

A NEW AGE DAWNS FOR CONSUMER PROTECTION IN THE UK

The Digital Markets, Competition and Consumers Act 2024 (DMCC Act) came into force on 6 April 2025, overhauling the UK’s consumer protection regime. The CMA has [heralded](#) this as a “*step-change in more direct, impactful consumer protection*” as, for the first time, the CMA now has powers directly to impose fines of up to 10% of a company’s global turnover for breaches of UK consumer protection rules.

In this briefing, we discuss the CMA’s new powers as well as the key points of interest arising from the [Approach Document](#) and the roster of final guidance published by the CMA over recent days and weeks. We also examine where the CMA might turn its attention first.

The new administrative enforcement model

As discussed in detail in our [briefing](#) last July, the DMCC Act radically alters the shape of consumer protection enforcement in the UK by introducing an administrative enforcement model - bringing the regime more closely into line with the CMA’s existing antitrust enforcement regime.¹ Whereas previously the CMA had no powers to sanction businesses in its own right for breaches of UK consumer protection laws, but rather had to seek enforcement via the courts in contested cases (in what was often a protracted process), the CMA can now directly impose fines based on the offending company’s global turnover, as well as additional daily fines for continued non-compliance:

up to 10%	up to 5%	up to 1%
of a company’s global annual turnover on finding an infringement of UK consumer protection laws.	of a company’s global annual turnover for a breach of any undertakings given as part of a CMA consumer protection investigation.	of a company’s global annual turnover for non-compliance during a CMA consumer protection investigation (e.g. a failure to respond to information requests, providing false or misleading information, or destroying, concealing or falsifying evidence).

Further detail on the methodology for calculating fines

The CMA’s [final guidance](#) on the exercise of these new direct enforcement powers (Final Direct Enforcement Guidance) sets out in detail how the CMA will calculate the appropriate penalty. For breaches of consumer protection laws, the CMA will follow a “stepped approach” which begins by calculating the “*starting point having regard to the seriousness of the infringement and the relevant turnover*”.² Building on the draft guidance issued last summer and covered in [this briefing](#), the final guidance explains that the CMA will first assess whether the **level of harm** should be categorised as ‘major’, ‘significant’, ‘moderate’ or ‘other’ (Categories 1 to 4) by considering the total estimated economic and non-economic harm caused to consumers, with non-economic harm encompassing distress, delay and lack of privacy. Escalating factors, including (amongst others) whether the infringement has particularly impacted vulnerable consumers, might then push an infringement into a higher Category. Finally, the CMA will determine whether the **level of culpability** is high, medium or low by considering the extent to which the infringement was the result of deliberate action or a genuine mistake, so that at the end of the process the infringement will be given a “starting point code” ranging from “High A” to “Low D”. This

¹ The new administrative enforcement model sits alongside a reformed version of the existing court-based regime, under which “designated enforcers”, including sector regulators like Ofcom and Ofgem (as well as the CMA), can apply to court for action to be taken against a trader, with the courts now able to impose financial penalties on companies on finding an infringement. The powers of each regulator are set out in the CMA’s [new enforcement guidance](#) (CMA58). The CMA has separately [advocated](#) Ofgem to be given administrative enforcement powers similar to its own, with the ability to make decisions about infringements of UK consumer protection laws and to impose financial penalties in its own right, noting that enforcement by sector regulators “*is likely to be more efficient under a framework which permits administrative enforcement*”.

² The Final Direct Enforcement Guidance explains that the CMA will follow a similar stepped approach when calculating administrative penalties.

code in turn corresponds to fining bands (e.g. a band of £225,000 or 22.5% (whichever is higher) up to £300,000 or 30% (whichever is higher) for Starting Point A). This is just the first step in calculating the overall fine, however: this starting point would then be adjusted for deterrence, aggravating or mitigating factors and proportionality (including considering the duration of the infringement), and where applicable a settlement discount applied:

Starting points (percentages refer to UK turnover)	
Starting point A	£225,000 or 22.5% (whichever is higher) up to £300,000 or 30% (whichever is higher).
Starting point B	£150,000 or 15% (whichever is higher) up to £225,000 or 22.5% (whichever is higher).
Starting point C	£75,000 or 7.5% (whichever is higher) up to £150,000 or 15% (whichever is higher).
Starting point D	Up to £75,000 or 7.5% (whichever is higher).

The Final Direct Enforcement Guidance includes a new Annex E containing illustrative examples which shed further light on how the CMA will apply these codes in practice. Of particular interest is the second example, which shows how an infringement that generated revenues of under £10,000 - where this sum taken alone would place it at the lowest level of harm, in Category 4 - but caused distress to the “many elderly consumers” who were targeted, would ultimately end up with a starting point ‘A’ code - i.e. a starting point of £225,000 or 22.5% (whichever is higher) up to £300,000 or 30% UK turnover (whichever is higher).³

The CMA’s Approach Document recognises that at the start of the regime it may not be able to impose very significant fines, given that it can only impose a penalty for conduct taking place after 6 April. However, businesses should remember that the CMA can now also directly impose financial measures via redress, and the Approach Document makes clear that the CMA is focused on ensuring that consumers are compensated and that it will “*prioritise consumer redress and measures to secure future compliance*”.⁴

A regime fit for the digital age

As discussed in detail in previous [briefings](#), the substantive changes made by the DMCC Act to the UK consumer protection rules themselves - with their focus on regulating fake reviews and pricing practices, such as drip pricing - are intended to modernise the regime to make it fit for the digital age. As [promised](#) by the CMA last month, the final guidance on unfair commercial practices (Unfair Commercial Practices Guidance) significantly simplifies the draft guidance published last December, primarily by reordering, reformatting, and stripping sections out of the main document and publishing a host of shorter, business-friendly documents. In particular, in relation to fake reviews, whilst emphasising that there is no “one-size-fits-all” approach, the CMA has published a short [summary](#) setting out the **proactive steps** that businesses which publish consumer reviews should take to comply, to be read alongside detailed [new guidance](#) on fake reviews.

As for drip pricing, the simplification is largely achieved by the addition of helpful graphics, with further guidance on the more complex aspects of the prohibition expected to follow later in the year, following an additional consultation to run over the summer (as discussed in last month’s [blog](#)).

Consumer protection...for businesses?

In a development that could not have been anticipated when the Conservative government first presented the DMCC Bill two years ago, these powers come into force at a time when the Labour government has made clear the importance of regulators like the CMA contributing meaningfully to its mission for economic growth.⁵ The CMA’s literature announcing the new regime puts this mission front and centre: “[o]ur ambition for consumer protection is to promote trust and

³ In this example, the non-economic harm (distress) raised the initial categorisation to Category 3, which was raised again to Category 2 because of the infringement’s particular impact on vulnerable (elderly) consumers. The facts of the example meant the culpability level was ‘High’, resulting in starting point ‘A’.

⁴ Whilst under the old regime the CMA could seek an order from the court (or agree undertakings with a business) which included redress measures to compensate consumers who suffered loss as a result of breaches of consumer laws that occurred after 1 October 2015, the CMA will now be able to impose redress measures directly for any breaches that occur after 6 April 2025. Such redress measures are drafted more broadly to enable the CMA to require a business to compensate any consumers “*affected by the infringing practice*”, including those who have suffered non-financial loss or instances of distress or inconvenience.

⁵ <https://www.gov.uk/government/consultations/draft-strategic-steer-to-the-competition-and-markets-authority/strategic-steer-to-the-competition-and-markets-authority>.

confidence - helping to grow the economy while deterring poor corporate practices". It also explains that "[i]t is important for fair-dealing businesses that action is taken to ensure their competitors cannot gain an advantage by breaking the law. That way, businesses are incentivised to become more productive and innovative" and that "[w]hen consumers feel protected, they are [...] more likely to take up opportunities to participate actively in the economy". The [joint statement](#) issued by the Department for Business and Trade and the CMA reinforces this message, stating that "the government expects the CMA to use these important new powers in the service of the growth mission, by promoting consumer trust and confidence, while deterring poor practice".

The CMA makes clear in the Approach Document that it intends to bring enforcement cases under the new regime over the next few months. It also adds further colour to Sarah Cardell's (Chief Executive of the CMA) [statement](#) last month that in the first year of enforcement the CMA would target "the most egregious harms", explaining that the CMA expects initially to focus on breaches "where the law is clear", including enforcement against aggressive sales practices targeting vulnerable consumers and the provision of objectively false information. It remains to be seen, however, what precise impact the wider growth agenda focus will have on the nature (and specific targets) of such enforcement activity.

In relation to fake reviews, whilst the Approach Document reiterates Cardell's announcement last month that until July 2025 the CMA will primarily support businesses in their compliance efforts (recognising the complexity of the new rules and the fact that they may require businesses to make proactive changes to their systems), it nonetheless identifies fake reviews as an area where the CMA expects to focus its early action - indicating that fake reviews may be top of the CMA's agenda come the summer. The same is true for drip pricing: whilst the Approach Document reiterates that the CMA will delay enforcement action on the aspects on which it is reconsulting until it publishes final guidance, it is expected that more straightforward breaches of the drip pricing provisions (i.e. adding unexpected and untraded mandatory charges at the end of a purchasing journey) will remain a priority.

As to target sectors, as foreshadowed in the CMA's most recent [Annual Plan](#), the Approach Document pledges to continue in the first year "to prioritise areas of essential spend to help people struggling with pressure on household budgets", and to "focus on markets and harms that particularly impact UK-based consumers and businesses". It does not give any further clues as to which precise sectors might be a focus for enforcement though.

The CMA's indication that it will initially target "egregious infringements" suggests that it may at first steer away from pursuing more contentious cases. Any businesses which come under early investigation may, however, at least take some heart from the CMA's emphasis in the Approach Document on its commitment to the "4Ps", and in particular the pledges to set out a clear timetable at the outset of an investigation, and to use its information gathering powers proportionately and in a targeted way.

Some top tips for businesses:

- Where applicable, ensure appropriate policies and procedures are in place that prohibit fake reviews and set out the business' approach to related matters such as incentivised reviews.
- Ensure effective processes are in place to seek to prevent and remove unlawful/fake reviews.
- More generally, put in place appropriate compliance and auditing processes for consumer facing messaging, including messaging on pricing (e.g. to ensure all unavoidable charges are captured upfront).
- Ensure employee policies and guidance on consumer protection rules are up to date.
- Consider the oversight role of legal team and related monitoring / escalation procedures.
- Provide refresher training for relevant (business and legal) teams on prohibited practices.

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