

Andrea Coscelli: closer to consumers – competition and consumer protection for the 2020s

Our mission, stated in 2014, is to “make markets work in the interests of consumers, businesses and the economy”. That still stands. But we have been reflecting, and will continue to reflect, on what this means in practice.

The CMA is six years old. But the regime for which we are responsible is an amalgam of previous legislation dating back now two decades. Like any public authority, we are the product of the legislation that established us, combined with our own history and culture as an organisation.

We are also the product of the organisations that preceded us. The Office of Fair Trading was well-recognised, thought about problems in the round, was brimming with good ideas but, at times, perceived to be less successful in its follow-through. The Competition Commission was designed as a quasi-judicial organisation, and was effective in fulfilling that remit, but was seen by stakeholders as quite remote. In merging the two in 2014, we tried to pick the best of both, but in particular focused very much on implementation; on delivering cases. I think most people would recognise a significant change on this front.

This is our inheritance. And also, like many other public bodies, our inheritance brings with it compromises, which for the CMA results in a system that is sometimes difficult for us to explain.

Any taxpayer-funded system that is hard to explain and understand is likely to face challenges. And we should not be surprised that many consumers, whose interests we look after, do not know who we are or what we do.

Today, I am bringing together three things: our public reflections on the system, the improvements we have already made internally, and some new improvements we are making.

Together, this will make us an authority that can deliver the greatest possible benefit for consumers in the 2020s.

Reflections

A year ago, we reflected publicly on what we saw as significant shortcomings in the competition and consumer policy system. And we made proposals to Government on how to address them.

We have also been reflecting on what we can do to address some of these challenges without changes in the legal framework. How we can improve our accountability, accessibility, representativeness and responsiveness to the taxpayers we serve.

Since I became chief executive, we have made improvements in many areas to deliver more for consumers.

Among the things we have focussed on are the following:

We have increased our focus on individual accountability for wrongdoing through director disqualification in competition enforcement cases. Since December 2016, the CMA has secured the disqualification of 13 directors where their companies have broken competition law, in five separate cases. Three-quarters of these disqualifications were secured in 2019 alone. The experience of frontline CMA staff is that director disqualification brings home the importance of individual accountability, protecting the public both by disqualifying directors whose companies have broken the law and by operating as a powerful deterrent to others.

We have obtained money back for vulnerable people who had been treated unfairly by care homes. We stamped out bad practices in the online gambling sector. We made recommendations to ensure consumers are better protected from loyalty penalties in telecoms and financial services. And we have secured important changes to ensure that the public is treated fairly when shopping online, whether for a hotel room, a hire car or a concert ticket.

We have been getting ourselves to the forefront of digital technologies through our online platforms market study and with our DaTA unit: a team of data scientists and engineers, emerging technology experts and behavioural scientists. We are leveraging their expertise to tackle emerging problems like fake online reviews, manipulation of the online environment to steer consumers' choices and algorithms used by businesses that work against consumers' interests. Among other things, these algorithms affect the prices paid by consumers every day for the products and services they buy, like petrol for their cars, their holidays, tickets for football games and music concerts, or anything bought on digital marketplaces.

In our merger control work, we have protected people from price increases in supermarkets, pubs and at the petrol pump.

We have stopped companies cheating through fixing prices, including recently levying our biggest ever fine for a cartel in the construction industry.

We have got money back for the NHS that had been unfairly extracted by drug companies.

Recently, we have been very focused, I think rightly so, on preparing for our bigger role after the UK leaves the European Union. But we need to look ahead to the rest of the decade.

That's why today we are setting out three ways to bring the CMA closer to consumers.

3 initiatives to bring the CMA closer to consumers

1. Know more; understand better

We will deepen our understanding of how existing markets are changing, new markets are emerging, and of consumers' experiences and concerns.

To ensure we are delivering for people around the UK, we need to be confident we know what they want as consumers, and what their concerns are.

This is particularly the case for consumers whose characteristics – age, socio-economic status or disability – leave them vulnerable to getting bad deals or poor service.

We can hardly fulfil our statutory duty to “promote competition...for the benefit of consumers” without a rich understanding of consumers' interests and worries.

Of course, we have always worked on behalf of consumers; but we are now going to shift the culture of the CMA to sharpen our focus on what matters to them.

It is with this aim in mind that we have started a project to assess the state of competition in markets across the UK, and consumers' experiences of those markets.

This will also look at the experience of small to mid-size businesses, who are often not much better off than individuals in dealing with big, powerful companies.

We have already been thinking about these issues for some time – and will produce an initial report this summer.

Our work on the state of competition will give us the numerical and technical evidence we need. But we also need the deeper knowledge we can gain by understanding and sharing in a variety of diverse consumers' actual experiences.

We need to understand what it means when consumers get exploited by unscrupulous suppliers, and we need to see through the eyes of consumers the confusion that markets can present.

That's why we will be working with Citizens Advice and other bodies to put CMA staff more directly in touch with consumers, for instance through local Citizens Advice and contact centres, understanding the concerns of consumers first hand.

We don't expect always to hear from consumers themselves. They are busy living their lives, after all. So we will embark on a bigger programme of engagement with consumer bodies and charities, with the aim of understanding the issues facing people and businesses in every nation and region of the UK.

This engagement will bolster the CMA's role as a repository of microeconomic expertise, so that our interventions are based on understanding how people actually behave, and why, in addition to the challenges they face every day in navigating markets.

That is why we have recently set up and are hiring for a Behavioural Hub, which will draw on economics, data science and behavioural science to enhance our understanding of consumer issues.

We can combine the issues that consumers are aware of with analysis of data on consumer behaviour – in other words, what consumers actually do – and our knowledge of issues that consumers are not aware of, such as hidden price increases.

To ensure that consumers have the right protections as markets change and develop, we also need to be on the front foot and adapt as an agency.

With this in mind, our new Data and Technology Insight team is building our understanding of the innovation ecosystem, while looking to the future to understand how markets and firms are changing in light of developments in data and technology.

The knowledge we gain about the issues that matter to and affect consumers will inform our organisation's prioritisation, and the choices and trade-offs we make.

2. Explain the choices we make

We will improve how we choose which problems to take on, and do more to explain these decisions.

We will use all the information we gather from getting closer to consumers to further develop how we choose where to use the public resources for which we are responsible.

We will unify every part of the organisation in looking at a problem and working out the best way to fix it. We will ensure that we are greater than the sum of our parts; exploiting the complementarities between our markets, mergers, competition enforcement and consumer work.

We will make our case selection more transparent. Precisely how we do it is a work in progress. But we know we want to explain better the criteria we use for choosing what we do, and how we use those criteria.

Next year's annual plan will be a much fuller exercise than in the past, reflecting these changes, but there will be other initiatives too.

3. More visible and vocal

We will effect change through speaking up publicly as well as through enforcement. We have always had both an enforcement and an advocacy role. Both are written into statute.

When the CMA started, we focused heavily on enforcing effectively. And that was the right thing to do at the time – our advocacy can only work if it is built on a good track record in enforcement.

But the two need to go hand in hand. And the focus on mergers and enforcement

has meant that sometimes we have missed opportunities to get more leverage out of the evidence and knowledge we have accumulated, by effecting change through others – whether government or regulators.

Where we see potential breaches of the law, we will investigate and enforce against the perpetrators if proven. After all, we can only secure our legitimacy if we achieve robust enforcement outcomes on what the public believes to be the glaring injustices of the day. This work is – and will continue to be – our bread and butter.

But where we can achieve more for consumers, or more quickly, through speaking up, we will do so; for example, by shining a light on undesirable behaviour, or through working in partnership with government policy-makers to help shape legislation that will protect consumers' interests.

Where appropriate, we will use our roundtables to bring stakeholders together and make progress on the issues that matter most to consumers.

We will look at every possible problem in the round, working out the most effective and efficient answer.

Sometimes the answer may be to come down hard on individuals or companies that are exploiting consumers or a market as a whole.

Sometimes it will be blocking a merger that would hurt consumers.

Sometimes it may be stopping an investigation and pushing for changes to legislation if that turns out to be a quicker route to the right result.

It may be a combination.

Part of the answer may simply be to give clear reminders of the benefits of competition. As long as the right protections are in place against companies abusing positions of power, fair and open competition is the best way for people to get good deals.

So the CMA will take every opportunity to explain how consumers benefit from competition and well-functioning markets.

And we will not shy away from publicly advocating to government in support of consumers and competition, especially where government's actions threaten to harm them.

How the CMA will look different in future

Neither I nor Andrew would pretend that we can address all of the challenges that Andrew set out earlier. Many of those are the result of much wider forces. And even within our remit, much of what we do is limited by the legislative framework – that is the reason for the reform proposals.

Nor should we pretend that any changes, legislative or otherwise, can have instant effects, to be observed tomorrow. One of the merits of the system of which we are a part is that it allows for careful consideration rather than

snap judgements and dramatic upheavals.

Nor should we pretend that we are aiming for a dramatic upheaval, or for something that is completely different from what you have seen before. There are after all only so many ways of delivering against a set of duties that are defined in statute! Instead we are building on the best of the CMA, building on the best bits of its inheritance, and building on all it has achieved so far, but continuing to improve and adapt.

Where we can do our bit, and do it now, we are doing so. And where we can suggest how others can help us to improve outcomes for consumers, we will say so.

Consumers should see a difference, and increasingly so over time.

They should see us listening more carefully to their concerns. More than that, they should see us creating opportunities for them to tell us what they think.

They should see us helping the government work out how to fix the big, systemic problems in markets, so that it is easier for them to find their way to the right services for them.

They should see us improving outcomes in the markets that matter most to them.

Our task is to earn the trust, confidence and recognition of consumers. To let them know we're on their side.

People working at the CMA should feel the difference. We are trying to empower all the people at the CMA that work hard for consumers to get more for their efforts.

Observers that are closer to our work will see no difference in our determination to come to the right answer based on the evidence. But they will see an organisation that continues to get tougher on mergers and enforcement. They will see an organisation taking on the bigger global cases that follow the UK's departure from the EU. They will see an organisation that is engaging more with consumers.

So let's start in the way we mean to go on. Tell us if you think this sounds like a public authority that is doing the right things to start the 2020s with promise and energy. Tell us if you don't. And tell us if you've got better ideas.