

**Response to the Competition and Markets Authority (CMA) Annual Plan 2023/24 consultation**

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**About Us**

1. Consumer Scotland is the statutory body for consumers in Scotland. Established on 1st April 2022 under the Consumer Scotland Act 2020, we are independent of government and accountable to the Scottish Parliament.
2. Consumer Scotland uses data, research and analysis to inform our work on the key issues facing consumers in Scotland. As the statutory body for consumers we work with business, the public sector and consumer champions to put consumer rights, needs and interests at the heart of markets, services and policy. We will seek to identify the unique contribution that we can make, as Scotland's statutory and independent voice for consumers, in any given market or service and develop a clear understanding of how we can most effectively add value to the work of others.
3. Since our establishment in April 2022, Consumer Scotland has worked closely with the Competition and Markets Authority (CMA) as the UK-wide competition and consumer protection authority. We are grateful for the support that the CMA has provided to Consumer Scotland as we have established our organisation in our first year of operation. Consumer Scotland staff meet regularly with colleagues within the CMA and we look forward to continued collaboration on a range of issues for the benefit of consumers in Scotland, including through the Consumer Network for Scotland which Consumer Scotland will chair and facilitate.
4. We welcome the opportunity to respond to the CMA's proposed annual plan.

**Summary**

5. Consumer Scotland welcomes the CMA's three mid-term priorities and notes that our own cross-cutting themes for 2023-24, as set out in our own [Draft Work Programme](#), fit well within these identified areas. The cross-cutting issues of interest to Consumer Scotland, on affordability, consumer vulnerability and the journey to net zero are reflected in the CMA focus areas that sit underneath the mid-term priorities.
6. We welcome the CMA's recognition that this plan of work must drive benefits for consumers in all four nations across the UK. In this regard, we note that levels of competition within markets may differ between nations and regions across the UK. The legislative framework

for markets across the UK could vary according to whether the issue is one of reserved or devolved competence and we consider that the CMA has an important role to play in fostering competition, transparency and fairness in devolved markets. We look forward to continuing to work with the CMA on issues such as the reform of legal services regulation in Scotland.

7. With the medium-term priorities in this annual plan, the CMA is taking a three-pronged approach to its duties: on a consumer level, a business level and a UK-wide economic level.
8. Of particular interest to Consumer Scotland is the priority surrounding consumer protection, with a focus on ensuring consumers have access to fair deals. Consumer protection continues to have a key role in ensuring consumer confidence in markets. This issue is particularly acute in the current economic context, where consumers are having to make challenging spending decisions.<sup>i</sup> We also welcome the CMA's specific commitment to help accelerate the UK's transition to a net zero economy and the continued investigatory work on 'greenwashing' issues in the retro-fit and fashion retail markets.

## **Background**

9. In the wake of the COVID-19 pandemic consumers continue to experience cost of living pressures, with levels of inflation reaching their highest levels in forty years, together with rapidly rising energy prices and increasing mortgage interest rates.<sup>ii</sup> These pressures are being experienced at the same time as real income levels for households are predicted to fall. These factors continue to affect both households and small businesses, however the effects are not felt evenly by all consumers, with low-income households experiencing inflationary pressures more severely than other households.<sup>iii</sup>
10. Alongside the cost of living crisis, and the particularly significant impact that it has for consumers in vulnerable circumstances, the question of how consumers in Scotland can be supported, protected and empowered in their adaptation to climate change has continued to become ever more pressing.
11. At the same time, our economy continues to adapt and develop, with new markets, business models and technological developments which our regulatory regimes must keep pace with. All of this highlights the need for a fair and sustainable economy in which all consumers can participate.
12. The CMA has a vital role in this landscape, facilitating the development of competitive markets, enabling consumer choice, and protecting consumers from unfair practices. We recognise that, in addition to its continued investigatory, advice and enforcement activities, the CMA has recently taken on a number of new roles and powers. This includes the Subsidy Advice Unit (SAU), the Office for the Internal Market (OIM) and the Digital Markets Unit (DMU) which will oversee a new regulatory regime for the most powerful digital firms,

promoting greater competition and innovation in these markets and protecting consumers and businesses from unfair practices. In addition, the Digital Markets, Competition and Consumer Bill will see significant changes to the CMA's powers.

13. Consumer Scotland looks forward to working closely with the CMA as it continues to develop its operations in these new spaces.

### **The CMA's Proposed Medium-term Priorities for the next 3 Years**

14. We note that the proposed purpose, outcomes and areas of focus align closely to Consumer Scotland's aims and activities. The CMA's work can deliver tangible benefits to consumers and we welcome the continued focus on enabling consumers to make effective choices within healthy markets and ensuring that consumers get a fair deal.
15. We welcome the CMA's prioritisation of work to help competitive, innovative businesses thrive. Scotland has more than 300,000 Small and Medium-sized Enterprises, providing an estimated 1.2 million jobs.<sup>iv</sup> We recognise the importance of encouraging innovation, ensuring a level playing field for market entry and helping emergent markets develop in order to ensure a fair and competitive landscape for small businesses in Scotland.
16. As part of the mid-term priority to help the UK economy grow sustainably and productively, we welcome the CMA's specific commitment to help accelerate the UK's transition to a net zero economy. The Scottish Parliament has set legally binding climate change targets for Scotland to achieve by 2045, with interim targets for 2030 and 2040. These targets, which are more ambitious than other targets set across the UK, will require homes, businesses and communities in every part of Scotland to make considerable changes to lifestyles, transportation, and business practices. The transition to net zero must be just, with a clear focus on the priorities and needs of consumers in vulnerable circumstances, including those on low-incomes and those who live in remote and rural areas.
17. We welcome the CMA's recognition that this plan of work must drive benefits for consumers in all four nations across the UK. Competition within markets may differ between nations and regions across the UK, leading to some consumers experiencing lower levels of choice within markets due to a more limited number of potential suppliers operating in certain geographic areas. While rural areas cover the majority of the UK's landmass this proportion varies between the different countries within the UK. For example, in terms of landmass, rural areas constitute 90% of England, while they make up 98% of Scotland.<sup>v</sup> Scotland's geography contains a significant number of island communities, from the West Coast to the Shetland Islands. Rural Scotland accounts for 17% of the total population in Scotland (6% in remote rural and 11% in accessible rural)<sup>vi</sup> and these consumers may have specific concerns about accessing goods and services.
18. We also note that the legislative framework for markets across the UK may differ according to whether the issue is one of reserved or devolved competence. For example energy,

telecoms and postal issues are part of a wider UK framework, but markets for matters such as housing, legal services and care services are devolved. We consider that the CMA has an important role to play in fostering competition, transparency and fairness in devolved markets and we look forward to continuing to work with the CMA on issues such as these.

19. We welcome the CMA's continued commitment to working on issues that affect consumers and markets in Scotland, for example the work on social care and on legal services. We greatly value the CMA's active engagement with stakeholders in Scotland and will continue to work closely with the CMA team in Scotland to deliver positive outcomes for consumers in these markets.

### **The CMA's Proposed Areas of Focus for 2023/24**

20. In order to support consumers to engage in sustainable purchasing behaviour it is important that they can trust that the products they choose deliver what they claim. We therefore welcome the CMA's ongoing programme of work to examine compliance with consumer protection rules around firms making eco-friendly and sustainability claims, including the examination of 'greenwashing' of essential household items as announced on 26 January 2023.<sup>vii viii</sup>
21. Previous negative experiences of the installation of greener technologies, for example issues around previous Green Deal schemes<sup>ix</sup>, may harm consumer confidence and trust in this market, reducing opportunities to effect widespread change. The energy crisis has resulted in an upsurge of interest in energy efficiency technologies and regulators and enforcement bodies must be in a position to take swift and effective action to protect consumers from any risks of harm.
22. Consumer protection issues in this sector have been experienced right across Scotland. Since 2015, over 30% of Trading Standards Scotland casework has involved traders in the energy efficiency retrofit market, with these issues causing consumer detriment of over £4.5M.<sup>x</sup> Analysis of information from Trading Standards Scotland has flagged a number of instances of companies making misleading claims about the nature of their business and the level of savings that can be generated by installing such products. There are also instances of pressure sales tactics, misleading advertising and of firms falsely claiming to be authorised to provide such services under genuine government or local authority schemes.<sup>xi</sup> Such activity has the potential to undermine consumer confidence in this market more widely as well as causing serious harm to individual consumers some of whom may be in vulnerable circumstances. This reinforces the need for consumers to be able to access trusted sources of information and for resources to be available to conduct intelligence and enforcement activities across this market.
23. In 2012 the percentage of retail sales completed online by consumers in the UK was 9.3%. By 2022 this had risen to 26.5%.<sup>xii</sup> We therefore welcome the CMA's activities to tackle harmful

online selling practices, including an ongoing commitment to the *Rip-Off, Tip-Off* campaign and the planned workstream with a focus on online choice architecture.

24. Consumers should be able to safely choose goods and services both online and offline, without being misled about pricing or being pressured into making purchases. It is important that an increased focus on online activity exists alongside ongoing activities tackling doorstep selling, cold-calling by telephone and other unsolicited marketing techniques that may be harmful to consumers.

### **Any Other Issues to Explore**

25. Consumer Scotland welcomes the mid-term priorities and focus areas identified by the CMA. We recognise that the annual plan is not exhaustive and the CMA will work on any other pressing issues within its remit as they arise. We have no requests to explore any additional matters at this stage and look forward to continuing our work with the CMA over the course of this year.

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<sup>i</sup> [Consumer Spotlight: Energy Affordability Tracker 1 November 2022 | Consumer Scotland](#)

<sup>ii</sup> [What is the UK inflation rate and why is the cost of living rising? - BBC News](#)

<sup>iii</sup> [The long squeeze: rising inflation and the current government support package | Institute for Fiscal Studies \(ifs.org.uk\)](#)

<sup>iv</sup> [Businesses in Scotland: 2021](#)

<sup>v</sup> [Fact file: Rural economy - House of Lords Library \(parliament.uk\)](#)

<sup>vi</sup> [Rural Scotland Key Facts 2021 - gov.scot \(www.gov.scot\)](#)

<sup>vii</sup> [Green heating consumer protection to come under scrutiny - GOV.UK \(www.gov.uk\)](#)

<sup>viii</sup> [CMA to scrutinise 'green' claims in sales of household essentials - GOV.UK \(www.gov.uk\)](#)

<sup>ix</sup> [HELMS \(Home Energy & Lifestyle Management Ltd\) and Green Deal complaints - Citizens Advice Scotland](#)

<sup>x</sup> Trading Standards Scotland. Project Maxwell: Misleading Advertising for Energy Efficient Home Improvements

<sup>xi</sup> Trading Standards Scotland. Project Maxwell: Misleading Advertising for Energy Efficient Home Improvements

<sup>xii</sup> [Internet sales as a percentage of total retail sales \(ratio\) \(%\) - Office for National Statistics \(on.gov.uk\)](#)