

RSS SUBMISSION TO THE REFINING OUR COMPETITION REGIME CONSULTATION

31 March 2026

This response has been submitted via an online form. Please find a copy of the questions we responded to below. Full details about the Refining our competition regime consultation can be found [here](#).

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.

The Royal Statistical Society (RSS) is a membership organisation for statisticians and data scientists, and we advocate for the importance of statistics and data. Representing over 12,000 members, we champion the role of statistics and data in society, and work to ensure that policy formulation and decision making are informed by evidence for the public good.

Our primary concern with regards to the proposed reforms is with the consistency of decision-making where complex economic and statistical evidence are use in merger and markets cases. We believe that aligning processes across mergers and markets cases may help reduce procedural variation and give stakeholders greater confidence in how decisions are reached. However, pace and predictability must not come at the expense of independent scrutiny or robust statistical analysis.

The replacement of Panel-led Inquiry Groups with Board appointed sub-committees risks reducing the diversity of viewpoints, unless safeguards are introduced which ensure a breadth of expertise. It will be essential that methodological reasoning, uncertainty, and data limitations are openly communicated to maintain trust. We believe that the proposed reforms could support more consistent outcomes, but only if decisionmakers continue to publish transparent analyses and ensure that rigorous, high quality statistical evidence remains central to all stages of the decision making process. The RSS is well-placed to engage with the CMA about best practice in this area, as we have a wealth of statistical expertise across a range of applied domains.

2. Would the proposed reform for greater accountability for the CMA Board for merger and markets decision-making be something you would welcome?

- **Yes**

We welcome greater accountability around decision-making, and we believe that Board-level accountability could encourage appropriate oversight and due diligence in conducting this decision-making. However, accountability must be accompanied by strong protections for independent, expert judgement. Competition assessments frequently rely on complex statistical and economic evidence which must remain insulated from organisational or political pressures. While a more accountable Board could improve clarity around who is responsible for evidential standards and analytical quality, centralising decision making risks weakening the independence traditionally offered by Inquiry Groups.

Critically, we believe that accountability frameworks must reinforce, rather than constrain, the transparent communication of evidence, the publication of clear methodological choices, and the open acknowledgement of uncertainty. We therefore express cautious support for the proposal, contingent on safeguards that protect independent expert challenge and the integrity of the analytical process.

23. Should the CMA be granted enhanced powers to investigate algorithms in its competition and consumer protection functions?



- **Yes**

We believe that the CMA must be granted enhanced powers in order to effectively regulate AI systems or other complex algorithmic systems. Most of these technologies operate as closed systems, and firms are incentivised against creating essential evidence for competition or consumer protection functions. For example, a recommender algorithm might personalise results in ways that disadvantage competitors, yet the firm may never generate simulated outputs showing how different users are treated. Similarly, an AI driven ranking system could change prices or visibility based on opaque signals, but without the ability to require controlled tests, regulators cannot observe how it behaves under specific conditions.

The proposed enhanced powers would ensure regulators can request counterfactual runs, require firms to vary user interfaces to reveal behavioural effects, and observe AI models responding to defined inputs. This matters because effective competition and consumer protection analysis depends on complete, reproducible and independently verifiable evidence about how algorithmic systems operate in practice.

We believe that the alternatives, i.e. requesting existing documentation or administrative data on predictions actually made, are insufficient for the CMA to fulfil its competition and consumer protection functions. These sources typically show, at most, only inputs and high-level outputs, not error rates, any limitations, or how an AI model behaves under alternative conditions or how it responds to different users. For example, a ranking or pricing algorithm might appear neutral in documentation yet favour certain outcomes when tested with specific simulated profiles. We believe therefore that enhanced powers to investigate algorithms are essential for the effective regulation of AI and other complex algorithmic systems.

The RSS did not provide answers to the following questions:

3. Do you support the proposed membership requirements for the mergers and markets sub-committees/committees? [Yes / No / Not sure] Please explain your views.
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 that 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.
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.
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.
14. Should share of supply 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.
22. Should the timeframe for submitting and considering Phase 1 remedies be extended from up to ten to up to twenty working days? [Yes / No / Not sure] Please explain why.
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.
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?

