

Guidance on the CMA's approval of voluntary redress schemes: CAA comments

Paragraph	Comment
1.16	<p>This paragraph states that an application can be submitted to the CMA where an infringement decision has already been made by the CMA, a sector regulator or the European Commission. It also states that an application may be submitted during the course of an investigation and that the CMA may consider an application before an infringement decision has been made.</p> <p>This implies that an application could be made to the CMA at any time during an investigation by a concurrent regulator. Is this the intention? Figure 1 would suggest not.</p> <p>If a pre-infringement application is possible, on what basis would the CMA consider such an application?</p> <p>Will CMA consult the concurrent regulator on any application made to it or will it instead rely on information in relation to the case that has been shared with CMA by the concurrent regulator under the Concurrency Regulations and/or the relevant MoU?</p> <p>Will the CMA ask the concurrent regulator who is handling the case for more information?</p>
1.22	<p>Is it self-evident that this paragraph only comes into play once an infringement decision has been made by a concurrent regulator?</p> <p>Does this paragraph mean that where an infringement decision has been made by a concurrent regulator, the CMA can only consider full schemes?</p> <p>What if the redress scheme applied for is incomplete?</p>
2.2 -2.4	<p>These paragraphs provide for pre-application discussions with the CMA. Figure 1 suggests that there can be pre-application discussions with the CMA in a case where a concurrent regulator has found an infringement.</p> <p>Will the CMA involve the concurrent regulator who has made the infringement decision in any pre-application discussions?</p> <p>Will the concurrent regulator be able to comment on the application of the CMA's prioritisation principles?</p>
2.5	<p>The application form where there is a pre-existing infringement decision does not ask whether the decision has been taken by the CMA or by a concurrent regulator.</p> <p>Will the same form be used whether the infringement decision has been taken by the CMA or a concurrent regulator?</p>

Paragraph	Comment
2.28	<p>Where an infringement decision has been taken by a concurrent regulator will the CMA consult that regulator on the composition of the Board or the intended scope of compensation?</p> <p>How would any consultation with the concurrent regulator fit within the 28 day period for the CMA to interject?</p>
2.30	<p>Will the CMA share its short reasoned document with the concurrent regulator that has decided on an infringement before sending it to the applicant?</p>
2.34-2.40	<p>The CMA will be able to make a penalty reduction in certain cases but only in its own investigations. Where a concurrent regulator has investigated and made an infringement decision, is there to be no equivalent provision for a penalty reduction where the CMA approves a redress scheme?</p>
5.20	<p>Will CMA consult the concurrent regulator who took the infringement decision before releasing the compensating party from the redress scheme?</p>