



BritishAmericanBusiness

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6th March 2025

Response: Open Consultation on the strategic steer to the Competition and Markets Authority

We are writing on behalf of the members of BritishAmerican Business, to provide a contribution to the strategic steer to the Competition and Markets Authority (CMA), which aims to provide support to help shape the UK regulatory environment in a way that better supports investment, innovation and economic growth for businesses and consumers. This submission supports and does not supersede individual submissions made by BAB member companies.

BritishAmerican Business (BAB) is the leading US-UK transatlantic trade association, incorporating the British-American Chamber of Commerce in the US and the American Chamber of Commerce in the UK. We are committed to strengthening the economic corridor between the US and the UK, and support policies and actions that enhance the environment for transatlantic trade and investment on behalf of our 470+ members.

The Department of Business and Trade's (DBT) draft strategic steer for the CMA consultation has been presented at a critical moment to ensure that the regulatory environment is aligned with the government's growth agenda, while strengthening the UK's position as a leader of the global services and trade economy by reducing regulatory friction for businesses. The draft steer contains a welcome focus on investment and

growth, and this could be strengthened with focuses on accountability, global dynamics, and proportionality.

BAB supports accountability mechanisms such as a more regular iteration of parliamentary scrutiny, for example, hearings; a greater role for the Regulatory Policy Committee; the introduction of specialist staff within the DBT; education and training for the Business and Trade Committee on competition law and complexities; and formalizing processes for internal challenge and review within regulators would all promote an environment that supports and aligns competition with growth objectives.

Government could recommend the CMA to publish regular data on global investor sentiment regarding UK competition enforcement to put the CMA ahead globally for regulator transparency. Additionally, a regular dialogue between government and the CMA could provide an opportunity to eliminate policy and regulatory duplication to better drive the anticipated outcomes of the Industrial Strategy. Central government has a role to play in assessing the cumulative impact of new regulations to ensure a successful growth agenda.

As BAB raised in its submission to the 2023 CMA strategic steer consultation, the government has a strong track record of upholding an environment of robust and fair competition. The opportunity and challenge of the upcoming steer is for the CMA to balance being one of the leading regulators whilst ensuring the UK does not fall behind in the race for investment as an attractive and open market for businesses. We emphasize that the regulatory authority should refrain from acting as a global regulator, instead focusing on the domestic market and competition outcomes that directly impact UK consumers.

In any case, a key aspect is to find a proportionate balance for evidence-based regulatory intervention, with a clear focus on clear market failures. In the past, our members often cited difficulties with CMA interactions relating to a lack of transparency, unpredictability, and slow/limited access for evidence in regulatory proceedings. On the former, the UK system currently limits parties' ability to review and respond to key evidence. One example BAB raised in its Industrial Strategy Green Paper response was of the proposed Digital Markets Competition and Consumers Act (DMCC) guidance adjustments not being shared to businesses in scope until Secretary of State approval under the Department for Science, Innovation, and Technology. This impacts the visibility and thus the certainty towards CMA decisions as businesses are not clear about what evidence is being relied upon in a decision that may have substantial economic and structural effects on their UK business.

Regarding regulatory predictability, we acknowledge and are encouraged to see a recognition for greater predictability of decision-making by the CMA in the draft strategic steer by DBT. A second example BAB raised in its Industrial Strategy response was of the numerous investigations into minority shareholdings and partnerships in comparison to other regulators.

We welcome the clear connection throughout the draft steer to the upcoming Industrial Strategy and growth agenda. In keeping with effective developments to the core frameworks of regulators in different sectors, such as the FCA's international competitiveness objective, the CMA's mandate could be further strengthened to explicitly support the UK's growth agenda and Industrial Strategy while maintaining its core focus on competition and consumer protection. We note that this is raised in point 2.1 and support this consideration to be integrated throughout each section of the strategic steer.

Finally, BAB is pleased to see the steer recognize a need for consideration of actions taken by competition and/or consumer protection agencies in other jurisdictions internationally. We strongly support the independence of the CMA as an autonomous regulator; however, we continue to urge for greater alignment between UK and US regulators when it is helpful to competitiveness; in this instance we note the Federal Trade Commission (FTC) and Antitrust Division of the department of Justice as two of the joint leading competition authorities globally alongside the CMA. The divergence of regulatory decisions across the two jurisdictions makes it difficult for businesses to operate, as companies must develop different operational models, creating a costly investment barrier. Greater knowledge-sharing and decision-making alignment between US and UK competition regulators would have a positive UK growth impact, with the caveat that there can be justified reasons for pro-competitive divergence. Furthermore, greater competition regulatory alignment can reduce duplication and improve concerns around predictability of CMA rulings where decisions contrast US and EU regulators.

BAB supports the UK government's efforts to provide clear strategic guidance to the CMA, ensuring that competition regulation aligns with the government's growth agenda. By fostering a pro-investment and internationally aligned regulatory environment, the UK can continue to attract global businesses, drive innovation, and strengthen its position as an attractive destination for global and US investment.

We appreciate the opportunity to contribute to this consultation and look forward to continued engagement with the government and CMA to support a regulatory framework that benefits businesses and consumers.

Yours sincerely,

A handwritten signature in blue ink that reads "Duncan Edwards". The signature is written in a cursive style with a small dot at the end.

Duncan Edwards OBE
Chief Executive
BritishAmerican Business

A handwritten signature in blue ink that reads "Emanuel Adam". The signature is written in a cursive style with a long horizontal stroke at the end.

Emanuel Adam
Chief Policy & Trade Officer
BritishAmerican Business