

Authorisation of staff of the CMA and the CMA Panel Chair and Deputy Chairs

I, David Currie, Chair of the Competition and Markets Authority (the CMA), being duly authorised to do so by the CMA Board on 31 March¹, hereby authorise the staff of the CMA to exercise the functions of the CMA pursuant to paragraph 29 of Schedule 4 of the Enterprise and Regulatory Reform Act 2013 (the Act), subject to paragraph 30 of that Schedule, as follows.

1. The Chief Executive and Executive Directors are each authorised individually, and the Executive Committee of the CMA is authorised collectively, to do anything authorised or required to be done by the CMA by or under any enactment (fully authorised).
2. Unless more specifically authorised, all other staff and committees of the CMA are authorised to the extent described in Parts 1 – 3 of this document, subject to the proviso in paragraph 3 below.

Part 1 sets out authorisations in relation to the CMA's functions generally.

Part 2 sets out authorisations in relation to particular functions – these authorisations are additional to, and do not limit, those in Part 1.

Part 3 sets out exceptions to which authorisations in Parts 1 and 2 are subject.

Part 4 sets out the specific authorisation of Roger Witcomb, the Panel Chair, to exercise certain functions of the Chair on my behalf.

3. Subject to any express restrictions contained in an authorisation, any person or committee authorised herein to perform a function may, using any suitable means, authorise any committee or member of staff of the CMA and any committee may authorise a sub-committee or decision group to perform that function for such period and under such conditions as may be considered appropriate.

¹ Under paragraph 29, Schedule 4 of the Enterprise and Regulatory Reform Act 2013.

PART 1: General authorisations

The General Counsel and Deputy General Counsel are fully authorised subject to Exception i.

Each Senior Director is fully authorised, subject to Exceptions i and ii, unless otherwise indicated in Part 2.

Each Director who is not a Senior Director is authorised to the same extent as a Senior Director save that Exceptions iii-xii and xiv shall apply unless otherwise indicated in Part 2.

Each staff member of the CMA is authorised to the same extent as a Director save that Exception xiii shall apply (in addition to Exceptions i and ii) unless otherwise indicated in Part 2.

PART 2: Authorisation in relation to particular functions

Merger functions

Each Director allocated to a phase 1 merger project, conducted under Part 3 of the Enterprise Act 2002, is fully authorised in respect of the CMA's merger functions subject to Exceptions i and ii.

Each Deputy Director allocated to a phase 1 merger project, conducted under Part 3 of the Enterprise Act 2002, is authorised in respect of the CMA's functions under that Part to the same extent as a similarly allocated Director but subject also to Exceptions vii-xi.

Market functions

Each Director allocated to a phase 1 markets project, conducted under Part 1 or Part 4 of the Enterprise Act 2002, is fully authorised in respect of the CMA's functions under those Parts to the same extent as a similarly allocated Director but subject also to Exception xiii.

Each Deputy Director allocated to a phase 1 markets project, conducted under Part 1 or Part 4 of the Enterprise Act 2002, is authorised in respect of the CMA's functions under those Parts to the same extent as a similarly allocated Director, but subject also to Exception xiii.

Cartel and criminal enforcement functions

Each legally qualified Senior Director or legally qualified Director allocated to a cartel or criminal enforcement project conducted under the Competition Act 1998, the Enterprise Act 2002 or the Consumer Protection from Unfair Trading Regulations

2008 or any other legislation or provision of the criminal law, is fully authorised in respect of the CMA's cartel and criminal enforcement functions under that legislation or law, subject to Exceptions i and ii in relation to litigation under or in connection with the Competition Act 1998.

Each legally qualified Deputy Director or legally qualified Assistant Director allocated to a cartel or criminal enforcement project conducted under the Competition Act 1998, the Enterprise Act 2002 or the Consumer Protection from Unfair Trading Regulations 2008 or any other legislation or provision of the criminal law, is fully authorised in respect of the CMA's cartel and criminal enforcement functions under that legislation or law to the same extent as a similarly allocated Director, but subject also to Exception xiii.

Litigation

The Director of Litigation is fully authorised in respect of all of the CMA's powers to bring and conduct legal proceedings.

PART 3: Exceptions

- i. Withholding information pursuant to an opinion of the qualified person under section 36 of the Freedom of Information Act 2000.
- ii. Bringing and conducting legal proceedings on behalf of the CMA.
- iii. Giving a direction or giving written notice of a proposed direction arising from a finding or suspicion that an infringement of competition law has occurred.
- iv. Making or publishing a decision, or giving written notice of a proposed decision, that such an infringement has occurred.
- v. Requiring payment of a penalty in respect of such an infringement.
- vi. Accepting commitments (or a variation of them or commitments given in substitution for them) or releasing commitments under section 31A of the Competition Act 1998.
- vii. Issuing or varying a written notice under section 190(4) of the Enterprise Act 2002 (the cartel offence).
- viii. Making a merger reference to the Chair of the CMA under Part 3 of the Enterprise Act 2002.
- ix. Making, releasing, revoking, varying or superseding an initial undertaking or enforcement order made or accepted, as appropriate, under Chapter 4 of Part 3 of the Enterprise Act 2002.

- x. Accepting, releasing, varying or superseding undertakings in lieu of a merger reference.
- xi. Advising the Secretary of State in public interest merger cases (Chapter 2 of Part 3 of the Enterprise Act 2002).
- xii. Authorising any person to do any of the following (whether or not under warrant or on notice): enter premises; inspect, seize or detain goods; break open or require the opening of a container or machine; or make a test purchase.
- xiii. Taking any decision as to whether, in a particular case, the CMA or another public authority should perform a function which is exercisable concurrently with that authority.
- xiv. Giving a notice under section 174 of the Enterprise Act 2002 in relation to phase 1 work conducted under Part 4 of that Act and imposing a penalty under section 174A of that Act in respect of such a notice.

PART 4: Authorisation of the Panel Chair and Panel Deputy Chairs

Roger Witcomb, as a member of the CMA Panel appointed under Part 3, Schedule 4 of the Act and as a person appointed to membership of the CMA under paragraph 1(1)(b)(iii), Schedule 4 of the Act, and any members of the CMA panel appointed under Part 3 of Schedule 4 to the Act who are designated by the Secretary of State for the purpose of paragraph 48 of Schedule 4 of the Act are authorised to exercise on my behalf those functions listed in paragraph 48(4), Schedule 4 of the Act.

PART 5: Miscellaneous and supplemental

Interpretation

The Interpretation Act 1978 applies to these authorisations as it applies to an Act of Parliament.

In these authorisations:

‘legal proceedings’ means proceedings before any Court of Tribunal established by law;

‘legally qualified’ refers to a person who is a barrister in England and Wales or Northern Ireland, a solicitor of the Supreme Court or a solicitor of the Supreme Court of Judicature of Northern Ireland;

‘phase 1’ means work of the CMA up to and including the making of a reference to the Chair of the CMA for the constitution of a group under Schedule 4 of the Act;

Any reference to a position held by a staff member of the CMA is a reference to the staff member who holds that position from time-to-time, whether permanently or temporarily and includes persons working on secondment to the CMA.

For the avoidance of doubt:

Any person or committee authorised hereunder to perform any function of the CMNA is, pursuant to paragraph 20 of Schedule 1 to the Enterprise and Regulatory Reform Act 2013, authorised to do anything which is calculated to facilitate, or is conducive to or incidental to, the performance of that function;

Any authorisation granted by a person or committee may be revoked by that person or committee.

Coming into force

These authorisations shall come into force on 1 April 2014.

David Currie
CMA Chair