself acknowledges, these proposals are essentially codifying the approach the CMA has already set out in its own revised markets guidance.[7]

3.6 We also consider that once an initial review is conducted, the CMA should not be allowed to wait *another* ten years to conduct another review if remedy obligations persist after the initial review.[8] Subsequent reviews should occur more frequently so that burdensome remedy obligations do not drag on unnecessarily.

3.7 We also consider it important to confine the scope of any remedy review to consideration of releasing or reducing existing remedy obligations. Remedy reviews should not be an opportunity for the CMA to conduct a quasi-market review and impose obligations that were not originally contemplated.

3.8 We can understand why the Government would want to grant the CMA the ability to delay remedy reviews in exceptional circumstances if, for example, a *force majeure*-like event was to occur. But, on balance, we consider ten years to be a sufficient minimum requirement for the CMA to prepare for a remedy review, and a firm deadline provides certainty for businesses and encourages the CMA to review remedies without delay.

3.9 To the extent the Government decides to move forward with granting the CMA an exception to the ten-year remedy review timeline, we agree that the CMA should, in each case, publicly set out the exceptional circumstances that justify said delay and announce when the remedy will be reviewed.

3.10 We also consider that the proposal should go a few steps further to encourage communication and avoid unnecessary delays:

(A) The Government or the CMA should publish guiding principles that set out what may constitute "exceptional circumstances" in this context.

(B) The CMA should be subject to certain interim timelines pre- and post-decision to delay a remedy review, which encourages transparency and communication to businesses.

(i) For example, the CMA must definitively determine whether it will delay review within a certain time of a review coming due (e.g., 3-6 months). Similarly, should the CMA impose a delay, there should also be a requirement (e.g., every 6 months) to assess on an ongoing basis whether the "exceptional circumstances" are still present and justify continued delay.

[7] *See* Government Consultation, para. 62-64.

[8] *See* Government Consultation, para. 65.

(C) Finally, the CMA should publish metrics on remedy reviews to hold it accountable to the statutory timeline. This could be included as part of the CMA's Annual Report and may include metrics or analysis of the remedies it reviewed in the prior year, as well as a forecast of the remedies it anticipates reviewing in the upcoming year.

Q11-13 Concurrency and the role of sectoral regulators

3.11 We support the proposal that sector regulators should be able to oversee market remedies imposed or accepted by the CMA. This reform has the potential to encourage the CMA to accept a broader range of behavioural remedies in appropriate cases, on the basis that the sectoral regulator would be able to provide ongoing monitoring and oversight enforcement. We have previously suggested that this approach could be broadened beyond the regulated sectors.[9]

3.12 As regards the proposed consultative approach, we note from the CMA's 10-year review of its concurrency arrangements that there have been relatively few market studies and market investigation references from other sector regulators, so it is unclear how impactful this modification will be in practice.[10]

[9] *See Slaughter and May Response to CMA Consultation on Draft Merger Remedies Guidance*, para. 2.4 - 2.5 (13 November 2025), https://assets.publishing.service.gov.uk/media/69302694375aee4a15ee8aff/Slaughter_and_May.pdf ("In line with the '4Ps', the Final Guidance should broaden para. 7.37(b) to include additional third parties 'with appropriate expertise, powers and resources' to increase effective monitoring and enforcement – such as an industry Ombudsman – to avoid creating the impression that behavioural remedies will only be acceptable in regulated industries.")

[10] Competition and Markets Authority, *Review of the competition concurrency arrangements*, Annex 1, p. 45 (Dec. 19, 2024), Review of the competition concurrency arrangements (The following authorities conducted a Market Study: FCA (Wholesale Financial Data (2023)); Ofcom (Cloud Services (2022)); ORR (Automatic ticket gates (2018); Railway signalling (2020); Station catering (2023)). The following authorities issued a Market Investigation Reference: FCA (Investment consultants (2017)); Ofgem (Energy market (2014)); Ofcom (Cloud Services (2023)).

4. Mergers

Increasing predictability in merger control

14. Should share of supply tests be revised to a closed list of criteria, for both the share of supply and hybrid jurisdictional tests? [Yes / No / Not sure]. Please explain why.

15. Do you support the proposed criteria for inclusion? [Yes / No / Not sure]. Please explain why.

16. Are there any additional criteria that should be included? [Yes / No / Not sure]. Please explain why.

17. Would the proposed reform for the share of supply test improve predictability for businesses? [Yes / No / Not sure]. Please explain why.

18. Should the material influence and de-facto control tests be revised to a closed list of statutory factors? [Yes / No / Not sure]. Please explain why.

19. Do you support the factors proposed for inclusion? [Yes / No / Not sure]. Please explain why.

20. Are there any additional factors that should be included? [Yes / No / Not sure]. Please explain why.

21. Would the proposed reform for the material influence test improve predictability for businesses? [Yes / No / Not sure]. Please explain why.

Providing more time to agree remedies at Phase 1

22. Should the timeframe for submitting and considering Phase 1 remedies be extended from up to ten to up to twenty working days? Are there any additional criteria that should be included? [Yes / No / Not sure]. Please explain why.

Q14- 21 Share of supply and material influence

4.1 We support codifying how the share of supply and material influence tests are applied in practice but consider that the proposal should go further.

4.2 The introduction of a closed list of criteria for the share of supply and hybrid jurisdictional tests, and a closed list of statutory factors for the material influence and de facto control tests, would be a step in the right direction. However, as the current proposal merely codifies existing practice, we do not consider it would materially change the predictability of the regime for businesses. For example, following this revision, the CMA would still be able to assert jurisdiction in the kinds of cases that raised the most concerns about overreach in recent years, like *Roche/Spark* and *Sabre/Farelogix*.

Q22 Timelines for remedies at phase 1

4.3 We agree with the proposed extension of the CMA's timeframe for considering Phase 1 remedies from ten to twenty working days. The proposed extension is a welcome step that will help with constructive engagement during the remedies process.

4.4 We also support the proposal to extend the parties' timeframe for submitting remedy proposals from five to ten working days, but we consider that this extension should apply in all cases as a matter of course, rather than being subject to the CMA's discretion.

(A) Under the current regime, the CMA's revised remedies guidance places significant emphasis on the benefits of early engagement between the parties and the CMA on potential remedies. However, the guidance risks prejudicing those parties who prefer to follow the traditional, sequential approach of engaging on remedies only once it is clear that they will be required.[11]

(B) An automatic extension of the parties' timeframe to ten working days would help to address this concern.

5. Further cross-cutting changes

Stronger investigative powers for algorithms

23. Should the CMA be granted enhanced powers to investigate algorithms in its competition and consumer protection functions? [Yes / No / Not sure]. Please explain your reasoning.

The Secretary of State's role in CMA guidance

24. Should the Secretary of State have a formal role in a wider range of key guidance documents? [Yes / No / Not sure]. Which ones, and please explain why.

Excluding the Christmas period from statutory time limits

25. Do you agree a longer Christmas period should be excluded from merger and markets statutory time-limits? [Yes / No / Not sure]. Please explain why.

26. If so, what length should the pause be?

[11] *See Slaughter and May Response to CMA Consultation on Draft Merger Remedies Guidance*, para. 2.4 (13 November 2025), Slaughter_and_May.pdf

Q23 Stronger investigative powers

5.1 We do not support the proposed enhanced powers to investigate algorithms without further information on the scope and limitations of said powers.

5.2 We recognise that algorithmic decision-making raises novel and important questions for competition enforcement. However, we have significant concerns about the scope and proportionality of the proposed powers.

(A) The proposed powers would impose an obligation on parties to generate new information and evidence for the CMA that does not exist in any other context (i.e., this is a fundamentally different ask from producing documents, emails, etc.). This would impose a substantial burden on businesses, particularly where the algorithm in question is complex or proprietary. The CMA's equivalent powers under the DMCC regime are relatively untested and it is unclear how relevant those powers would be outside of that specific market context. We consider it premature to extend such powers to the CMA's broader competition and consumer protection functions without knowing whether they deliver meaningful enforcement benefits.

(B) The Government has not provided evidence that the CMA's enforcement mission has been materially frustrated due to a lack of investigative powers specific to algorithms. Nor is the precise scope of these powers clear. For example, it is not evident what limits, if any, would apply to the CMA's ability to require parties to deliver one or more algorithms, nor how the CMA would ensure that the conditions under which an algorithm is tested bear a sufficient resemblance to real-world conditions so that a test would yield meaningful results to further the CMA's enforcement mission.

5.3 We would welcome further detail from the Government on the precise scope and nature of the proposed powers, including the safeguards that would apply to protect commercially sensitive material and legally privileged information.

Q24 The Secretary of State's role in CMA guidance

5.4 We do not see any issue with clarifying that the Secretary of State can participate in consultation processes associated with revision to CMA guidance documents, but we do not see a need to extend this generally to a formal approval role. There may be specific cases where this is appropriate (as noted in the consultation paper, some already exist), but this is better approached on a case-by-case basis. Any formal role the government adopts for the Secretary of State should be carefully calibrated to preserve the CMA's operational independence.

5.5 Increasing the role of the Secretary of State on operational guidance would necessarily diminish the autonomy and role of the CMA and might increase concerns as to the CMA's political independence (again, irrespective of whether those concerns are well-founded, whether now or under a future administration). Furthermore, granting the Secretary of State broader powers in this regard would unnecessarily invite the risk of delay, both in reviewing and issuing new guidance.

5.6 The potential upside of a formal role for the Secretary of State does not, in our view, outweigh these concerns.

Q25 and Q26 Excluding the Christmas period from statutory time limits

5.7 We generally support the proposal for a statutory pause over the Christmas period but believe the Government should create protections for businesses to ensure they may also benefit from the pause.

5.8 To the extent the Government intends for this to benefit businesses as well as CMA staff, we encourage implementing additional protocols that reflect this. For example, to establish a convention around how close to the start of the statutory pause new requests for information or similar "asks" can be issued and, where timelines unavoidably run over this period, how the deadlines will be calculated to take account of any statutory pause. Such protocols would ensure that the intended purpose of this reform is achieved.

5.9 In terms of length, we recommend the pause at least begins with Christmas Eve, which would accommodate several of our clients who value that day with family as much, if not more, than Christmas Day. The pause should extend through the first working day of the new year for the purposes of Section 129 of the Enterprise Act 2002.