

Consumer protection law compliance guidance materials

Competition and Markets Authority

Department for Business, Energy and Industrial Strategy

RPC rating: **validated**

Description of the measure

The Competition and Markets Authority's submission covers 25 guidance publications for businesses concerning compliance with consumer protection law. These publications are designed to substitute for a specific, comprehensive existing CMA guidance document. The list of publications is attached as an annex to this statement. The CMA has provided an assessment for each individual publication, a summary table combining them and an overarching methodology note setting out how the impacts were assessed.

Impacts of the measure

The publications, with the exception of number four on the list, are all estimated to result in small compliance savings to business over time, on the basis that familiarisation costs with these publications will be lower than in the counterfactual. The CMA's assessment for each individual publication provides a link to the document that businesses would otherwise have to read. The 25 measures combined have an EANDCB that rounds to -£0.1 million.

The methodology note sets out the CMA's approach to estimating impacts in some detail. In summary, this involves the following broad steps:

1. *Estimating readership and business population affected.* This uses historical 'unique page view' figures of CMA compliance materials, adjusted for the proportion expected to be from businesses. The unique page view data are projected forward, at a diminishing rate, over ten years.
2. *Establishing the counterfactual.* This divides the affected business population in the counterfactual into three groups: firms that would not seek to familiarise themselves with the law (group 1); firms that would read the existing CMA materials (group 2a); and firms that would use a lawyer's services for familiarisation (group 2b). The percentages in each group are informed by research commissioned by the CMA on UK businesses' understanding of competition law. 45 per cent of businesses in the sample reported no or very little awareness of competition law and are assumed to constitute group 1.

Of the remaining 55 per cent, the research suggests that 82 per cent (i.e. around 45 per cent overall) would read the existing CMA materials and that 18 per cent (i.e. around 10 per cent overall) would pay for legal advice. These form groups 2a and 2b, respectively.

3. *Estimating the cost of familiarisation for group 1 businesses and the net reduction in cost for group 2a businesses.* For group 1, the CMA estimates the familiarisation cost of reading the new compliance materials but does not attempt to measure benefits. For group 2a, the net benefit over time is calculated as the difference in reading time multiplied by the hourly wage of the reader. For group 2b, it is assumed there is no impact because the CMA considers it highly unlikely that firms will reduce legal fees as a result of the publication of new CMA compliance materials.

Quality of submission

The CMA has provided an exemplary analysis and presentation. The methodology followed is very well structured and follows sound appraisal principles. The CMA has used evidence to support its assumptions and, where evidence is more limited, adopted prudent assumptions. The inclusion of a summary table and a methodology note alongside the 25 individual assessments is very helpful. The RPC verifies the (rounded) estimated equivalent annual net direct cost to business (EANDCB) of - £0.1 million. Although the thoroughness of the approach may seem slightly disproportionate to the scale of the impact here, the development of the methodology should, in particular, be very useful for future assessments.

The CMA appears to have included the familiarisation cost to businesses in group 1 for two reasons. First, compliance materials are targeted at businesses in this group. Second, although the group will include businesses that are non-compliant with consumer protection law, it also includes compliant businesses that are (through ignorance) at risk of non-compliance. On the basis that some businesses in group 1 will not read the new guidance, and that many of those which do will experience a net benefit, these costs could be on the high side for business impact target reporting purposes.

The CMA's estimates do not include savings from businesses no longer needing to use legal services in the way they do at present to help them to understand consumer protection law. Some savings could have been included in the EANDCB figures if there was good evidence to support them.

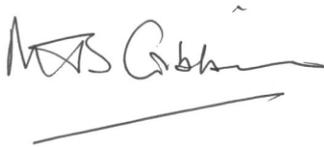
On both these points, however, the RPC accepts that the CMA's analysis is prudent and proportionate.

Regulator assessment

Classification	Qualifying regulatory provision (OUT)
Equivalent annual net direct cost to business (EANDCB)	-£0.1 million
Business net present value	£0.6 million

RPC assessment¹

Classification	Qualifying regulatory provision (OUT)
EANDCB – RPC validated	-£0.1 million
Business impact target score	-£0.5 million



Michael Gibbons CBE, Chairman

¹ For reporting purposes, the RPC validates EANDCB and BIT score figures to the nearest £100,000.

Annex: List of CMA consumer protection law compliance guidance publications covered by this validation.

1. Online Reviews: letting your customers see the true picture
2. Giving a balanced picture: do's and don'ts for online review sites
3. Consumer spending after reading online reviews
4. Online Endorsements: being open and honest with your audience
5. An open letter to marketing departments, marketing agencies and their clients
6. An open letter to retailers that host customer reviews on their own websites
7. Subscriptions and automatic rollovers
8. Cancelling a contract: when and how
9. Deposits, advance payment and cancellation charges
10. Excessive charges and disproportionate sanctions
11. Deposits and advance payments
12. Cancelling an agreement: when & how
13. Changing the terms of an agreement
14. Deposits and advance payments (video)
15. Responsibility when things go wrong
16. Top tips for writing terms
17. When customers break an agreement
18. Why terms and conditions matter
19. Responsibility if things go wrong
20. Letter from the CMA to cloud storage providers on consumer law
21. Other terms that may be unfair
22. Changing the terms of a contract
23. Common myths about contract terms
24. Fair terms for your customers: an introduction for businesses
25. Top tips when writing your contract terms