

Bird & Bird

UK: News Flash - CMA consumer enforcement guidance and consultation is published

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The UK's Competition and Markets Authority (**CMA**) has published its "Direct consumer enforcement guidance and rules" and accompanying consultation on 31 July 2024. The Digital Markets, Competition and Consumers Act 2024 (**DMCCA**) introduces a new consumer law enforcement regime that will transform current practice. Notably, the CMA is empowered to investigate, determine and enforce against consumer law infringements without court intervention. These new publications explain the CMA's intended approach towards its new enforcement powers, and asks businesses for feedback via consultation. The consultation [closes on 11 September 2024](#).

We summarise the purpose and intentions of each publication document below.

1. Draft direct consumer enforcement guidance

Under section 212 of the DMCCA, the CMA is required to publish guidance about its general approach towards its new direct enforcement powers (i.e., explaining the processes and procedures the CMA will adopt). This guidance must be updated and reviewed over time. A consultation over the guidance must take place and the Secretary of State must approve the guidance prior to implementation.

The draft guidance is 130 pages, divided into a number of chapters, covering the enforcement process, information notices, undertakings and settlements, remedies, administrative enforcement, penalties, decision-making and procedural complaints. Of particular interest to consumer facing businesses is the penalties chapter. The CMA warns that monetary penalties are intended to act as a meaningful deterrent, including against businesses with substantial turn over.

2. Draft consumer rules

The CMA has also published draft 'Consumer Rules' as required under section 210 DMCCA. These are a set of procedural rules that the CMA must follow when engaging in direct enforcement against businesses. For example, these draft rules explain the consequence of a business failing to make representations within the required time limits, which is the CMA may continue the case in absence of representations.

3. Consultation

The consultation document seeks input on the draft guidance and draft rules. Whilst the consultation is not a vehicle for altering the legal positions set out under the DMCCA (for example, the maximum penalty thresholds will remain as per the DMCCA), it provides opportunity to comment on the CMA's intended enforcement processes and approaches. For example, businesses can add commentary on what factors the CMA should consider when deciding to accept, vary or release undertakings.

Those operating in a business-to-consumer environment will have a particular interest in these publications given they explain the CMA's new approach towards consumer law enforcement. Moreover, businesses now have an opportunity to help shape how the CMA delivers this new enforcement program. We have particular expertise in responding to such consultations and can support those seeking to input – please reach out to our International Business to Consumer Group via Sophie Stoneham and Rob Turner.

Read our previous article on the DMCCA [here](#) and [here](#).