



# United Kingdom Internal Market Act 2020

## 2020 CHAPTER 27

### PART 4

#### INDEPENDENT ADVICE ON AND MONITORING OF UK INTERNAL MARKET

##### *Reporting, advisory and monitoring functions*

#### **33 Monitoring and reporting on the operation of the UK internal market**

- (1) The CMA may from time to time undertake a review of any matter it considers relevant to assessing or promoting the effective operation of—
  - (a) the internal market in the United Kingdom;
  - (b) provisions of Parts 1 to 3 (for example with regard to particular sectors of the internal market, or trade in different parts of the United Kingdom).
- (2) The CMA may receive and consider any proposals that may be made or referred to it for undertaking a review in exercise of its powers under subsection (1).
- (3) The CMA may prepare and publish a report on any matter falling within subsection (1).
- (4) Any report published by the CMA under subsection (3) is to be published in such manner as it considers appropriate.
- (5) The CMA must, no later than 31 March 2023 and at least once in every relevant 12-month period, prepare a report on—
  - (a) the operation of the internal market in the United Kingdom, and
  - (b) developments as to the effectiveness of the operation of that market.
- (6) The CMA must, no later than 31 March 2023 and at least once in every relevant 5-year period, prepare a report on—
  - (a) the effectiveness of the operation of provisions of Parts 1 to 3,
  - (b) the impact of the operation of those Parts on the operation and development of the internal market in the United Kingdom,

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- (c) any interaction between the operation of those Parts and common framework agreements, and
  - (d) the impact of common framework agreements on the operation and development of the internal market in the United Kingdom.
- (7) The CMA must arrange for a copy of the report prepared under subsection (5) or (6) for any period to be laid before—
- (a) each House of Parliament,
  - (b) the Scottish Parliament,
  - (c) Senedd Cymru, and
  - (d) the Northern Ireland Assembly.
- (8) So far as a report under this section is concerned with the effective operation of the internal market in the United Kingdom, the report may consider (among other things) —
- (a) developments in the operation of the internal market, for example as regards—
    - (i) competition,
    - (ii) access to goods and services,
    - (iii) volumes of trade (or of trade in any direction) between participants in different parts of the United Kingdom, and
  - (b) the practical implications of differences of approach embodied in regulatory provisions, falling within the scope of this Part, that apply to different parts of the United Kingdom.
- (9) In this section—
- “common framework agreements” has the meaning given by section 10;
  - “relevant 12-month period” means—
    - (a) the period of 12 months beginning with 1 April 2023, and
    - (b) each successive period of 12 months;
  - “relevant 5-year period” means—
    - (a) the period of 5 years beginning with 1 April 2023, and
    - (b) each successive period of 5 years.

### **34 Advising etc on proposed regulatory provisions on request**

- (1) Where the condition in subsection (3) is met, the CMA may at the request of a relevant national authority give advice, or provide a report, to the authority with respect to a qualifying proposal.
- (2) In subsection (1) “qualifying proposal” means a proposal of—
- (a) the requesting authority, or
  - (b) a person or body on whose behalf the requesting authority makes the request, that a regulatory provision applying to the relevant part of the United Kingdom should be passed or made.
- (3) The condition is that it appears to the requesting authority that—
- (a) the regulatory provision to which the proposal relates would fall within the scope of this Part and be within relevant competence, and

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- (b) the proposal should be further considered in the light of the significance of its potential effects on the operation of the internal market in the United Kingdom.
- (4) Advice given, or a report provided, under this section may consider among other things the potential economic effects of the proposed regulatory provision on the effective operation of the internal market in the United Kingdom, including—
  - (a) indirect or cumulative effects;
  - (b) distortion of competition or trade;
  - (c) impacts on prices, the quality of goods and services or choice for consumers.
- (5) Subsections (1) to (3) apply in relation to two or more relevant national authorities acting jointly as those subsections apply in relation to a single relevant national authority.
- (6) A request under subsection (1) must set out the reasons for making it.
- (7) If the CMA declines to provide a report requested under subsection (1) it must—
  - (a) give to the requesting authority (or if more than one, to each of them simultaneously) a notice of its reasons for doing so, and
  - (b) publish the notice in such manner as it considers appropriate.
- (8) Where the CMA gives advice or reasons, or provides a report, under this section to two or more relevant national authorities acting jointly, the CMA must give the advice or reasons, or provide the report, to each of them simultaneously.
- (9) Where the CMA has on a particular day (“day 1”) given advice, or provided a report, under subsection (1) the CMA must provide a copy of the advice or report to each relevant national authority who did not request the advice or report—
  - (a) as soon as reasonably practicable after the requesting authority (or each requesting authority) has informed the CMA that it may do so, or
  - (b) (if sooner), by the end of the 15th day after day 1.
- (10) Where the CMA provides a report under this section it must, as soon as reasonably practicable after it has fully complied with subsection (9), publish the report in such manner as it considers appropriate.
- (11) In this section “relevant part of the United Kingdom”, in relation to a relevant national authority, means—
  - (a) in the application of this section to the Scottish Ministers as relevant national authority, Scotland;
  - (b) in the application of this section to the Welsh Ministers as relevant national authority, Wales;
  - (c) in the application of this section to a Northern Ireland department as relevant national authority, Northern Ireland;
  - (d) in the application of this section to the Secretary of State as relevant national authority, any part of the United Kingdom.

### **35 Provision of report on request after regulatory provision is passed or made**

- (1) The CMA may, at the request of a relevant national authority, provide a report to the authority on the impact on the effective operation of the internal market in the United Kingdom of a regulatory provision specified in the request which—

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- (a) is passed or made after the day on which this section comes into force,
  - (b) falls within the scope of this Part, and
  - (c) applies to the relevant part of the United Kingdom and is within relevant competence.
- (2) A relevant national authority may not request a report from the CMA under subsection (1) unless the authority has considered whether any other person or body is qualified to provide an independent report on the matter.
- (3) Subsections (1) and (2) apply in relation to two or more relevant national authorities acting jointly as those subsections apply in relation to a single relevant national authority.
- (4) A request under subsection (1) must set out the reasons for making it.
- (5) If the CMA declines to provide a report requested under subsection (1) it must—
- (a) give the requesting authority a notice of its reasons for doing so, and
  - (b) publish the notice in such manner as it considers appropriate.
- (6) Where the CMA provides a report under this section—
- (a) if the report was requested by two or more relevant national authorities acting jointly, the CMA must provide the report to each of them simultaneously;
  - (b) the CMA must, as soon as reasonably practicable after complying with paragraph (a), publish the report in such manner as it considers appropriate.
- (7) In this section “the relevant part of the United Kingdom” means—
- (a) in the application of this section to a relevant national authority who is the Scottish Ministers, Scotland;
  - (b) in the application of this section to a relevant national authority who is the Welsh Ministers, Wales;
  - (c) in the application of this section to a relevant national authority who is a Northern Ireland department, Northern Ireland;
  - (d) in the application of this section to a relevant national authority who is the Secretary of State, any part of the United Kingdom.

### **36 Report on request on provision considered to have detrimental effects**

- (1) The CMA may, at the request of a relevant national authority, provide a report to the authority on the economic impact of a regulatory provision passed or made after the day on which this section comes into force, where—
- (a) the regulatory provision falls within the scope of this Part, and
  - (b) the requesting authority considers that the operation of the regulatory provision is, or may come to be, detrimental to the effective operation of the internal market in the United Kingdom.
- (2) The CMA’s function under subsection (1) is exercisable regardless of whether or not a relevant national authority has exercised the power under section 34(1) in relation to the regulatory provision in question.
- (3) A relevant national authority may not request a report from the CMA under subsection (1) unless it has considered whether any other person or body is qualified to provide an independent report on the matter.

- (4) Subsections (1) to (3) apply in relation to the making of a request by two or more relevant national authorities acting jointly as they apply in relation to the making of a request by a single relevant national authority.
- (5) A request under subsection (1) must set out the reasons for making it.
- (6) If the CMA declines to provide a report requested under subsection (1) it must—
  - (a) give the requesting authority (or each of them simultaneously, if more than one) a notice of its reasons for doing so, and
  - (b) publish the notice in such manner as it considers appropriate.
- (7) Where the CMA provides a report under subsection (1)—
  - (a) it must provide a copy of the report to each relevant national authority who did not request the report, and
  - (b) the provision of the report to the requesting authority (or each requesting authority) and each recipient mentioned in paragraph (a) must be simultaneous.
- (8) As soon as reasonably practicable after the condition in subsection (9) has been met, but in any case no later than the end of the period of 6 months beginning with the day on which the CMA complies with subsection (7), the CMA must arrange for a copy of the report to be laid before—
  - (a) each House of Parliament,
  - (b) the Scottish Parliament,
  - (c) Senedd Cymru, and
  - (d) the Northern Ireland Assembly.
- (9) The condition mentioned in subsection (8) is that each relevant national authority has notified the CMA that it does not require any further time for private consideration of the report provided or copied to it under this section.
- (10) The CMA must publish the report in such manner as it considers appropriate, but may not do so until it has made the arrangements mentioned in subsection (8) and the report has been laid in accordance with one or more of paragraphs (a) to (d) of that subsection.

### **37 Statements on reports under section 36**

- (1) Subsection (2) applies where a report (or copy of it) relating to a regulatory provision has been laid before each House of Parliament, the Scottish Parliament, Senedd Cymru and the Northern Ireland Assembly in accordance with section 36(8).
- (2) The following authorities must make a statement on the report to Parliament—
  - (a) the responsible authority for each affected part of the United Kingdom;
  - (b) the appropriate authority in relation to each relevant national authority which requested the CMA's report.
- (3) In subsection (2) “to Parliament” means—
  - (a) where the responsible authority or (as the case may be) appropriate authority is the Scottish Ministers, to the Scottish Parliament;
  - (b) where the responsible authority or (as the case may be) appropriate authority is the Welsh Ministers, to Senedd Cymru;

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- (c) where the responsible authority or (as the case may be) appropriate authority is the First Minister and deputy First Minister acting jointly, to the Northern Ireland Assembly.
- (4) A duty of the Secretary of State under subsection (2) to make a statement to Parliament is to be discharged by laying a copy of the statement before each House of Parliament.
- (5) In this section—
  - “affected part of the United Kingdom”, in relation to a regulatory provision, means a part of the United Kingdom to which the provision applies;
  - “appropriate authority”, in relation to a relevant national authority who is the Secretary of State, the Scottish Ministers or the Welsh Ministers, means that relevant national authority;
  - “appropriate authority”, in relation to a relevant national authority who is a Northern Ireland department, means the First Minister and deputy First Minister acting jointly.
- (6) In this section “responsible authority”, in relation to Scotland, means—
  - (a) if the regulatory provision is not within Scottish devolved competence, the Secretary of State;
  - (b) otherwise, the Scottish Ministers.
- (7) In this section “responsible authority”, in relation to Wales, means—
  - (a) if the regulatory provision is not within Welsh devolved competence, the Secretary of State;
  - (b) otherwise, the Welsh Ministers.
- (8) In this section “responsible authority”, in relation to Northern Ireland, means—
  - (a) if the regulatory provision is not within Northern Ireland devolved competence, the Secretary of State;
  - (b) otherwise, the First Minister and deputy First Minister acting jointly.
- (9) In this section “responsible authority”, in relation to England, means the Secretary of State.

### **38 Reports under Part 4**

Where under this Part the CMA publishes (or arranges for the publication of) a report it may exclude from the report—

- (a) any information the disclosure of which the CMA thinks is contrary to the public interest;
- (b) commercial information the disclosure of which the CMA thinks might significantly harm the legitimate business interests of any person;
- (c) information relating to the private affairs of an individual the disclosure of which the CMA thinks might significantly harm the individual’s interests.

### **39 General advice and information with regard to exercise of functions**

- (1) The CMA must prepare and publish general advice and information about how it expects to approach the exercise of its functions under sections 33 to 36.

- (2) Advice (or information) published by virtue of subsection (1) may include advice (or information) about the factors the CMA may take into account in considering whether to exercise a function conferred by any of those sections, including—
  - (a) in cases where a person or body has requested the exercise of the function in accordance with the section concerned, and
  - (b) in other cases.
- (3) The CMA may at any time publish revised, or new, advice or information.
- (4) Any advice or information published by the CMA under this section must be published in such manner as it considers appropriate.

#### **40 Laying of annual documents before devolved legislatures**

- (1) Schedule 4 to the Enterprise and Regulatory Reform Act 2013 (the Competition and Markets Authority) is amended as follows.
- (2) In paragraph 12(3) (annual plan to be laid before Parliament), for “Parliament” substitute “—
  - (a) Parliament,
  - (b) the Scottish Parliament,
  - (c) Senedd Cymru, and
  - (d) the Northern Ireland Assembly”.
- (3) In paragraph 13(2) (proposals for annual plan to be laid before Parliament), for “Parliament” substitute “—
  - (a) Parliament,
  - (b) the Scottish Parliament,
  - (c) Senedd Cymru, and
  - (d) the Northern Ireland Assembly”.
- (4) In paragraph 14(3)(a) (performance report to be laid before Parliament), for “Parliament” substitute “—
  - (i) Parliament,
  - (ii) the Scottish Parliament,
  - (iii) Senedd Cymru, and
  - (iv) the Northern Ireland Assembly”.