July – August 2021

UK Competition Law Newsletter

Highlights

— CAT certifies first follow-on damages class action.

— Government consults on reforming the UK's competition and consumer regime.

— Government consults on new pro-competition regime for digital markets.

CAT certifies first follow-on damages class action

On 18 August 2021, the CAT certified its first follow-on class action under the UK's collective action regime. Walter Merricks' application for certification was initially refused in 2017. But following appeals up to the Supreme Court, the CAT reconsidered his application in light of the now-established criteria for certification, as clarified by the Supreme Court in its 11 December 2020 judgment.[1] This article sets out the background to the CAT's decision on remittal, summarises the CAT's main findings, and provides observations on possible implications.

Background to the *Merricks* proceedings

In September 2016, Walter Merricks submitted an application to commence collective proceedings against Mastercard Inc. for damages caused by the unlawful conduct identified in the European Commission's 2007 multilateral interchange fee (**MIFs**) decision. Mastercard was found to have breached Article 101 TFEU by setting MIFs above the competitive level, which in turn increased the fees charged to merchants when they accepted Mastercard payment cards. Mr Merricks sought damages on behalf of all individuals aged 16 and over, resident in the UK between 22 May 1992 and 21 June 2008 that purchased goods and/or services from UK business accepting Mastercard payment cards. The class comprises approximately 46 million individuals and the aggregate damages award sought amounts to approximately £14 billion.

In July 2017, the CAT dismissed Mr Merricks' application.[2] It found that the claims were unsuitable for collective proceedings on two grounds:

— **Unsuitable for an aggregate award of damages**. According to the CAT, Mr Merricks had failed to show a sufficient likelihood that sufficient data would be available to quantify losses reliably. In particular, the CAT was concerned that it would be impossible to

[1] For further information, see the Cleary Gottlieb UK Competition Law Newsletter for December 2020.

[2] *Walter Merricks v Mastercard and others* [2017] CAT 16.

determine how much of the overcharge was passed on by different retailers to class members. While the CAT found the applicant's damages quantification methodology sound in principle, it concluded that conducting the exercise in practice would be hugely complex due to the variations in consumer spend and the amount of overcharge passed on by different merchants. The CAT held that Mr Merricks had on that basis failed "*to establish some basis in fact for the commonality requirement*" on the pass on issue.[3]

— **Damages failed to correspond to individual loss**. The CAT found that Mr Merricks' proposed distribution of any aggregate award did not correspond to the governing principle of English law damages in tort that individuals should be restored to the position that they would have been in but for the harmful act (the "compensatory principle"). The applicant proposed that any aggregate damages award be divided on a per capita basis among all members of the class for each year of the claim period, irrespective of their individual spend or purchasing patterns. The CAT found that such a distribution offered no plausible way of reaching even a rough approximation of the loss suffered by each individual.

Mr Merricks appealed the CAT's decision and in April 2019 the Court of Appeal set aside the CAT's order refusing certification. The Court of Appeal found that the CAT had applied an unduly strict approach to the required commonality of issues between claimants, and loss suffered by each individual class member:[4]

— **Commonality and suitability criteria were satisfied.** The Court of Appeal criticised the CAT for having carried out a "*mini-trial*"[5] and applying too stringent a test on the quality of evidence to be provided at the certification stage. The proposed representative "*should not [...] be required to demonstrate more than he has a real prospect of success*."[6] In other words, Mr Merricks had to satisfy the CAT that the expert methodology was capable of assessing the level of pass-on to the represented class and that there was likely to be data available to operate that methodology. It did not have to produce the data or demonstrate its probative value. The Court of Appeal also found that "*pass-on to consumers generally satisfied the test of commonality of issue necessary for certification*".[7]

— **No need for damages to correspond to individual loss.** The Court of Appeal held that the CAT's consideration of whether an appropriate method of distribution existed at the certification stage was incorrect. It found that the question of distribution was one for the trial judge *after* making an aggregate award. The CAT was also wrong to find that distribution should be carried out in a way that corresponded to each individual class member's loss.

Mastercard appealed to the Supreme Court, seeking to reinstate the CAT's refusal of certification. On 11 December 2020, the Supreme Court dismissed the appeal. In doing so, the Supreme Court clarified the criteria for certification under the UK collective action regime:

— **Forensic difficulties quantifying loss should not prevent certification.** The CAT erred in refusing certification due to the lack of data availability and challenges quantifying loss. Courts are used to quantifying losses in challenging circumstances, sometimes with resort to "*informed guesswork*."[8]

— **More suitable for collective rather than individual proceedings.** Lord Briggs, for the

[3] The CAT relied on precedent from the Supreme Court of Canada in *Pro-Sys Consultants Ltd v Microsoft Corp*. [2013] SCC 57 at [18].

[4] *Walter Merricks v Mastercard and others* [2019] EWCA Civ 674 (**Merricks CoA**). In November 2018, the Court of Appeal had dismissed Mastercard's contention that the only recourse to challenge the CAT's certification decision was via judicial review. The Court of Appeal held that it has jurisdiction to hear appeals against certification decisions because such decisions constitute decisions in collective proceedings "*as to the award of damages*" for the purposes of section 49(1A)(a) Competition Act 1998, with respect to which appeals can be made on a point of law (see [2018] EWCA Civ 2527).

[5] Merricks CoA, para 52

[6] *Ibid*., para 54.

[7] *Ibid*., para 47.

[8] *Ibid*., para 48.

majority, found that the CAT misinterpreted the suitability requirement. Claims need not be suitable in an abstract sense, but in the relative sense that a claim is more suitable to be brought in collective proceedings than in an individual claim. This interpretation, Lord Briggs found, was consistent with the purpose of the UK's statutory regime, where collective proceedings were an alternative to individual claims, when the latter were "*unsuitable for the obtaining of redress at the individual consumer level for unlawful anti-competitive behaviour.*"[9]

— **Compensatory principle does not apply for aggregate damages.** The Supreme Court unanimously held that the CAT could make an award of aggregate damages even if it was impossible to allocate those damages in a way that corresponded to the losses sustained by each individual claimant. Lord Briggs indicated that the "*the compensatory principle is expressly, and radically, modified*" under the UK regime to provide access to justice in circumstances where ordinary forms of civil claim have proved inadequate for that purpose.[10]

The CAT's certification on remittal

In view of the Supreme Court's findings, Mastercard did not oppose certification. Nevertheless, four issues remained to be determined:

— **Funders' undertaking.** Before certifying a claim, the CAT must be satisfied that it is "*just and reasonable*" for the proposed class representative ("PCR") to be authorised. Since collective proceedings are typically brought by an individual and/or special purpose vehicle backed by litigation funders, an important question for the CAT to determine is whether the PCR has the ability to pay the defendant's recoverable costs if ordered to do so.[11] This issue arose in *Merricks* because the original funding arrangement (which the CAT approved subject to amendments) was replaced by a new funder and funding agreement. While the new funder had increased the adverse cost cover from £10 million to £15 million, Mastercard had no right under the agreement to enforce against the new funder. To address this, the CAT made the granting of collective proceedings conditional on the funder giving a suitable undertaking as to liability for Mastercard's costs.

— **Deceased persons issue.** On remittal, Merricks sought to include the claims of deceased persons within the class (*i.e.*, those person who died within or since the infringement period), which would increase the class size by approximately 13.6 million to 59.8 million. The CAT found that as a matter of principle it should be possible to include the claims of deceased persons within collective proceedings, but the claims would have to be brought by the estates of the deceased persons. The class cannot simply include persons who are no longer alive because, under the CAT Rules, the CAT must specify the date for determining whether a person is domiciled (*i.e.*, resident) in the UK. The CAT found that, giving the words their ordinary meaning, a dead person cannot be "resident in the UK". Accordingly, the CAT refused to include deceased persons within the class.

— **Limitation issue.** The CAT found that, even if it were possible to have claims of deceased persons included in collective proceedings, Mr Merricks' application to add new class members was made after the applicable limitation period had expired. The limitation period under the CAT Rules expired two years after the European Court of Justice's dismissal of Mastercard's appeal of the Commission's infringement decision. Mr Merricks sought to argue that the CAT Rules were more flexible than the Civil Procedure Rules in allowing new parties to be joined after expiry of the limitation period. The CAT disagreed, finding that under CAT Rule 38(6)-(7) such additions are only permissible (1) to correct a mistake, (2) where the claim

[9] *Ibid.*, para 56. Lord Sales and Lord Leggatt dissented. They considered suitability to include an assessment of whether "*determining the claims collectively in accordance with the collective proceedings regime [is] likely to achieve the fair determination of the claims at* ***proportionate cost***" (para 116) (emphasis added).

[10] *Walter Merricks v Mastercard and others* [2020] UKSC 51, para 58.

[11] CAT Rule 78(2)(d).

cannot be properly tried without the new party, or (3) the original party has died and its interest passed to the new party.[12]

— **Compound interest issue.** At the remittal hearing, Mastercard sought to exclude Mr Merricks' claims for compound interest, which comprised c. £2.2 billion of the aggregate claim,[13] on two grounds: (1) that compound interest was not a common issue across the class, and (2) no credible methodology had been put forward for quantifying compound interest. The CAT held that compound interest constitutes a distinct head of loss, which must be separately established.[14] As for individual proceedings, compound interest cannot be presumed in collective proceedings. The CAT clarified that it would "*expect a plausible or credible methodology to be put forward*" at the certification stage as to how compound interest would be quantified "*even if it may need refinement later.*"[15] The CAT found that Mr Merricks' expert methodology failed to meet this test because it assumed that any class member who was a borrower or saver (and therefore could in theory have claimed compound interest) would have used the small amount of money by which their purchases would have been cheaper (*i.e.*, absent the overcharge) to reduce their borrowings or increase their savings. In other words, the methodology assumed the answer to the question that the methodology was designed to answer.[16] Accordingly, the CAT found that, absent a plausible methodology, the compound interest claim was unsuitable for an aggregate award and therefore should not be certified.

Observations

While, in light of Mastercard's non-opposition, the question of certification was no longer in issue by the time of the remittal hearing, the CAT's certification nevertheless sheds light on how the CAT sees its screening role in the UK collective action regime following the Supreme Court's judgment. Most importantly, the CAT found that the *"Pro Sys"* test "*has now been recognised in the context of the UK regime*."[17] This is a helpful clarification. The *Pro Sys* test originates from Canadian jurisprudence and requires that "*the expert methodology must be sufficiently credible or plausible to establish some basis in fact for the commonality requirement*."[18] While Lord Briggs regarded the Canadian jurisprudence as "*persuasive*", he indicated that his analysis of the certification criteria was based "*firmly on the true construction of the UK legislation*."[19] The UK legislation does not expressly deal with the relevant threshold that an expert methodology must satisfy.

Some interpreted Lord Briggs' judgment to exclude the *Pro Sys* test from the UK regime. This followed from Lord Briggs' finding that "*it should not lightly be assumed that the collective process imposes restrictions upon claimants as a class which the law and rules of procedure for individual claims would not impose*."[20] (And individual claimants need not provide a damages methodology before their claim can proceed.) Others considered Lord Briggs' judgment to be silent on *Pro Sys*, as the CAT had already found that Merricks' methodology was sound. However, the CAT decision appears to go one step further and deems the Supreme Court to have approved the *Pro Sys* test as a feature of the UK regime. This is an important development, putting the onus on PCRs to produce a workable methodology at the

[12] CAT Rule 38(6)-(7).

[13] This is the delta between the claim with simple interest vs compound interest.

[14] *Sempra Metals v Inland Revenue* [2007] UKHL 34.

[15] *Walter Merricks v Mastercard and others* [2021] CAT 28, para 93.

[16] *Ibid*., para 92.

[17] *Ibid*., para 93.

[18] Supreme Court of Canada in *Pro-Sys Consultants Ltd v Microsoft Corp.* [2013] SCC 57, para 18.

[19] *Walter Merricks v Mastercard and others* [2020] UKSC 51, para 42.

[20] *Ibid*., para 45.

certification stage. An issue still to be determined is what threshold the expert methodology must meet to show "*some basis in fact*" for the commonality requirement. In other words, what is the "*minimum evidentiary basis*."[21]

Finally, since Merricks' compound interest methodology was not credible or plausible, the CAT was not required to determine whether Merricks' compound interest claim raised common issues. It merely indicated that this would "*involve consideration of the **proper interpretation** of what constitutes a common issue pursuant to the CA Judgment*."[22] This alludes to the issue still to be determined of whether the commonality requirement is satisfied merely because claims raise a common question (*i.e.*, whether the class should recover compound interest and in what amount) or whether that question must also be answerable on a common basis. The CAT notes that the proper interpretation of commonality is "*not an easy question*", but observed "*if only a minority of class members suffered loss by way of compound interest [...] we would find it difficult to see how a claim for compound interest can raise a common issue across the class*."[23] The CAT will likely have to grapple with this question in the cases to come.

Judgments, Decisions, and Other News

Court Judgments

Application to bring collective damages action against Govia Thameslink for abuse of dominance on the London-Brighton mainline. On 27 July 2021, the CAT published an application for a collective proceedings order to commence standalone proceedings on an opt-out basis against Govia Thameslink Railway Limited and others, seeking damages for alleged financial loss for rail passengers travelling on the London-Brighton train line, due to "*pricing and other practices*" that amount to an abuse of dominance.

Antitrust/market studies

CMA consults on market investigation reference regarding mobile radio network for the police and emergency services. On 8 July 2021, the CMA published a consultation on its provisional decision to make a market investigation reference regarding Motorola's Airwave network – the mobile radio network used by all emergency services in Great Britain. This follows an inquiry started in response to concerns expressed regarding Motorola's dual role as the owner of the company providing the current mobile radio network and as a key supplier in the roll-out of the delayed 'Emergency Services Network' (**ESN**) planned to replace the Airwave network.

CMA imposes fines for excessive and unfair pricing and market sharing in the supply of Hydrocortisone tablets. On 15 July 2021, the CMA announced that it had imposed fines totalling more than £260 million for competition law breaches in relation to the supply of hydrocortisone tablets in the UK. The CMA has found that Auden McKenzie and Actavis UK (now known as **Accord-UK**) charged the NHS excessively high prices for hydrocortisone tablets from 2008-2018 and that Auden McKenzie also paid potential competitors AMCo (now **Advanz Pharma**) and Waymade to stay out of the market.

BEIS publishes report on consumer personalised pricing and potential for disclosure regulation. On 20 July 2021, the Department for Business, Energy and Industrial Strategy ("BEIS") published a research paper on the practice of retailers targeting online shoppers and charging people different prices for the same items through personalised pricing. The report noted that regulation of personalised pricing may lead to higher prices, and that more favourable

[21] *Walter Merricks v Mastercard and others* [2021] CAT 28, para 90.

[22] *Ibid*., para 98 (emphasis added).

[23] *Ibid*.

outcomes were likely with targeted disclosure requirements and an exploration of 'simplified switching' that automatically guided or switched consumers to cheaper products.

CMA publishes results of electric vehicle charging market study and opens investigation into supply of electric vehicle charging points on or near motorways. On 23 July 2021 the CMA published its final report in its market study into the supply of charging for electric vehicles ("EVs"). The study raises concerns that the rollout of charging points has been slow and disjointed, warning that more needs to be done in the sector ahead of the government's planned ban on sales of new petrol and diesel cars by 2030. The CMA also announced on the same day an investigation into Electric Highway's long-term exclusive arrangements with certain motorway service operators for the supply of EV charging points. The decision to open this investigation was based on information obtained during the course of the CMA's market study.

CMA fines Advanz Pharma for excessive and unfair prices in the supply of liothyronine tablets. On 29 July 2021, the CMA announced that it had imposed a fine of £101 million on Advanz Pharma for abusing its dominant position by charging excessive and unfair prices for liothyronine tablets between 2009 and 2017.

CMA issues statement of objections against Pfizer and Flynn Pharma for charging unfairly high prices for phenytoin sodium capsules. On 5 August 2021, the CMA announced that it had issued a statement of objections against Pfizer and Flynn Pharma for breaching competition law by charging unfairly high prices for phenytoin sodium capsules. The CMA initially fined the parties in respect of their phenytoin sodium capsules pricing in December 2016. The parties appealed the CMA's findings to the CAT, which partially ruled against the CMA's findings of competition law infringements on 7 June 2018. The CMA was granted permission to appeal the CAT's judgment to the Court of Appeal, which partially allowed the CMA's appeal and remitted the case back to the CMA for further consideration.

Merger Developments

PHASE 2 INVESTIGATIONS

TVS Europe Distribution/3G Truck & Trailer Parts. On 12 July 2021, the CMA published a case closure summary on its investigation into the completed acquisition of 3G Truck & Trailer Parts Limited (**3G**) by TVS Europe Distribution Limited, following completion of the divestment of the 3G business on 9 July 2021. The CMA referred this merger to a Phase 2 investigation on 2 June 2020 and published its Phase 2 final report on 12 January 2021, concluding that the only effective and proportionate remedy would be the sale of the 3G business to a purchaser approved by the CMA. On 31 March 2021, the CMA accepted final undertakings requiring the divestment of the 3G business. As a result of the completion of the divestment, the merger investigation is now closed.

Cargotec Corporation/Konecranes Plc. On 13 July 2021, the CMA announced that the anticipated merger of Cargotec Corporation and Konecranes plc would be referred to a Phase 2 investigation under its fast track procedure at the request of the merging parties. On 6 August 2021, the CMA published an issues statement in respect of the transaction. The CMA must issue its final report on the Phase 2 investigation by 27 December 2021. The transaction is also subject to a Phase 2 investigation by the European Commission, opened on 2 July 2021.

Cellnex/CK Hutchison UK. On 27 July 2021, the CMA announced that it had decided to refer the anticipated acquisition of the passive infrastructure assets of CK Hutchison Networks Europe Investments S.À R.L in the UK by Cellnex UK Limited to a Phase 2 investigation. The CMA published an issues statement on 19 August 2021explaining that it intends to focus on examining the horizontal effects of the merger on the supply of access to developed macro sites and ancillary services to wireless communication providers.

Facebook, Inc/Giphy, Inc. On 12 August 2021, the CMA published provisional findings in its Phase 2 investigation into the completed acquisition by Facebook, Inc of Giphy, Inc. The CMA has provisionally found that the transaction will harm competition between social media platforms and remove a potential challenger in the display advertising market. Simultaneously, the CMA published a notice of possible remedies, identifying the full divestiture of Giphy, Inc as a potential structural remedy that would re-create a similar market structure to that which existed at the time of the transaction, and noting that it had not identified any smaller divestiture package that would be similarly effective.

FNZ/GBST. On 25 August 2021, the CMA published a notice of acceptance of final undertakings following its reassessment of the completed acquisition of GBST Holdings Limited (**GBST**) by FNZ (Australia) Bidco Pty Ltd (**FNZ**). Unlike the remedy initially proposed by the CMA in its first final report, published on 5 November 2020, the final undertakings require FNZ to divest GBST, but allow FNZ to subsequently buy back a limited set of assets from GBST relating to its capital markets business, which are not related to the CMA's competition concerns. The undertakings also require FNZ to draw up a short list of potential purchasers for approval by the CMA and to obtain the CMA's approval for the terms of the disposal.[24]

PHASE 1 DECISIONS

Montagu/ParentPay. On 12 July 2021, the CMA cleared the anticipated creation of a joint venture between ParentPay (Holdings) Limited and Capita ESS Limited, a portfolio company of funds managed and/or advised by Montagu Private Equity LLP.

CVC Capital/Six Nations Rugby. On 14 July 2021, the CMA announced its decision not to refer the anticipated acquisition by CVC Capital of a minority stake in Six Nations Rugby Limited to a Phase 2 investigation.

AstraZeneca/Alexion Pharmaceuticals. The CMA announced on 14 July 2021 its decision not to refer the anticipated acquisition by AstraZeneca plc of Alexion Pharmaceuticals, Inc to a Phase 2 investigation.

NVIDIA/Arm. On 20 July 2021, the CMA delivered a report to Secretary of State for the Department for Digital, Culture, Media and Sport (**DCMS**), announcing that it had found competition concerns in relation to NVIDIA's anticipated acquisition of the Intellectual Property Group business of Arm.

Turnitin/Ouriginal. On 26 July 2021, the CMA cleared the anticipated acquisition by Turnitin LLC (via Turnitin UK Ltd) of Ouriginal Group AB after a Phase 1 investigation.

IHS Markit/CME Global. On 27 July 2021, the CMA announced that it had cleared the anticipated joint venture between IHS Markit Ltd's MarkitSERV Business and CME Global Inc.'s Optimization Business.

Baker Hughes/Akastoer. On 3 August 2021, the CMA announced that the anticipated joint venture between Baker Hughes Holdings LLC and Akastor ASA did not qualify for investigation.

NCR/Cardtronics. On 10 August 2021, the CMA announced that it had cleared the completed acquisition by NCR Corporation of Cardtronics plc.

TravelSupermarket/Icelolly. On 12 August 2021, the CMA announced that it had cleared the anticipated merger between Travelsupermarket Limited and Icelolly Marketing Limited.

CMA fines ION for breach of initial enforcement order in ION Investment Group/ Broadway Technology merger. On 17 August 2020, the CMA published a decision to impose a penalty of £325,000 on ION Investment Group Limited and ION Trading Technologies Limited for their failure, to comply with the requirements of an initial enforcement order issued in the

[24] For further information, *see* the Cleary Gottlieb UK Competition Law Newsletter for June 2021.

context of the completed acquisition by ION Investment Group of Broadway Technology Holdings LLC.

Cobham/Ultra Electronics. On 18 August 2021, BEIS published a Public Interest Intervention Notice (PIIN) in relation to the anticipated acquisition of Ultra Electronics Holdings plc by Cobham Ultra Acquisitions Limited.

Hempel/FBA. On 26 August 2021, the CMA announced that it had cleared the anticipated acquisition by Hempel Decorative Paints Limited of FB Ammonite Limited (the parent company of Farrow & Ball) following a Phase 1 investigation.

ONGOING PHASE 1 INVESTIGATIONS

Parties	Decision Due Date
Central England Co-operative/The Midcounties Cooperative	11 October 2021
EssilorLuxottica/Lenstec	12 October 2021
Graphic Packaging/AR Packaging	13 October 2021
S&P Global/HIS Markit	19 October 2021
Pennon Group/Bristol Water	12 November 2021
CHC/Babcock	18 November 2021
Cobham/Ultra Electronics	TBC
Veolia/Suez	TBC

Other Developments

Competition and Markets Authority consults on revisions to guidance on financial penalties. On 2 July 2021, the CMA published a consultation on revisions to its guidance regarding the appropriate amount of a penalty under the Competition Act 1998, aimed at providing a more transparent framework in its approach to penalty-setting. The changes proposed include: (i) separating its consideration of adjustments for specific deterrence from the overall assessment of the proportionality of the overall penalty; (ii) removing the mitigating factors relating to compliance programmes and genuine uncertainty; and (iii) clarifying how turnover will be determined where the affected product or geographic market affected by the infringement is wider than the relevant product market in the UK.

DCMS publishes policy paper regarding consultation on digital competition regulation. On 6 July 2021, the DCMS published a policy paper setting out the UK government's digital regulation principles. The paper notes that the CMA's recently established Digital Markets Unit (**DMU**) will be equipped with regulatory tools for proactive oversight and swift action on competition issues.

House of Commons DCMS Committee urges for CMA to take action on market power in recorded music market. On 15 July 2021, the House of Commons DCMS Committee published a report on the economics of music streaming, detailing concerns on the recorded music and streaming markets. The Committee recommends that the government ask the CMA to undertake a market study to investigate whether competition in the recorded music market is being distorted by the market position of major music groups.

DCMS and BEIS consult on new pro-competition regime for digital markets. On 20 July 2021, the DCMS and BEIS published a consultation on a new pro-competition regime for digital markets and the establishment of the DMU. This represents the latest step towards establishing a new regulatory regime for digital markets in the UK, and builds on the recommendations in the Furman Review and advice from the Digital Markets Taskforce.

BEIS consultation on reforming competition policy. On 20 July 2021, the UK government launched its consultation on wide-ranging reforms to "*bring competition and consumer policies into the 21st century*", proposing a number of specific reforms to the UK's competition law and procedure. For further information, please see our alert memorandum on this topic.

National Security and Investment Act 2021 commencement date announced. On 20 July 2021, BEIS announced that the National Security and Investment Act 2021 will come into force on 4 January 2022.

CMA publishes governance framework agreement with BEIS. On 19 August 2021, the CMA published a framework agreement with BEIS, setting out the governance framework for relations between the CMA and BEIS, and between the CMA and HM Treasury. The framework agreement sets out the CMA's roles, functions, and governance arrangements, as set out in statute.

CMA responds to consultation on BEIS White Paper on restoring trust in audit and corporate governance. On 24 August 2021, the CMA published its response to the consultation on the White Paper published by the BEIS on restoring trust in audit and corporate governance. The CMA expressed its support for the BEIS's commitment to restoring trust in the audit market.

CMA urges PCR test providers to change practices that may mislead consumers. On 25 August 2021, the CMA announced that it had sent a letter to PCR test providers warning that a range of practices in the sector could be in breach of consumer protection laws. This forms part of the CMA's ongoing review of the PCR testing market, announced on 11 August 2021.

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