

For ICPEN members only – not for onward sharing

From Tip-Off to Decision: Consumer Protection Cases under the CMA's New Direct Enforcement Regime

External

12 March 2026

From Tip-Off to Decision: Session Purpose and Outline



Session Purpose

Introduce how the DMCCA 2024 transforms consumer protection enforcement in the UK, highlighting how the CMA prepared for its new role and its new approach.

Shift to Direct Decision-Making and Penalties

Outline the legislation and policies behind the CMA's new direct enforcement model enabling penalties and remedies without needing to go to court.

Streamlined Enforcement Process

Explain the new enforcement pathway from intelligence gathering to final decision-making by the CMA.

Supporting Fairness and Transparency

Detail procedural safeguards that ensure fairness and transparency throughout the modern enforcement system.

Starting out

Share some early thoughts on how things are going and lessons learned

What the DMCCA Changed: New Powers and Enforcement Tools

Direct Enforcement Powers

CMA can issue infringement decisions and impose penalties without needing to go to court.

New Penalties Framework

New rules allow imposition of penalties of up to 10% of global turnover. Lower penalties for procedural breaches.

Enhanced Information Gathering

CMA can require detailed data, carry out interviews and inspect premises to seize information. Penalties for non-compliance with information notices means we can enforce these effectively for the first time.

Undertakings

Undertakings (voluntary commitments by parties) are available but must fully address harm and are directly enforceable for the first time. Penalties for breach makes these promises more meaningful.

Settlement

If parties agree they are in breach early on they can get a discount to their final penalty, encouraging early resolution of cases.

Challenges and appeals

A court-based appeal route exists, with various opportunities for procedural challenge throughout the process to ensure fairness.



CMA's Enforcement Policies



Comprehensive Enforcement Policies

CMA's policies ensure fairness, transparency, and consistency in investigations and decision-making under the DMCCA. These set out details of how we expect cases to operate.

Procedural Fairness

Procedural fairness ensures the protection of parties' rights throughout the process.

Penalties and Structured Fines

Our Penalties policy uses factors like turnover and deterrence to determine fines consistently using a 5-step framework centred on impact and culpability. We also ensure fines are proportionate.

Early Implementation Insights

Early DMCCA implementation highlights the importance of communication, evidence planning, and clarity of scope.

Why the CMA Redesigned Its Approach



Need for redesign

New legal framework for enforcement and need for new processes to ensure procedural fairness given potential for large penalties.

High expectations of CMA impact from new model and penalties.

Public commitment to improve ways of working to enhance business and investor confidence in competition and consumer protection regimes.

What was needed

System that allows us to reach robust, evidence-based decisions as swiftly as possible to end ongoing harm and secure redress if appropriate.

Fair processes for businesses under investigation and transparency on those processes.

Streamlined processes which make effective use of staff resource and technology for managing information and cases.

How the CMA Redesigned Its Approach



4 Ps

Pace, Predictability, Proportionality and Process

And

3Ts

Teamwork, Training and Technology

Sources of Intelligence in a Modernised Pipeline

Intelligence from Complaints

Consumer and business complaints and referrals from stakeholders and regulators (UK and international) provide real-time insights into emerging consumer harms and help reveal important harmful patterns.

Market Monitoring

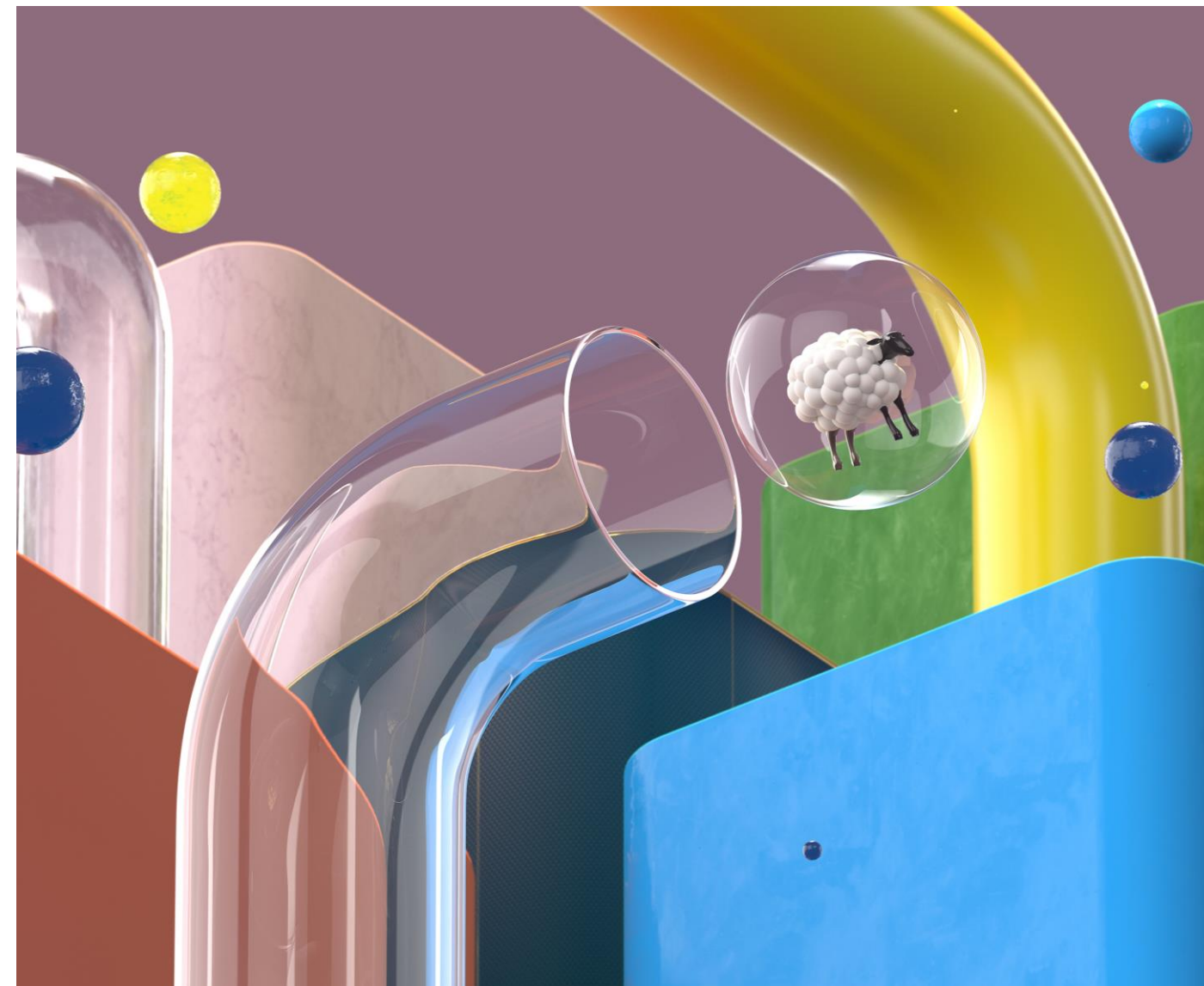
Market monitoring uses public information and trader behavior to detect issues before they escalate and build our understanding.

Forward-Looking Horizon Scanning

Horizon scanning helps anticipate emerging consumer harms.

Digital Monitoring and Automation

Automating use of digital tools to help detect potential non-compliance across online markets.



A New Approach to Triage and Prioritisation



Consumer Approach Framework + Wider Strategy

The Consumer Approach Document guides assessment of consumer harm, vulnerability, and market-wide effects for triage decisions. Aligns with CMA strategy and priorities.

Consider – is CMA best placed?

Detriment and Harm Assessment

Assessment can include potential financial losses and non-financial harms (including eg vulnerability of consumers)-

Impact and Risk

Quantitative and qualitative indicators considered to classify issues by potential impact from action and risk profile.

Fairness and Efficiency Safeguards

Triage integrates fairness safeguards such as early trader/stakeholder landscape engagement to inform prioritisation, where appropriate, and clarity on legal and resource considerations.

Before opening a Case

Pipeline

Non-linear process.

Gathering and sifting intelligence.

Preliminary enquiries on traders.

First decision gateway.

Intelligence and information gathering

Market/sector enquiries.

Direct enforcement enquiries (trader specific).

Information notices, backed by powers to enforce compliance and penalties.

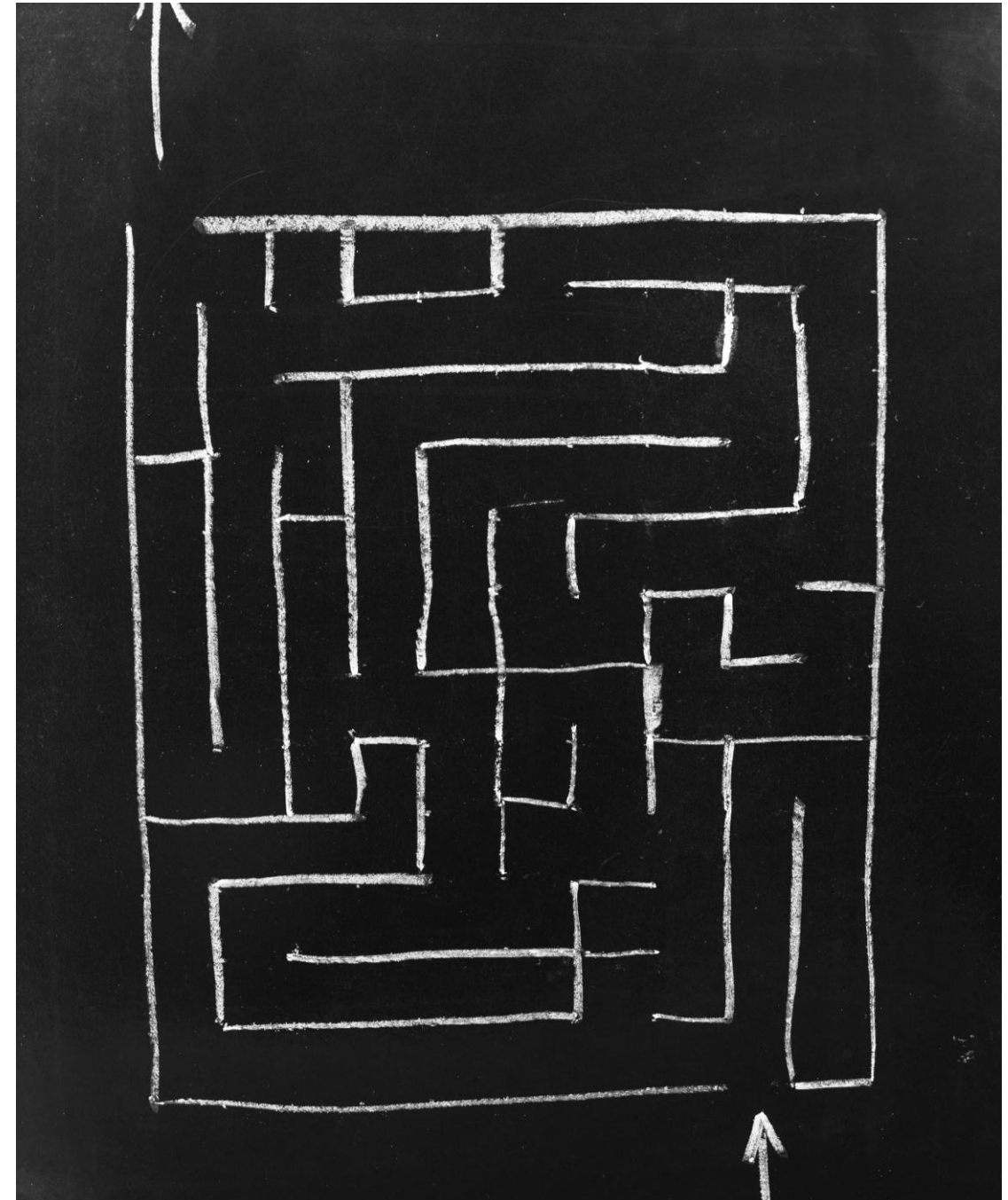
Further decision gateway.

Case opening

Public announcements.

Portfolio approach, e.g. cases, plus advisory letters and potential for guidance.

OR – standalone compliance work in absence of enforcement action (eg advisory/warning letters, guidance)



Developing the investigation: evidence, engagement and analysis



Comprehensive Evidence Strategy

The investigation starts by constructing a theory of harm and designing an evidence collection strategy.

Trader Engagement

Ongoing communication with traders to explain processes and timelines and gather evidence

Multidisciplinary Analysis

Experts from economics, behavioural science, technology, and law analyse evidence to assess consumer harm and risks.

PINs and FINs

New documents articulating provisional case against traders (Provisional Information Notices) and final decision and remedy (Final Infringement Notice).

PENs and FENs and JRs and Appeals

Powers for the CMA to enforce non-compliance with information notices.

Rights for businesses to challenge administrative decisions.

Routes to Resolution and Remedies

Undertakings

Voluntary, binding commitments by traders to quickly resolve issues without full enforcement action.

No admission of infringement, but enforceable.

Enforcement Decisions and Penalties

When undertakings are unsuitable, enforcement decisions impose remedies and penalties for consumer law breaches.

Settlement available (with admission of infringement).

Structured Penalty Methodology

Penalty assessment considers breach severity, duration, consumer harm, turnover, cooperation, and deterrence needs.

Discounts available for settlement

Ongoing Compliance and Monitoring

Enforcement outcomes often require monitoring and follow-up to ensure sustained compliance.



Post-decision activity



Appeals

Full merits appeal in cases which have not been settled by undertakings or penalty.

Traders can challenge finding of infringement or penalty and other remedies.

Ongoing Compliance and Monitoring

Enforcement outcomes will often require monitoring and follow-up to ensure sustained compliance.

Regular reporting by trader.

Third party compliance monitoring.

Lessons learned

Developing new policies and processes

Talk widely with external and internal stakeholders.

Learn from others.

Taking people along

Co-created by consumer team, policy and advisory functions across the CMA – the people who have to deliver the cases.

Everything takes longer...

Developing processes, technology, training is iterative and takes a lot of time.

Nothing survives contact with reality

All new policies and processes no matter how carefully thought through, throw up unexpected issues.

We have faced strong procedural challenges in pipeline work (ie before we've decided to launch a case).

Build opportunities to review and update internal and external material and share lessons learned and practical tips.

'Embarrassment of riches' in the Pipeline – requires really careful assessment against prioritization principles and across the portfolio, trade offs (can't do everything)



International Cooperation Opportunities



UK Connection test

New test ensures impact on UK consumers is covered regardless of where the business is located.

Cross-Border Consumer Protection

International cooperation remains vital to effectively identify and address consumer harm that spans multiple countries and jurisdictions. Many issues are shared.

Cross-border information gathering

CMA has powers to request information from businesses targeting UK consumers, wherever they are based.

Intelligence Sharing and Joint Initiatives

The CMA has powers to share intelligence with international partners, enabling coordinated responses to cross-border harm.

Investigative assistance

DMCCA gives CMA enhanced powers to assist overseas consumer protection authorities through formal agreements or Ministerial approval.



Questions?

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