

March 2019

UK Competition Law Newsletter

Highlights

- Claimants issue collective actions against three train operators alleging abuses of dominance before the Competition Appeal Tribunal.
- CMA fines Vanilla Group Ltd. for breaching an initial enforcement order in connection with its completed acquisition of Washstation Ltd.
- CMA launches market investigation into the funeral services market.
- The Government-appointed Digital Competition Expert Panel chaired by Professor Jason Furman publishes a report setting out a number of recommendations, including the establishment of a new Digital Markets Unit.

U.K. Antitrust Collective Damages Actions

On 11 March 2019, the Competition Appeal Tribunal (the “CAT”) announced that it had received two applications to bring collective proceedings on behalf of all affected commuters, alleging that three U.K. train operators had engaged in exploitative abuses of dominant positions.¹ This is the first time that claimants have filed applications to commence collective proceedings on a standalone basis (*i.e.*, without the benefit of a prior infringement decision that binds the Courts) since the introduction of the collective action procedure on 1 October 2015.

No collective proceedings have been certified to date. However, this unpromising start does not appear to have dampened claimants’ appetite to seek to bring class actions similar to those in the U.S. On the contrary, the Train Tickets proceedings suggest that collective actions will continue to assume increasing prominence in private antitrust enforcement in the U.K.

The Statutory Regime for Collective Proceedings

Prior to October 2015, only “specified bodies” could bring representative actions on behalf of consumers, only on an opt-in basis,² and only in follow-on actions.³ As a result of these limitations, the tool was rarely used. The only organisation ever specified in this way was The Consumers’ Association (commonly

¹ Case 1304/7/7/18, *Justin Gutmann v First MTR South Western Trains Limited and Another* (“Train Tickets (1)”) and Case 1305/7/7/19, *Justin Gutmann v London & South Eastern Railway Limited* (“Train Tickets (2)”).

² In opt-in proceedings, a representative brings a claim only on behalf of members of a specified class who have chosen to participate. In opt-out proceedings, a representative brings a claim on behalf of all members of a specified class except for those who have chosen not to participate.

³ A follow-on action is a claim for damages where the infringement has already been established by the relevant competition authority, whose findings bind the courts.

known as “Which?”) and only one such action was ever brought: Case No. 1078/7/9/07 *The Consumers’ Association v JJB Sports PLC*. In that case, only 130 claimants (less than 0.1% of those affected) came forward to claim £20 each, leading Which? to comment that “*there will always be concerns about proportionality if an opt-in system prevails — both from a cost and time perspective. The only real, practical way to get over this is to introduce an opt-out system*”.

The Consumer Rights Act 2015 introduced reforms intended to reinvigorate collective antitrust damages. The Act eliminated some of the restrictions associated with the earlier regime, introducing a collective proceedings regime that allowed for the aggregation of individual claims that would otherwise not be economically viable to pursue. Today, collective proceedings may be brought by a natural or legal person (who does not itself need to be member of the class) acting as representative of a class, comprising either consumers and/or businesses, on an opt-out or an opt-in basis. The CAT has also acquired the power to hear standalone as well as follow-on actions.

Certification by the CAT is a prerequisite for an action to proceed as collective proceedings. In determining whether to grant a collective proceedings order (the “CPO”), the CAT must be satisfied that (i) the claims are “eligible” for

inclusion in collective proceedings, and (ii) it is “*just and reasonable*” for a person to be authorised by the CAT as class representative. In respect of the first criterion, the CAT has to be satisfied that the claims raise common issues (defined as “*same, similar or related issues of fact or law*”) and that the underlying claims are “*suitable*” for collective proceedings.

The factors the CAT must take into account in assessing whether claims are “*suitable*” include:⁴

- Whether collective proceedings are an appropriate means for the fair and efficient resolution of the common issues;
- The costs and benefits of continuing the collective proceedings;
- The size and the nature of the class; and
- Whether the claims are suitable for an aggregate award of damages.

Overview of Claims Since 2015

Six applications have been issued to date. All but one were brought on an opt-out basis and, as noted above, all but two are based on prior infringement decisions. The cases span a range of alleged anti-competitive conduct, including resale price maintenance, horizontal price-fixing, and abuse of dominance through excessive pricing. An overview of the cases is set out below.

CPO APPLICATIONS FILED SINCE OCTOBER 2015

Case	Date of Application	Follow-on / Standalone	Conduct	Opt-in / Opt-out	Class members
<i>Mobility Scooters</i> ⁵	May 2016	Follow-on	Resale price maintenance	Opt-out	Consumers
<i>Interchange Fees</i> ⁶	September 2016	Follow-on	Fixing of interchange fees	Opt-out	Consumers
<i>Trucks (1)</i> ⁷	May 2018	Follow-on	Cartel	Opt-out	Businesses / Consumers
<i>Trucks (2)</i> ⁸	July 2018	Follow-on	Cartel	Opt-in	Businesses
<i>Train Tickets (1)</i>	February 2019	Standalone	Exploitative abuse of dominance	Opt-out	Consumers
<i>Train Tickets (2)</i>	February 2019	Standalone	Exploitative abuse of dominance	Opt-out	Consumers

⁴ Competition Appeal Tribunal Rules 2015, Rule 79(2).

⁵ Case 1257/7/7/16, *Dorothy Gibson v Pride Mobility Products Limited* (“*Mobility Scooters*”).

⁶ Case 1266/7/7/16, *Walter Hugh Merricks CBE v Mastercard Incorporated and Others* (“*Interchange Fees*”).

⁷ Case 1282/7/7/18, *UK Trucks Claim Limited v Fiat Chrysler Automobiles N.V. and Others* (“*Trucks (1)*”).

⁸ Case 1289/7/7/18, *Road Haulage Association Limited v Man SE and Others* (“*Trucks (2)*”).

Mobility Scooters

In *Mobility Scooters*, the General Secretary of the National Pensioners Convention sought to bring, as the proposed class representative, a claim on behalf of all U.K. individuals who purchased any mobility scooter models produced by Pride during a two-year period.

The CAT provided important guidance on its general approach to certification. It confirmed that, unlike in the U.S (where certification proceedings typically involve extensive discovery, depositions, cross-examination of witnesses, and hearings), a CPO application is intended to have either no or only “*very limited*” disclosure and “*shorter hearings*”. It also noted that there is no requirement that common issues “predominate” over individual issues, a critical question in many US certification proceedings.⁹

Following a three-day hearing, the CAT adjourned the application and invited the applicant to amend the claim, which was brought on a follow-on basis, to limit the scope of the claim to losses directly resulting from the infringements established by the Office of Fair Trading (the “OFT”) (the applicant’s original claim focused on the impact of Pride’s online pricing restriction communicated to all distributors). The OFT found that only eight (out of 250-300) of Pride’s distributors took part in the illegal resale price maintenance arrangement in respect of seven (out of 38) models.¹⁰ Shortly after, the applicant abandoned the claim, possibly because after the aggregate damages amount had been revised down, the claim was no longer economically viable.

Interchange Fees

In *Interchange Fees*, the proposed class encompassed all U.K. “[i]ndividuals who between 22 May 1992 and 21 June 2008 purchased goods and/or services from businesses selling in the UK that accepted MasterCard cards” over the age of 16 (estimated to be over 46 million individuals).

The action was framed as following on from the European Commission’s 2007 decision finding an infringement by Mastercard for effectively setting a minimum price merchants had to pay to their acquiring banks for accepting Mastercard payment cards through fixing the EEA multilateral interchange fees.¹¹

The CAT first rejected the applicant’s argument that the distribution of aggregate damages is a matter that only arises at the end of the proceedings. The CAT also dismissed the CPO application on the basis that the applicant’s sole proposed method for the distribution of any damages failed to respect the governing principle of damages for breach of competition law, *i.e.*, the restoration of the claimants to the position they would have been in but for the breach. Specifically, the applicant proposed that the aggregate damages be divided on a per capita basis among all the members of the class for each year of the claim period, without reference to their individual spend or the mix of products/services they purchased.

The CAT’s decision is currently subject to appeal before the Court of Appeal, following its reversal of the CAT’s determination that there is no right of appeal against its CPO decisions.

Trucks

Both *Trucks (1)* and *(2)* arise out of the European Commission’s 2016 decision finding a price-fixing and information-sharing cartel among European truck manufacturers between 1997 and 2011.¹² In *Trucks (1)*, the proposed class representative is a special purpose vehicle (“SPV”) specifically established for the purpose of the proceedings and the proposed class comprises all persons who acquired new trucks registered in the U.K. during the infringement period. The proposed class in *Trucks (2)*, a trade association for the road haulage industry, also encompasses persons who leased trucks and trucks that are pre-owned.

⁹ *Mobility Scooters*, paragraphs 103-104.

¹⁰ CE/9578-12, *Mobility scooters supplied by Pride Mobility Products Limited: prohibition on online advertising of prices below Pride’s RRP*, OFT decision of 27 March 2014.

¹¹ Case COMP/34,579 *MasterCard*, Case COMP/36,518 *EuroCommerce*, Case COMP/38,580 *Commercial Cards*, Commission decision of 19 December 2007. MasterCard’s appeals against the Commission’s decision to both the General Court and the Court of Justice were unsuccessful.

¹² Case AT.39824 – Trucks.

Whereas *Trucks (1)* is brought on an opt-out basis (*i.e.*, all persons fitting the class description form part of the class unless they specifically opt out), *Trucks (2)* is brought on an opt-in basis (*i.e.*, only those fitting the class description that specifically choose to join the claim form part of the class). This is the first time that the CAT will have to decide whether to allow more than one CPO applications arising from the same underlying infringement to proceed. In principle, given that the proposed classes will unlikely overlap with each other in their entirety (including because *Trucks (2)* is an opt-in case), the CAT might well allow both cases to proceed (subject to satisfaction of all the other conditions).

Train Tickets

Train Tickets (1) and *(2)* are the first stand-alone CPO applications. They have a common proposed class representative and seek to combine claims by a total of almost three million rail commuters against three train operators. The claims allege that the train operators abused their positions of dominance by failing to ensure that commuters into London are aware of fare options that would avoid them being charged twice in respect of part of their journey. It is alleged that the commuters “*have been effectively compelled by circumstances in the control of the [train operators]*” to have overpaid due to the train operator’s failure to provide “*customer-facing information*” about the fare options that would have prevented the commuters from being double-charged for part of the same journey.

Analysis

Based on this relatively small universe of cases, the following observations may be made.

- First, whilst both *Mobility Scooters* and *Interchange Fees*—the only two CPO applications that have come before the CAT—failed (subject to the appeal in *Interchange Fees*’ case) at the first hurdle, neither case involved a “classic” price-fixing cartel among businesses operating

at the same level of the supply chain, the basis of the vast majority of follow-on damages actions. *Trucks (1)* and *(2)*, which involve such price-fixing arrangements, are generally expected to have stronger prospects of certification.

- Second, in any event, the *Train Tickets* proceedings, which are based on a relatively unused theory of harm (excessive pricing), suggest that these early setbacks have not deterred claimants.
- Third, notwithstanding that the *Mobility Scooters* and *Interchange Fees* cases failed at the certification stage, the CAT’s decisions in those cases have provided useful guidance for prospective claimants that is likely to spur future proceedings. In particular, the decisions seem likely to promote the continued involvement of third-party litigation funders, who have provided funding in each of the six collective actions. The CAT, rejecting Mastercard’s submission to the contrary, confirmed that litigation funders could in principle be paid out of any unclaimed damages in consideration for their funding of the collective actions. The same applies to the success fee element under a conditional fee arrangement and after-the-event insurance premium.¹³
- Fourth, the CAT has readily accepted that the impetus for collective proceedings could come from claimant law firms, noting that the central question is instead whether the proposed class representative (which could potentially be an SPV) would ensure that the proceedings are conducted in the interest of the class.¹⁴
- Fifth, the U.K. is one of the few jurisdictions in Europe that have an opt-out regime and continues to enjoy various procedural advantages (*e.g.*, discovery, cost rule) over alternative jurisdictions. The UK’s attractiveness as a forum for bringing antitrust damages claims is therefore unlikely to diminish significantly in the event of Brexit.

¹³ *Interchange Fees*, paragraphs 114-115, 125.

¹⁴ *Mobility Scooters*, paragraph 138.

Judgments, Decisions, and News

Antitrust / market studies

ORR Publishes Ticket Gates and Ticket Vending Machines Market Report. On 13 March 2019, the Office of Road and Rail (“**ORR**”) published its final report on its market study into the supply of ticket vending machines (“**TVMs**”) and automatic ticket gates (“**ATGs**”). The ORR concluded that the ATG market did not “facilitate fair and robust rivalry” and “did not promote natural innovation” (the largest player, Cubic, holding a market share of 97% of all ATGs currently installed in Great Britain). Although the market for TVMs is also concentrated, recent procurement competitions indicated moderate levels of competition between operators. The ORR ultimately decided not to make a market investigation reference to the CMA and instead sought to work with industry stakeholders to develop “*viable and proportionate*” remedies aimed to “*kick-start these markets by improving incentives for new businesses to compete for demand in GB and introduce new technology.*”

Remicade Investigation Closure. On 14 March 2019, the CMA closed its investigation into a discount scheme developed by Merck Sharp & Dohme Limited (“**MSD**”) for its *infiximab* drug Remicade (a biologic medicine) finding no grounds for action. The CMA concluded that MSD’s volume-based discount scheme, which it introduced following expiry of its patent for Remicade in early 2015, was not likely to limit competition from biosimilar *infiximab* products.

FCA Publishes Investment Platforms Market Report. On 14 March 2019, the FCA published a final report of its market study into the investment platforms market. The market study examines whether consumers make informed decisions about their choice of platform, the investments they choose on it, and whether firms compete to add value for consumers. The FCA found that overall, the market is working well for both advised and non-advised consumers, and that platforms are generally competing in the interests of consumers. The report concludes, however, that

it should be easier for consumers and financial advisers to shop around and more easily switch to firms that better meet their needs. Due to the complexity of charging structures and the opacity of pricing information, “*consumers cannot easily take account of all charges, calculate the total cost of investing or easily compare different options*”. The FCA have therefore proposed to (i) restrict exit fees by introducing a cap or a ban, and (ii) introduce rules which allow consumers to switch their investments between platforms without having to cash out (take the investment out as cash). In 2020/21 the FCA will review the industry’s progress in making the switching process more efficient and helping consumers access comparable charging information and will consider further intervention if insufficient progress is made.

Launch of Construction Services Supply Investigation. On 21 March 2019, the CMA announced the launch of an investigation into the supply of construction services in Great Britain for suspected infringements of Chapter 1 of the Competition Act 1998 (“**CA98**”).

CMA Fines Fender Europe. On 26 March 2019, the CMA fined Fender Musical Instruments Europe Limited (“**Fender Europe**”) for failing to produce, without reasonable excuse, documents requested during an inspection conducted under Section 27 of CA98. In April 2018, the CMA opened an investigation into Fender Europe for suspected breaches of Chapter 1 of CA98 and Article 101 of the Treaty on the Functioning of the European Union relating to anti-competitive agreements in the musical instruments and equipment sector. During the course of its inspection of Fender Europe’s premises, the CMA asked a senior officer to provide his notebooks. The senior officer said his previous notebooks had been destroyed but in fact arranged for them to be removed from Fender Europe’s premises. The CMA held Fender Europe accountable for the actions of the senior officer, even though he acted contrary to Fender Europe policy. The CMA determined that a penalty at the maximum level (£30,000) was

inappropriate in light of Fender Europe's prompt actions to rectify the breach and the limited impact the breach had on the CMA's investigation.

FCA Publishes Final Report on Mortgage Sector Market Study. On 26 March 2019, the FCA [published](#) its final report on the residential mortgages market. The report's findings highlight that some consumers have missed out on the cheapest deals for them and that some "mortgage prisoners" are unable to switch to more suitable mortgages despite being fully up-to-date with their payments. The report proposes market-led solutions to provide additional support to consumers in choosing an intermediary to advise them on their mortgages and measures to ease switching after the end of any initial introductory period.

CMA Issues Statement of Objections in Relation to the Rolled Lead Market Cartel. On 27 March 2019, the CMA [issued](#) a statement of objections alleging that three suppliers of rolled lead, primarily used in roof construction, entered into a cartel in relation to the supply of rolled lead in the U.K. The statement alleges that the participants colluded on prices, exchanged commercially sensitive information, refrained from targeting some of each other's customers, and collectively refused to supply a potential competitor.

CMA Launches Funerals Services Market Investigation. On 28 March 2019, the CMA [published](#) its final report in its market study into the funerals sector, and [launched](#) an in-depth market investigation into the supply of services by funeral directors and crematoria services. The CMA found that the price of the essential elements of a funeral (including cremation or burial) had grown by 6% annually over the previous 14 years, without a clear explanation for this trend in the costs of inputs. The report outlines some of the impediments to competition in the industry, including the difficulty of comparison by consumers and high barriers to entry. The CMA considered that customers are especially vulnerable at the point of purchase, making them less responsive to normal criteria such as the price and quality of the services.

Merger Developments

PHASE 2 INVESTIGATIONS

Vanilla Group Ltd./ Washstation Ltd. On 14 March 2019, the CMA [published](#) its decision to impose a penalty of £120,000 on JLA New Equityco Limited ("**JLA**") and Vanilla Group Limited ("**Vanilla**") for their failure to comply with an initial enforcement order the CMA [issued](#) during the course of its review of the completed acquisition of Washstation Limited ("**Washstation**") by Vanilla. JLA and Vanilla were found to have sold certain laundry machines used in the Washstation business to the former owner of Washstation, without the CMA's consent. The CMA concluded that this might have impaired Washstation's ability to operate independently and breached the obligation to ensure that none of the assets of the Washstation business were disposed of, as required by the initial enforcement order.

TopCashback/Quidco. On 21 March 2019, the CMA [announced](#) that it had closed its Phase 2 investigation into the anticipated acquisition by Top Online Partners Group Limited ("**Top Cashback**") of Maple Syrup Group Limited ("**Quidco**") following written assurances from the parties that the transaction had been abandoned. The companies are the largest websites in the UK offering customers cashback on purchases from third parties and allowing retailers to advertise and promote cashback discounts. In its Phase 1 investigation, the CMA considered that the anticipated merger would result in a substantial lessening of competition as the companies face limited competition from other cashback websites and similar service providers. The CMA referred the merger to a Phase 2 investigation on 16 January 2019.

PHASE 1 CLEARANCE DECISIONS

Lakeland Dairies (N.I.) Limited/LacPatrick Co-Operative Society Limited. On 5 March 2019, the CMA [cleared](#) the anticipated acquisition of LacPatrick Co-Operative Society Limited by Lakeland Dairies (N.I.) Limited. The CMA determined that the merger would not result in a substantial lessening of competition because of material constraints from other operators, the

limited buyer power of the merged entity, and the inability of the parties to foreclose rival dairy processors. Both companies are farmer-owned co-operative societies which purchase bulk raw milk in Northern Ireland and Ulster to manufacture and supply dairy products nationally and internationally.

Headlam Group/Rackhams. On 28 March 2019, the CMA cleared the completed acquisition of

Rackhams Ltd. by Headlam Group Plc. The full text of the decision is yet to be published.

Headlam Group/Garrod Bros. On 28 March 2019, the CMA also cleared the completed acquisition of Garrod Bros (London) Ltd.'s distribution of floor covering material business by Headlam Group Plc. The full text of the decision is yet to be published.

ONGOING PHASE 1 INVESTIGATIONS

Parties	Decision due date
<u>Ecolab Inc / The Holchem Group Limited</u>	10 April 2019
<u>Rentokil Initial plc / MPCL Limited (formerly Mitie Pest Control Limited)</u>	12 April 2019
<u>Global Radio Services Limited / Semper Veritas Holdings</u>	16 April 2019
<u>OSRAM Licht Group / RGI Light (Holdings) Limited and Ring Automotive Limited</u>	17 April 2019
<u>RWE AG / E.ON SE</u>	24 April 2019
<u>AL-KO Kober Holdings Limited / Bankside Patterson Limited</u>	26 April 2019
<u>ARMS Business Solutions limited / E.M.A Computer Solutions (2018) Limited</u>	3 May 2019
<u>Send For Help Limited / SoloProtect Limited and SoloProtect US LLC</u>	10 May 2019
<u>ForFarmers UK Limited / The business and certain assets of Bowerings Animal Feeds Limited</u>	20 May 2019
<u>Broadview Holding BV / Formica Group</u>	28 May 2019
<u>Swissport Group UK Ltd / Heathrow Cargo Handling Ltd</u>	28 May 2019
<u>Core Assets Group Limited / Partnership in Children's Services Limited</u>	TBC
<u>Non-Standard Finance plc / Provident Financial plc</u>	TBC
<u>Bauer Radio Limited / UKRD Group Limited</u>	TBC

Other Developments

House of Lords Report on Regulation in a Digital World. On 9 March 2019, the House of Lords Select Committee on Communications published a report titled “*Regulating in a Digital World*”. The report sets out recommendations on the regulation of the digital world based on 10 underlying principles:

- Parity – the same level of protection must be provided online and offline;
- Accountability – processes must be in place to ensure individuals and organisations are held to account for their actions and policies;
- Transparency – businesses and organisations in the digital world must be open to scrutiny;
- Openness – the internet must remain open to innovation and competition;
- Ethical design – services must act in the interests of users and society;
- Privacy – to protect the privacy of individuals;
- Recognition of childhood – to protect the most vulnerable users of the internet;
- Respect for human rights and equality rights – to safeguard freedoms of expression and information online;
- Education and awareness raising – to enable people to navigate the digital world safely; and
- Democratic accountability, proportionality and evidence based approach.

The report also recommends that a new Digital Authority should be established to assess regulation in the digital world continually and coordinate the work of regulators.

Digital Competition Expert Panel Report on Digital Competition. On 13 March 2019, the Digital Competition Expert Panel published its report titled ‘*Unlocking Digital Competition*’. The panel, chaired by Professor Jason Furman (chair of the Council of Economic Advisers in President Obama’s Administration), was tasked with examining “*the potential opportunities and challenges the*

emerging digital economy may pose for competition and pro-competition policy.” The report sets out a number of policy, legal and regulatory recommendations including:

- Establishing a Digital Markets Unit with responsibility for: (i) developing a digital platform code of conduct for companies designated with “*strategic market status*”; (ii) promoting greater data mobility and systems with open standards; and (iii) encouraging data openness where this presents a barrier to entry in the digital economy;
- Implementing a more “*forward-looking*” competition policy for digital markets by prioritising the scrutiny of tech mergers, fast-tracking antitrust assessments and undertaking a market study of the digital advertising market;
- Reforming the CMA’s substantive test standards to apply a “*balance of harms*” assessment of potential mergers; and
- Reviewing the CAT’s “*full-merits*” standard currently applied to the CMA’s CA98 decisions.

On 13 March 2019, the Chancellor of the Exchequer, Philip Hammond delivered his 2019 Spring Statement to Parliament. The Chancellor announced that he had written to the CMA to request that it undertake a market study into the digital advertising market as soon as possible following the publication of the Furman report.

On 21 March 2019, the CMA Chief Executive, Andrea Coscelli, wrote a letter setting out the CMA’s response to the Furman report’s findings. The CMA was broadly supportive of the panel’s recommendations, including proposals for a new digital markets unit and its associated regulatory functions, the increased use of interim measures in antitrust enforcement, and a revised standard of review in antitrust appeal cases. The CMA disagreed, however, that fundamental changes to the merger control regime, and adopting a “balance of harms” analysis, were necessary. The CMA argued that the existing UK legislative framework already provides the scope to assess fully concerns

raised by mergers in digital markets, and to take enforcement action where appropriate.

Geo-blocking Regulation (Revocation) (EU Exit) Regulations 2019. On 14 March 2019, the draft Geo-blocking Regulation (Revocation) (EU Exit) Regulations 2019 were laid before Parliament for approval. The draft regulations revoke the “retained EU law” version of the Geo-Blocking Regulation (Regulation 2018/302) and the Geo-Blocking (Enforcement) Regulations 2018 (SI 2018/1153) in the event of a “no-deal” Brexit and will come into effect the later of the day the UK leaves the EU or 21 days after the day on which they are passed.

Geo-blocking refers to traders discriminating against customers on the basis of the nationality or location of the customer, for example by automatically re-directing customers to country-specific versions of their website with different terms and conditions. The EU geo-blocking regulations banned unjustified discrimination based on a customer’s nationality, location in the EU, or other payment terms based on a customer’s location. In the event of a “no deal” Brexit, the UK will not be able to enforce unilaterally the Geo-Blocking Regulation without the cooperation of other EU Member States. Accordingly, if the Geo-Blocking Regulation was not revoked, the obligations of UK traders to EU customers will continue without UK customers receiving any corresponding benefits.

DCMS Committee report on live music sector. On 19 March 2019, the House of Commons Digital, Culture, Media and Sport Committee (“**DCMS Committee**”) published a report on how the Government can support the live music industry. Among the recommendations were proposals to assess competition in the sector. The report found considerable vertical integration with single organisations operating festivals, venues, ticketing websites, event promotion, and management. Larger companies may exert advantages over smaller rivals by imposing exclusivity clauses which prevent artists from performing at competitors’ events. The DCMS Committee report recommends that the CMA undertake a market study to further assess competition issues in the industry.

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