



# Appointment of Chair Appointment Brief

December 2021

Reference: QACMK

# Ministerial Foreword

Dear Candidate,

Thank you for your interest in becoming Chair of the Competition and Markets Authority (CMA).

This is an incredibly exciting time for the UK's highly regarded competition and consumer agency as it responds to the challenges of the digital market, establishes the Digital Markets Unit, takes on bigger cases from the European Commission, and prepares for the creation of the Subsidy Advice Unit. Vigorous competition is pivotal to a vibrant and fair economy and society, and the Government is committed to ensuring that markets work well for all.

We are looking for a clear thinker with a vision of the future CMA that puts competition and consumers at the heart of our economy. We need an ambassador for competition and consumers who can work closely with Government and represent the UK internationally. As the Chair, you will build on the CMA's successful response to the Coronavirus Covid-19 pandemic, driving business behaviours and informing government responses that will support the economy as it recovers. You will work with the other Board members to set the strategic direction of the CMA and will lead the Board brilliantly and with integrity, inspiring confidence and trust and driving excellence.

We want the CMA to continue to develop – deepening its knowledge, experience and creativity to recommend the right solutions and remedies for everyone in society. If you believe you have the experience and qualities we are seeking to Chair this important organisation, we very much look forward to hearing from you.

**The Rt Hon Kwasi Kwarteng MP**  
**Secretary of State for Business, Energy & Industrial Strategy**



# An introduction

The Competition and Markets Authority (CMA) is the competition regulator of the United Kingdom. It is a non-ministerial government department responsible for strengthening business competition and preventing and reducing anti-competitive activities.

The CMA works to promote competition for the benefit of consumers, both within and outside the UK. Its aim is to make markets work well for consumers, businesses and the economy, with a strong consumer protection role. In order to meet these responsibilities, it operates with flexibility and transparency.

The CMA's current primary activities are to operate the antitrust, mergers and market regimes; provide advice and guidance to businesses to help them understand and comply with competition law; promote consumer protection; assess challenges to sector regulators' decisions; and resolve disputes relating to licence and price modification proposals.

BEIS is committed to increasing the diversity of our boards and bringing in talent, regardless of its origins. We encourage applications from all candidates regardless of ethnicity, religion or belief, gender, sexual orientation, age, disability or gender identity. We particularly welcome applications from people with ethnicity, gender and disability characteristics currently underrepresented on our Boards.

- Arrangements for candidates with a disability:** As a Disability Confident leader, we guarantee to interview anyone with a disability whose application meets the essential criteria for the post. More details on the criteria can be found in this pack. If you wish to apply through the Disability Confident scheme, you will need to tick that option on the Diversity Monitoring form that you will submit alongside your application.
- Adjustments:** All candidates are entitled to request reasonable adjustments at any stage of the application process. If you would like to discuss reasonable adjustments prior to submitting your application, please contact the Campaign Manager at [Annabel.fish@saxbam.com](mailto:Annabel.fish@saxbam.com)



# The role

The new Chair will lead an effective Board, setting the strategy for the organisation to meet new challenges including supporting the UK economy to grow post-coronavirus pandemic and taking more, and more complex, cases previously heard by the European Commission.

The Non-Executive Chair, together with the Non-Executive members of the Board, will bring appropriate challenge to the decisions made by the executive in running the organisation. The Chair must work effectively with the CMA's Chief Executive, executive team, Non-Executive members, and the CMA's panel of independent competition and consumer experts. In doing so, the Chair will need to gain and retain the confidence of a wide range of stakeholders including Government, business, consumer groups, competition specialists and other international competition authorities.

The CMA Board currently consists of a Chair, five Non-Executive members and other members including the CMA Chief Executive and Executive Directors. Two of the Non-Executive members are also members of the CMA's independent decision-making Panel.

The Board establishes the overall strategic direction of the CMA within the policy framework laid down under the Act. The Board ensures that the CMA as a statutory body fulfils its statutory duties and functions. It considers the opinions and reports of the CMA Accounting Officer and oversees the appropriate use of public funds.

## Key responsibilities:

- providing effective leadership and strategic direction to form a cohesive and focused Board – enabling a high standard of discussion and debate and facilitating collaborative working;
- maintaining an open and productive relationship with the Chief Executive and the executive team, providing appropriate challenge and support in achieving the objectives of the CMA;
- working effectively with the Chair of the CMA Panel and Inquiry Chairs, recognising that the Panel must make its decisions independently of the Board;
- enabling the Board to take consistent, proportionate and fair decisions, ensuring that the Board has the information necessary to perform its tasks, including relevant views from Ministers and other stakeholders;
- working with the Chief Executive to influence, and collaborate with, key stakeholders, including Ministers, business, voluntary and community bodies and regulators, making the case for sound competition and consumer protection practices;
- steering the organisation towards one which has the capability to oversee firms operating in digital and tech markets and the operational and technical challenges which that presents;
- ensuring the Board is guided by and sets high standards of propriety for the organisation, including the efficient and effective use of staff and resources; and
- ensuring appropriate evaluation of the performance of the Board and individual members, working with the Board and Senior Independent Member to ensure it has an appropriate and diverse range of skills, and that workloads are effectively managed.

# Person specification

## Essential criteria:

- Excellent influencing and communication skills, including the ability to represent the UK at the highest levels domestically and internationally, experience of building strong relationships at all levels, commanding trust and confidence.
- Experience of effective Board level leadership in a business, regulatory, policy organisation or similar and the ability to lead the CMA through a period of change.
- Demonstrable understanding of the way markets work, including digital markets, developed through practical experience including through business, regulation or policy development.
- Excellent analytical, judgement and sound decision-making skills.
- The ability to inspire passion, dedication, pace and innovation, ensuring the development, sustainability and high performance of the Board as a whole and of individual members.

## Desirable criteria:

- Although direct experience of competition or consumer issues would be welcome, we encourage applications from individuals with any relevant experience and background, including but not limited to competition, consumer, regulation, digital, retail, financial services or other environments.

# Terms of appointment

**Appointment Term:** An initial period of 5 years, with the possibility of reappointment.

**Remuneration:** £106,666 per annum. Remuneration and expenses are taxable.

**Time Commitment:** Around 2 days per week.

**Location:** London.

**Nature of Appointment:** This is a Public Appointment, made by the Secretary of State for Business, Energy and Industrial Strategy and regulated by the Commissioner for Public Appointments. The post holder would be an office holder and not be an employee of the Department or the Competition and Markets Authority.

**Availability:** Successful candidate/s will be encouraged to take up their appointment as soon as possible, following the successful completion of pre-appointment checks and security clearance at **Security Check (SC) level**.

## How to apply

Saxton Bampfylde Ltd is acting as an employment agency advisor on this appointment.

Candidates should apply for this role through our website at [www.saxbam.com/appointments](http://www.saxbam.com/appointments) using code **QACMK**.

Click on the 'apply' button and follow the instructions to upload a CV and cover letter, and complete the online conflict of interest and equal opportunities monitoring\* form.

The key to a good application is to give the reader specific information about how you meet the criteria for appointment. Think about your knowledge, skills, experience and personal attributes. Provide practical evidence that best demonstrates how you meet the essential criteria.

The closing date for applications is noon on **Tuesday 18 January 2022**.

\* The equal opportunities monitoring online form will not be shared with anyone involved in assessing your application. Please complete as part of the application process.

### GDPR personal data notice

According to GDPR guidelines, we are only able to process your Sensitive Personal Data (racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, genetic data, biometric data, health, sex life, or sexual orientation) with your express consent. You will be asked to complete a consent form when you apply and please do not include any Sensitive Personal Data within your CV (although this can be included in your covering letter if you wish to do so), remembering also not to include

contact details for referees without their prior agreement. Further information on how BEIS handles your personal data is contained in the BEIS Public Appointments Privacy Notice, which is available [online](#)

## Process

The members of the advisory assessment panel are:

- Niall Mackenzie, Director, Consumer and Competition Policy, BEIS – Panel Chair
- Philip Duffy, Director General, Growth and Productivity – HMT Representative
- Jae Samant, Director General, Home Office – Other Panel Member
- Gerard Lyons – Senior Independent Panel Member

The following dates are provisional at this stage:

- Competition Launched 14/12/2021
- Closed for Applications 18/01/2022 at 12:00
- Panel Sift End January 2022
- Shortlisting outcomes w/c 21 February 2022
- Staff Engagement Exercise Early March
- Fireside chats Early March
- Final Interview Date w/c 14/03/2022
- Pre-Appointment Scrutiny Hearing Late April/Early May 2022
- Announcement May 2022

## Pre-appointment scrutiny

This appointment is subject to pre-appointment scrutiny by the BEIS Select Committee.

Pre-appointment scrutiny is an important part of the appointment process for some of the most significant public appointments made by Ministers. It is designed to provide an added level of scrutiny to verify that the recruitment meets the principles set out in the Governance Code on Public Appointments.

The pre-appointment scrutiny aspect of the appointment has two parts.

First, information concerning the appointment and the Government's preferred candidate will be shared with the relevant select committee. As part of this process you will need to be content for your name and your CV to be shared with the select committee as the Government's preferred candidate. You may also be required to complete a pre-appointment hearing questionnaire which could include, among other things:

- declarations of any relevant potential conflicts of interest;
- what you see as the priorities and key risks for the organisation;
- questions about how you would lead the board and work with stakeholders;
- your commitment to standards in public life and how you would handle being in the public eye.

Normally any information provided to the select committee by the Government or a candidate will be published.

Second, it is likely that the select committee will decide to call the Government's preferred candidate to a public hearing before the select committee to answer questions relating to their suitability to the role. You would not be expected to have an in-depth technical knowledge of how the body works or an exact plan of

what you would do in the role, however you will be expected to provide a credible representation of your understanding of the work of the body and what your role in its future would be.

**The proposed date for a pre-appointment hearing is yet to be confirmed but is expected to be in Late April/Early May 2022.**

The Government is committed to making the public appointments as accessible as possible so that no one is deterred from applying. The Department will provide support to you to help you prepare for the hearing and the clerks to the select committee will also be available to discuss with you how the hearing will run. You will also be supported by the Department in working with the select committee should you require any adjustment to enable you to participate fully in the hearing process.

For more information about pre-appointment scrutiny, please see the [Cabinet Office Guidance: Pre-appointment scrutiny by House of Commons Select Committees](#)

## Further Information

### Conflicts of Interest

Applicants must disclose information on financial and non-financial interests and personal connections, which if they were appointed, could lead to a conflict of interest or be perceived as such. Further guidance on the outside interests that may give rise to a possible conflict of interest is provided in Annex A, and in the CMA's Conflicts of Interest policy (which is publicly available online).

If it appears, from the information provided by applicants on the conflicts form, that an applicant's interest/s might give rise to a conflict/perceived conflict of interest with the CMA's current or prospective work, this will be fully explored with the applicant with a view to establishing whether it is sufficiently significant to prevent the individual from carrying out the duties of the post. The Assessment Panel will do this at interview stage.

Applicants should also note that any relevant outside interests of Board members are published by the CMA in a public register of Board Members' financial and non-financial interests on its website. On leaving office, a Board Member or Panel Member is required to comply with the CMA's rules on acceptance of future employment or appointments.

It is important that those appointed as members of public bodies maintain the confidence of Parliament and the public. If there are any issues in your personal or professional history that could, if you were appointed, be misconstrued, cause embarrassment, or cause public confidence in the appointment to be jeopardised, it is important that you bring them to the attention of the Assessment Panel and provide details of the issue(s) in your application. In considering whether you wish to declare any issues, you should also reflect on any public statements you have made, including through social media. The Panel may explore issues with you before they make a recommendation on the appointment.

As part of our due diligence checks we will consider anything in the public domain related to your conduct or professional capacity. This will include us undertaking searches of previous public statements and social media, blogs or any other publicly available information. This information may be made available to the Panel and they may wish to explore issues with you, should you be invited to interview.

If you have any queries or would like to discuss further, please contact the BEIS Appointments, Diversity and Talent Team at [publicappointments@beis.gov.uk](mailto:publicappointments@beis.gov.uk).

## The Seven Principles of Public Life

In 1995 the Committee on Standards in Public Life defined seven principles for public life. All candidates for are expected to demonstrate a commitment to, and an understanding of, the value and importance of the principles of public service which are:

1. Selflessness
2. Integrity
3. Objectivity
4. Accountability
5. Openness
6. Honesty
7. Leadership

Further information on the principles of public life can be found [here](#).

## Complaints Procedure

If you feel you have reason to complain you should direct your concerns in the first instance to the Public Appointments team ([publicappointments@beis.gov.uk](mailto:publicappointments@beis.gov.uk)) who will make every effort to deal with these and respond to you within 48 hours.

If your complaint is not dealt with satisfactorily, you can find information about the steps you can take under BEIS Complaints Procedure [here](#).

The Commissioner for Public Appointments is the independent regulator of public appointments. The Commissioner's primary role is to provide independent assurance that public appointments are made in accordance with the [Governance Code on Public Appointments](#). The Commissioner also investigates complaints and may conduct an inquiry into the policies and practices followed in relation to appointments processes which he regulates. The Commissioner will not investigate complaints relating to non-selection unless it appears that the appointments process has breached the Governance Code on Public Appointments.

You can contact the Commissioner by email at [publicappointments@csc.gov.uk](mailto:publicappointments@csc.gov.uk) or by post, as follows:

The Commissioner for Public Appointments  
Room G/8, 1 Horse Guards Road  
London, SW1A 2HQ

Further information on the role of the Commissioner or the appointments process is available at: [publicappointmentscommissioner.independent.gov.uk](http://publicappointmentscommissioner.independent.gov.uk).

## Annex A CMA conflicts policy

### **INTRODUCTION**

1. A conflict of interest may arise where a public official has a financial or other interest arising from their outside activities which influences, or might reasonably be perceived to influence, their impartiality or independence in performing their duties.
2. This Conflicts of Interest Policy (the Policy) explains how the Competition and Markets Authority (CMA) handles possible conflicts arising from the financial and non-financial interests ('outside interests') of its Board, Panel<sup>1</sup> and staff members.<sup>2</sup>
3. The CMA must be, and be seen to be, impartial. This is an essential ingredient of the public confidence enjoyed by the CMA. As well as being a core value required of all civil servants and holders of public office (under the Civil Service Code and the Seven Principles of Public Life<sup>3</sup> respectively), impartiality is one of the public law principles underpinning good and lawful decision-making by public bodies. It requires that decision-makers are not biased, or seen to be biased (otherwise known as 'apparent bias'), towards a particular outcome in a matter, as a result of their own outside interests. Any such bias (or apparent bias) would be in direct conflict with the overriding requirement of impartiality.
4. The outside interests of Board, Panel or staff members can take many different forms, but will be capable of giving rise to the risk of a conflict of interest depending on the circumstances. Such circumstances may give rise to:
  - An actual conflict: where an individual's ability to apply judgement or act in one role is impaired or influenced by an outside interest;
  - A perceived conflict: where there may be a perception of a conflict based on the surrounding circumstances, including outside interests; or
  - A potential conflict: where an individual has an outside interest that could cause an actual or perceived conflict of interest to arise at some time in the future.(collectively referred to hereafter as 'conflict risks').
5. This Policy therefore sets out general guidance for Board, Panel, and staff members on conflict risks. A good understanding of this will help ensure that the CMA's decisions are untainted by bias or apparent bias, and that the CMA maintains its reputation for independent, impartial and robust decision-making.
6. The handling of specific conflict risks in relation to particular projects or inquiries will be considered by the CMA on a case-by-case basis, having regard to the approach the courts take in assessing whether a decision has been tainted by bias or apparent bias. The correct approach, as confirmed in the case of *Porter v. Magill* (2002) 2 AC 357, is to consider whether a fair-minded observer, having considered the facts, would conclude that there was a real possibility that the decision-maker was biased.

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<sup>1</sup> At the date of this Policy, and as a result of the passing of the UK Internal Market Act 2020, the CMA has assumed responsibility for overseeing and supporting the Office for the Internal Market (OIM). Accordingly, the principles of this Policy will also apply to the outside interests of the OIM Chair and any OIM Panel Members.

<sup>2</sup> Where external consultants act as the equivalent to members of staff, this Policy will apply to their outside interests (see paragraphs 77- 78 below).

<sup>3</sup> See [The Seven Principles of Public Life - GOV.UK](https://www.gov.uk/government/publications/seven-principles-of-public-life) and [The Civil Service code - GOV.UK](https://www.gov.uk/government/publications/civil-service-code)

7. While this Policy addresses possible outside interests which could give rise to conflict risks, it is not possible to provide a comprehensive list of all the interests and circumstances in which a conflict risk may arise. Therefore:
- This Policy must be interpreted and applied with regard to its spirit and purpose; and
  - If a Board, Panel or staff member has any doubt as to whether a conflict risk may arise, the matter should be raised with the Compliance Officer.

### **Annual Attestation**

8. Board, Panel and staff members are expected to attest to this Policy annually, confirming that they have read, understood and complied with the guidance. As part of this attestation process, all Board, Panel and staff members will be required to make an annual declaration of any relevant outside interests. This will include providing a 'nil return' if they have no relevant outside interests.

### **The Compliance Officer**

9. The Compliance Officer within the CMA is responsible for ensuring that this Policy is applied and enforced on a day-to-day basis. If a Board, Panel or staff member is in any doubt about the significance of an outside interest at any time, he or she should consult the Compliance Officer in the first instance who will advise on appropriate action, after consultation with General Counsel where appropriate.

### **THE GENERAL APPROACH OF THE CMA TO CONFLICTS OF INTEREST**

10. Board, Panel and staff members must be alert to any conflict risks arising at all times and should review whether any of their outside interests give rise to conflict risks from time-to-time during all projects, cases or inquiries. Some conflict risks can be identified in advance; others may only become apparent as the matter develops, or circumstances change (e.g. because of the involvement of a new party, or a change in the outside interests of a Board, Panel or staff member).
11. Board, Panel or staff members should, therefore, always disclose any outside interests to the Compliance Officer, if they are in any doubt as to the compatibility of an outside interest with their work for the CMA. While they may be in a position to identify whether they have an outside interest of potential concern, they are not in the best position to judge any consequences for the CMA.

### **Financial interests**

12. Financial interests held by Board members, Panel and staff members which may be of potential concern include:
- shares, stocks, debentures or bonds (including options or rights in or over any such securities), whether dealing personally or through intermediaries (eg. a private banking service); and
  - pension schemes, insurance policies, collective investment schemes (such as unit trusts or investment trusts), whether dealing personally or through intermediaries or with lending institutions (e.g. building society mortgages or bank loans), subject to paragraph 19 below.
13. They may also include:
- the financial interests of others to whom the Board, Panel member or staff member gives investment advice; and
  - those of a close family member (which, for the purposes of assessing financial interests, includes any family member or co-habiting partner over whose decisions on investment

matters they exert an influence or in respect of whose investments they have actual knowledge).

14. Financial interests may relate not only to a company which is the subject of a project, case or inquiry but also those which relate to other companies which are likely to take a significant part in proceedings before the CMA, such as main competitors, customers or suppliers, or whose value is likely to be significantly affected by a CMA decision.
15. Where the interest belongs to a close family member, the CMA will normally treat the interest as if it was an interest of the Board, Panel or staff member for the purpose of assessing conflict risks. Where a financial interest belongs to a person with whom a Board, Panel or staff member has a close personal relationship (as defined in paragraph 21 below), the CMA has regard to the nature of the personal association or relationship in deciding what, if any, action must be taken.
16. Where assets are held by discretionary managers or in a trust, the CMA will adopt a prudent approach in deciding whether they raise concern. Relevant matters may include the duties to which a trustee or manager is subject, and the degree of knowledge a person has or may acquire of the particular assets held by a trust or manager.
17. Where assets are held by a Board, Panel or staff member as trustee for or otherwise on behalf of another person, the CMA will normally treat them for conflicts purposes as if they were assets of the Board, Panel or staff member.
18. Whether a conflict risk raised by a financial interest can be managed is judged, in part, by reference to whether it would have a material effect on the ability of the Board, Panel or staff member to exercise their functions. Accordingly, given the CMA's wide remit across the economy, a substantial portfolio which is directly managed on an active basis is likely to create material conflict risks and so may be undesirable. Therefore, as part of the appointment process, candidates who hold a substantial portfolio may need to consider either disposing of it or placing it under full discretionary management on terms approved by the Compliance Officer.

#### **Financial interests which are unlikely to cause concern**

19. The CMA will not usually consider financial interests of potential concern where:
  - the value of assets is too low to be material; the CMA may from time-to-time set a general benchmark of value below which it will generally consider an interest of no concern – currently the *de minimis* level is set at £10,000;
  - holdings are in collective investment schemes, or in investment trusts or managed funds, bonds, policies or similar vehicles (including pension schemes, plans and policies) where investments are made and managed by professional managers in a significant number of enterprises without the Board, Panel or staff member's involvement in investment decisions (unless they are unduly weighted towards investments in a particular sector);
  - securities are held under arrangements where the investment decisions are made by a professional investment manager, such as a stockbroker or bank, who has absolute discretion as to the purchase, sale and management of the investments and where the Board, Panel or staff member has no involvement in such decisions and no knowledge of the underlying equities;
  - shareholdings are in companies the purpose of which is to own the freehold of a personal residence of a Board, Panel or staff member;
  - holdings are of UK and other governments' stock, gilts, bonds, premium bonds, national savings;

- assets comprise goods and/or services bought on the open market on normal commercial terms available to other buyers (e.g. banking or insurance services, such as the mortgages and loans referred to in paragraph 12 above, telephone services, travel and tangible assets purchased on normal terms on the open market).

### **Non-Financial interests**

20. Conflict risks may also arise out of interests which are non-financial. Where a non-financial interest of the type described below gives rise to a conflict risk, it should be managed in accordance with the guidance below on handling conflict risks (see paragraph 27 onwards).

### ***Personal relationships***

21. A conflict risk may arise where the development or outcome of a project, case or inquiry, or generally the work of the CMA, could have real consequences for a person that a Board, Panel or staff member has a close personal association or relationship with. Such persons could include not only any close family members (as defined at paragraph 13) but also other associates: for example, a close friend, a close relative<sup>4</sup> or a business associate who is working for or advising a company the CMA is investigating (hereinafter referred to as 'close personal relationships').

### ***Positions held outside the CMA***

22. Conflict risks may also arise from past, current or future positions held outside the CMA by Board, Panel or staff members (positions held in the last two years will be relevant as past positions). The following is a non-exhaustive list of examples of relevant positions:

- directorships;
- equivalent positions with high-level responsibility for governance and performance;
- Elected or non-elected positions in government at local or national level;
- senior paid or unpaid roles with charities and not-for-profit organisations;
- consultancy, advisory or legal roles, whether remunerated or not, particularly where they involve the provision of advisory or other services on competition and/or economic regulation issues, potentially relevant to activities of the CMA; and
- any memberships of public bodies (hospital trusts, governing bodies of universities, colleges and schools, and local authorities), trusteeships (of museums, galleries and similar bodies), or positions as an office holder or trustee for pressure groups and trade unions.

23. The CMA will not usually consider ordinary membership of charities or not-for-profit organisations (where no role in governance or management is undertaken) to be a matter of concern. However, some activities by Board, Panel or staff members, such as lobbying on matters of national interest or debate relevant to a project, case or inquiry, may raise concerns.

24. The significance of such positions generally diminishes over time. In particular, in the absence of complicating factors, Board, Panel or staff members who were formerly partners in firms providing professional services to any party to a CMA case, project or inquiry are not normally considered to have a disqualifying interest in relation to that matter if two years have elapsed since they left the firm, provided that they have no continuing financial interest in, or relationship with, the firm. However, a case-by-case analysis will be required in such circumstances and the time frame described above may be varied accordingly.

### ***Prejudgement***

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<sup>4</sup>The definition of 'close relative' will depend on personal circumstances but will generally include spouse/partner, parents, siblings and children.

25. It is important that Board, Panel and staff members approach decision-taking on behalf of the CMA with an open mind. Their impartiality in relation to a particular case, project or inquiry might be compromised (or appear to be compromised), for example, if they were involved in a private legal dispute with a company, or had written an article or made a speech expressing strong views about a particular matter.
26. The important question in such cases will be not whether a Board, Panel or staff member may have an initial view on a particular issue, but whether they will be able to make a decision that is not influenced by their personal views or experiences. The fact that a Board, Panel or staff member may have taken part in a previous CMA case, project or inquiry in the same sector or involving the same party will not normally be regarded as giving rise to a risk of prejudgement.

## **PROCEDURES FOR HANDLING CONFLICTS OF INTEREST**

### **Board members**

#### ***Disclosure of outside interests to the Board Secretary***

27. Board members are required to disclose the following outside interests ('disclosable interests') to the Board Secretary:
- a) financial interests<sup>5</sup> (as set out in paragraphs 12-18 above);
  - b) any remunerated employment, office or profession;
  - c) other regular sources of income or remuneration from business, professional or public activities or interests;
  - d) directorships, whether remunerated or not;
  - e) membership of public bodies (for example, hospital trusts, governing bodies of universities, colleges and schools, and local authorities), trusteeships (for example, of museums, galleries and similar bodies), and acting as an office holder or trustee for pressure groups, trade unions and voluntary or not-for-profit organisations; and
  - f) Any other relevant non-financial interest (as set out in paragraphs 20-26 above).
28. Disclosure of (a) is required for current interests of Board members and their close family members. Disclosure of (b) to (f) includes both current and recent (at least the last two years') non-financial interests (including close personal relationships, as defined in paragraph 21 above) of Board members.
29. The Board Secretary will keep a record of all disclosures made under paragraph 27 and 28 of this Policy. The information will remain confidential and will not be disclosed except where required:
- for the purposes of managing conflict risks; or
  - for the purposes of complying with the Cabinet Office Code of Conduct<sup>6</sup> and the CMA's policies and procedures; or
  - for any other legal or regulatory obligation.

#### ***Registration of outside interests***

30. The CMA maintains a public register of interests ('the Register') for Board members who must register the following outside interests ('registrable interests'):

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<sup>5</sup> For these purposes, Board members are required only to disclose whether the financial interests are above the *de minimis* threshold set out in paragraph 19 above. However, where the Compliance Officer considers that a conflict risk may arise, the Board member may be required to disclose further details of the actual amounts held.

<sup>6</sup> [Code of Conduct for Board Members of Public Bodies June 2019 \('the Cabinet Office Code'\)](#)

- a) all financial interests of the Board member and any close family member (as defined in paragraph 13), where the value is above the *de minimis* threshold set out in paragraph 19 above; and
- b) any non-financial interests (including any close personal relationships, as defined in paragraph 21 above) of the Board member where the interest in question might, or might be perceived to, conflict with the Board member's duties.

31. Registration of (a) is only required for current interests. Registration of (b) includes both current and recent (at least the last two years') interests.

32. The Register will be published on the CMA website for scrutiny by the public. Board members are responsible for keeping their individual entry in the register up-to-date, and must notify the Board Secretary promptly when there are any changes to their outside interests. In addition, the Board Secretary will ask Board members to update their entries on the Register every three months.

### ***Handling of outside interests of Board members***

33. From time to time Board members may have, or become aware of, outside interests which may not have been disclosed, but which in the context of a particular matter or issue before the CMA or the Board could nonetheless give rise, or be perceived as giving rise, to a conflict risk.

34. A Board member must disclose to the Compliance Officer any such interest as soon as they become aware that it may cause a conflict, for example on receipt of an agenda for a meeting.

35. If in doubt as to whether or not there may be a conflict risk, Board members are advised to inform the Compliance Officer, in order to provide an opportunity for the Compliance Officer to assess the conflict.

36. The Compliance Officer will consider all conflict risks that are brought to their attention on a case-by-case basis before making recommendations, in consultation with the General Counsel if appropriate, on what, if any, action should be taken. In making such decisions, the Compliance Officer will have regard to all the circumstances, including the need to exercise an appropriate degree of caution to safeguard the CMA's independence and integrity.

37. Where a Board member holds a financial interest above the *de minimis* level (see paragraph 19) in a matter or issue before the Board, the presumption will be that the Board member should be recused from any discussion or determination in relation to that matter.

38. Subject to paragraph 37 above, in relation to any conflict risk, the Compliance Officer, in consultation with the General Counsel, and the CMA Chair where appropriate, will decide whether a particular interest may influence or appear to influence the Board member's role in relation to the matter giving rise to the conflict risk.

39. If the Compliance Officer is satisfied that it is appropriate, the Board member may be permitted to participate fully or in a limited capacity in a decision or discussion. If the Compliance Officer is not satisfied, the Board member shall withdraw from further participation in the decision or discussion in question.

40. In the event of a conflict risk arising for the CMA Chair (whether arising from a financial or non-financial interest), the Compliance Officer and the General Counsel, having consulted the Senior Independent Director, will decide whether, or in what capacity, the CMA Chair may participate in a decision or discussion.

41. When taking on any outside appointments or acquiring financial interests, Board members should be aware that those interests may interfere with the Board member's ability to participate fully and effectively in the Board's work. Board members therefore need to:
- Notify the Compliance Officer in advance of any additional appointment or employment that the Board member wishes to take up and allow the CMA the opportunity to comment; and
  - Self-certify any dealings in securities within seven days of dealing, save where the security relates to a financial interest unlikely to cause concern as set out in paragraph 19. This requires Board members:
    - To confirm in writing to the Compliance Officer that they do not hold any inside or confidential information in relation to the securities that they are dealing in;
    - To declare, in good faith, that there is no other reason why it would be inappropriate for them to deal with the security in question; and
    - where they are aware a close family member (as defined in paragraph 13) has been dealing in securities in relation to which the Board member holds inside or confidential information, to confirm in writing to the Compliance Officer that any such information was not provided to that family member.

### ***Post-term appointments***

42. After ceasing to be a Board member, members will remain bound by their duty of confidentiality and relevant statutory restrictions (see paragraphs 80 to 81) in relation to information obtained during the course of their activities when a Board member.
43. The Cabinet Office Code requires that Board members must comply with the rules for future employment or appointment, as provided for by the body of which they are a member. The principles underlying the Business Appointment Rules for Civil Servants will apply to any employment or appointment a Board member may wish to take up, for a period of two years after the end of their membership of the CMA Board.
44. Therefore, before accepting any new appointment or employment, Board members must notify and seek the approval of the Compliance Officer if any of the following circumstances apply:
- a. They have been involved in developing policy specifically affecting their prospective employer, or otherwise had access to other legally privileged or confidential information specifically affecting their prospective employer, at any time in the two year period prior to the end of their membership of the CMA Board;
  - b. They had responsibility for, or had oversight of, any decisions, cases or investigations, specifically affecting their prospective employer (or a client of their employer) in the two year period prior to the end of their membership of the CMA Board;
  - c. They had any official dealings with their prospective employer in the two year period prior to the end of their membership of the CMA Board;
  - d. They have had access to commercially sensitive information of competitors of their prospective employer, or to competitors or clients of their prospective employer, during their membership of the CMA Board;
  - e. The proposed appointment or employment would involve making representations or lobbying the Government in connection with matters related to the CMA on behalf of their new employer or the clients of their new employer;
  - f. The proposed appointment or employment is consultancy work, either self-employed or as a member of a firm, and, in the two year period prior to the end of their membership of the CMA Board, they have had official dealings with outside

bodies or organisations that are involved in their proposed area of consultancy work.

45. The Compliance Officer, in consultation with the General Counsel, will assess notifications made pursuant to paragraph 44, to determine whether the proposed new role could give rise to a risk of disclosure of confidential information or conflict risks. Following the assessment, the Compliance Officer may approve the Board member taking up the appointment or employment, either unconditionally or with conditions. Such conditions could include a waiting period before the appointment or employment can be taken up, or a requirement that the Board member should stand aside from certain activities following the employment or appointment being taken up.

### **Panel Members**

46. As part of the process of appointment by BEIS, a brief biography of Panel members' interests will be disclosed on the CMA website.

47. As set out in the CMA's Code of Conduct for Panel members,<sup>7</sup> the outside interests of Panel members appointed to an Inquiry Group will be assessed prior to that appointment. Outside interests that are not already disclosed on the CMA website, but which are of relevance to that particular inquiry, may be publicly disclosed where the Compliance Officer and Panel Chair (in consultation with General Counsel) deem appropriate. During the conduct of an inquiry by a CMA Group, the chair of the Inquiry Group is responsible for ensuring that the outside interests of Panel members and their close family members are monitored and that any new conflict risks that may arise during an inquiry (for example, as a result of developments in the inquiry or a change in a Panel member's outside interests) are brought to the attention of the Compliance Officer and the Panel Chair to advise, in consultation with General Counsel as necessary, on what, if any, action should be taken.

48. It is the responsibility of each Panel member, if in any doubt as to whether their outside interests might pose a risk to the impartiality of the CMA, to seek advice from the Compliance Officer and/or Panel Chair.

49. In relation to any conflict risk, the Panel Chair, having consulted the Compliance Officer and, where they consider it necessary the General Counsel, will decide whether a particular interest may influence or appear to influence the Panel member's role in relation to the matter giving rise to the conflict risk.

50. If the Panel Chair is satisfied that it is appropriate, the Panel member may be permitted to participate fully or in a limited capacity in a decision or discussion. If the Panel Chair is not satisfied, the Panel member shall withdraw from further participation in the decision or discussion in question and, if necessary, the Panel Chair may remove the person in question from membership of the relevant Group. The CMA's practice is not to appoint a member to an Inquiry Group where a conflict risk is likely to arise. In some cases, the Panel Chair may decide that an outside interest must be disposed of, or severed, if the Panel member is to participate in a particular inquiry. In limited cases, the CMA may contact the parties to disclose an outside interest ahead of appointing a member even though the CMA believes that the conflict risk would not affect, nor be seen to affect, the Group's impartiality. Where appropriate, particular interests may also be disclosed on the relevant case page. The Panel member will be consulted before these steps are taken.

51. When taking on any outside appointments, Panel members must be aware that this may restrict the scope of work a Panel member may be able to perform for the CMA. Accordingly,

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<sup>7</sup> [Code of conduct for CMA panel members](#)

a Panel member is required to notify the Compliance Officer in advance of any additional appointment or employment that the Panel member wishes to take up and allow the CMA the opportunity to comment and, if appropriate, object.

### ***Post-term appointments***

52. After ceasing to be a Panel member, members will remain bound by their duty of confidentiality and relevant statutory restrictions (see paragraphs 80 to 81) in relation to information obtained during the course of their activities when a member.
53. The principles underlying the Business Appointment Rules for Civil Servants will apply to any employment or appointment a Panel member may wish to take up, for a period of two years after the end of their membership of the CMA Panel.
54. Therefore, before accepting any appointment or employment, Panel members must notify and consult the Compliance Officer (and BEIS where necessary) in accordance with the terms of their appointment letter, and/or if any of the following circumstances apply:
  - a. They have had access to legally privileged or confidential information specifically affecting their prospective employer, at any time in the two year period prior to the end of their membership of the CMA Panel;
  - b. They had responsibility for any decisions or cases specifically affecting their prospective employer (or a client of their employer) in the two year period prior to the end of their membership of the CMA Panel;
  - c. They had any official dealings with their prospective employer in the two year period prior to the end of their membership of the CMA Panel;
  - d. They have had access to commercially sensitive information of competitors of their prospective employer, or to competitors of clients of their prospective employer in the course of their membership of the CMA Panel;
  - e. The proposed appointment or employment would involve making representations or lobbying of the Government in connection with matters related to the CMA on behalf of their prospective employer, or clients of their new employer.
  - f. The proposed appointment or employment is consultancy work, either self-employed or as a member of a firm, and, in the two year period prior to the end of their membership of the CMA Panel, they have had official dealings with outside bodies or organisations that are involved in their proposed area of consultancy work.
55. The Compliance Officer, in consultation with the General Counsel, will assess notifications made pursuant to paragraph 54, to determine whether the proposed new role could give rise to a risk of disclosure of confidential information or conflict risk. Following the assessment, consent may be given for the Panel member to take up the appointment or employment, either unconditionally or with conditions. Such conditions could include a waiting period before the appointment or employment can be taken up, or a requirement that the Panel member should stand aside from certain activities following the employment or appointment being taken up.

### **Staff**

#### ***Procedures for handling interests for staff***

56. Staff should contact their staff manager who should make an assessment of the conflict in question, in consultation with the Compliance Officer. The Compliance Officer will exercise their judgment, considering each case on its merits, having regard to the particular circumstances.

57. The disclosure, the subsequent evaluation and, where appropriate, steps taken will be recorded by the staff manager and the Compliance Officer.
58. The staff who are substantively involved in making a decision may include not only the decision-taker but also others who contribute to decisions, for example, staff who contribute research and advice. The extent of any conflict risk arising due to the outside interests of staff in a particular case, project or inquiry will be assessed on a case by case basis having regard to a number of factors: for example, their particular role, their proximity to, or influence over, the decision-making of the CMA, and their seniority within the organisation.

### **Disclosure of outside interests**

59. As with Board and Panel members, staff should always consider whether they hold any outside interests which could give rise to a conflict risk in relation to any decision made by the CMA to which they are contributing, and any such interests must be disclosed to their staff manager and the Compliance Officer. When thinking about such interests, staff are reminded to read paragraphs 12 to 19 (financial interests) and paragraphs 20 to 26 (non-financial interests) above and paragraphs 63-70 below, which provide guidance as to those outside interests the CMA considers potentially problematic
60. In relation to financial interests, staff are reminded to consider the interests of any close family member, and staff should be aware that any financial interest held by a staff member as a trustee will be considered as a personal holding when assessing a conflict risk. Staff must not be involved in taking any decision which could affect the value of their private investments, or the value of those on which they give advice to others, or use information acquired in the course of their work to advance their private financial interests or those of others.
61. In relation to non-financial interests, staff should disclose any such interests which were held within the previous two years. Staff should also consider whether a conflict risk arises from a close personal relationship (as described in paragraph 21 above) and where such a risk arises, they must notify their staff manager and the Compliance Officer.
62. Any staff member who has a close personal relationship (as described in paragraph 21) with a person who is employed, in a senior capacity, by an organisation that is involved in advising on matters related to the CMA's remit (e.g. a law firm or economic consultancy) must inform their staff manager and the Compliance Officer.

### ***Previous employment in the private sector***

63. If, during the first year of CMA employment, staff members are involved in a case, project or inquiry relating to firms, consultancies or companies for which they previously worked, or competitors to those organisations, they should inform their staff manager, project director and the Compliance Officer.
64. It is for the Compliance Officer (and the General Counsel, as necessary), in consultation with the staff manager and project director, to decide on the appropriateness of the staff member continuing to work on the matter. Staff may be prohibited from working on a matter, depending on the circumstances, for a period of twelve months or longer.

### ***Other business and employment interests***

65. Before taking on any outside employment or business interest while working for the CMA, staff are required to seek permission from their Director (SCS1)<sup>8</sup>, in consultation with the HR Business Partner and the Compliance Officer, where appropriate. While not exhaustive, the following general principles illustrate the approach that will be adopted by the Director (in consultation with the Compliance Officer) when handling such requests.:
- No staff member may take a remunerated position within a concurrent or sectoral regulator without the express consent of the Compliance Officer.
  - No staff may at any time engage in private activities which would require their attendance during CMA hours or in any way impair their usefulness as civil servants.
  - No staff may engage in occupations or other activities, which might in any way conflict with the interests of the CMA or be inconsistent with their positions as civil servants.
  - No staff may engage in outside activities involving the use of official experience, or experience acquired in the course of official duties, or payment from a Government Department, without first obtaining the consent of the Compliance Officer.
66. In addition, the principles and criteria of the Business Appointment Rules<sup>9</sup> will be relevant to the assessment if staff wish to undertake outside employment while still employed by CMA.
67. Staff must inform their Director and the Compliance Officer if they have any private business interests which could possibly conflict with their position in the CMA. Staff must carry out any instructions from the Compliance Officer about the retention or disposal of those interests where it could be suggested that a conflict may arise.

### ***Directorships***

68. Staff may not in general hold directorships in, or undertake work in, public or private companies, firms or other organisations. However, directorships may be allowed where staff members have been nominated by the CMA or have the express permission of the Compliance Officer. Staff should consult their Director and the Compliance Officer before undertaking any such commitment. Appointments to outside bodies (e.g. as a non-executive director) for CMA purposes should be cleared with the Compliance Officer.

### ***Consultancy work***

69. Staff may not, without the prior consent of the Compliance Officer, engage in consultancy work on behalf of any company:
- with which the CMA has a contractual relationship; or
  - with which the CMA has some other close official relationship.
70. Any consultancy work not of the prohibited type should not be undertaken by any staff member before being notified to their Director and HR Business Partner (in consultation with the Compliance Officer, where necessary). For guidance regarding what constitutes a contractual or 'close official' relationship, staff should consult both their Director and the Compliance Officer.

### ***Procedure when staff are due to leave the Civil Service***

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<sup>8</sup> For the purposes of paragraphs 65-70, where the staff member is a Director, he or she will seek permission from their Senior Director. Where the staff member is a Senior Director, he or she will seek permission from the Executive Director.

<sup>9</sup> See: [Business Appointment Rules \('the Rules'\)](#)

71. All civil servants employed by the CMA are subject to the Business Appointment Rules<sup>10</sup> on accepting appointments after leaving the Civil Service. Depending on an individual's seniority these Rules apply to individuals for up to two years after leaving the Civil Service.
72. Before accepting any new appointment or employment, whether in the UK or overseas, which they intend to take up after they have left the Civil Service, staff must consider (in conjunction with their staff manager and HR Business Partner) whether an application under the Rules is required. In the case of SCS, the Compliance Officer must also be consulted. The Rules set out criteria where a formal application is required and which must be made before accepting the appointment. All members of staff who are SCS3 must make such an application in respect of any new appointment or employment that they may wish to take up during the two year period after leaving.
73. After assessing an application, the Compliance Officer (in consultation with General Counsel) may approve the take up of the appointment either unconditionally or with conditions, which may last for up to two years. The conditions or restrictions could include a waiting period before the appointment can be taken up, or a requirement that the member of staff should stand aside from certain activities for their new employer.
74. Staff members engaged in the letting or management of contracts must report all offers of an appointment or employment to their staff manager and HR Business Partner, whether or not they intend to follow it up.
75. Staff must also have regard to any conflict risks arising when conducting procurement exercises on behalf of the CMA and when considering external employment, appointments or consultancy work. The need to consider whether there are any conflict risks arising is one of the reasons why the CMA requires staff to obtain its prior consent to external employment, appointments or consultancy work.

### **Secondees**

76. This Policy, along with the relevant conflict of interest and Business Appointment Rules provisions in the secondment agreement, will apply to secondees in the same way as it applies to CMA staff members, including the Policy provisions relating to taking up new appointments after time in the Civil Service, as set out at paragraphs 71-75 above.

### **Consultants**

77. During the course of an inquiry or project, the CMA may instruct consultants to assist with aspects of its investigation. The roles played by consultants may vary considerably and the appropriate approach to their outside interests will be determined according to their role in the inquiry. However, where consultants act as the equivalent to members of staff, their outside interests will be assessed as if they were members of staff for conflicts purposes.
78. Where the CMA is considering whether to instruct a consulting firm to advise it on a particular matter, the CMA will take account of the outside interests of both the staff of the consulting firm and of the firm itself. In considering the interests of the firm, the CMA will take account of all relevant matters, which may include:

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<sup>10</sup> Further information on the Business Appointment Rules can be found on the website of the independent Advisory Committee on Business Appointments. Human Resources and the Compliance Officer can advise on the application of these Rules.

- the present and future clients of the firm (insofar as they can be ascertained), the nature of the work for those clients, and the extent to which the firm is independent of parties which may be affected by the inquiry;
- the degree to which the staff of the firm engaged on behalf of the CMA are protected from improper influence, for example, by being ring-fenced from other staff of the firm;
- any professional conduct rules which apply to the firm and its staff; and
- the record of the consulting firm in providing impartial advice to the CMA.

### **Audit**

79. The CMA will carry out an annual audit to ensure this Policy and its processes (including the application of the Business Appointment Rules) are being adhered to and the outcome of that audit will be reported to the CMA's Audit and Risk Assurance Committee (ARAC). The annual declarations by SCS of their relevant interests (in accordance with paragraph 8 above) will also be submitted to ARAC. A register of relevant interests for all Board members will be published as part of the Annual Report and Accounts.

### **Confidentiality**

80. Board, Panel and staff members are subject to a general duty of confidentiality in relation to the conduct of the affairs of the CMA and information they obtain in the course of their work. They must also comply with any relevant statutory restrictions in relation to such information, in particular those relating to Part 9 of the Enterprise Act 2002 and the UK General Data Protection Regulation. These obligations are personal and must be respected while complying with the transparency commitments of the CMA.

### **Insider Dealing**

81. Board, Panel and staff members who engage in insider dealing, or unlawfully disclose market sensitive information, which came into their possession during the course of their work for the CMA, may be committing offences under Part V of the Criminal Justice Act 1993 and the UK Market Abuse Regulations. It is the responsibility of each Board, Panel and staff member to ensure they do not engage in any activity that would amount to an offence under these provisions and to comply with any CMA policy on handling market sensitive information.

### **Data Protection**

82. Any personal data provided to the CMA in pursuance of this Policy will be handled in accordance with our obligations under the UK General Data Protection Regulation and the Data Protection Act 2018. Our [personal information charter](#) sets out the standards that Board, Panel and staff members can expect from us when we collect, use or share personal data and provides details of individual rights in relation to that personal data and how to contact us.

### **Version Control**

83. This Policy was approved by the Board on 18 October 2021.

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