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Citizens Advice response to the Competition and Markets Authority Annual Plan, 2022-2023.

Citizens Advice welcomes the opportunity to respond to this consultation. At Citizens Advice, we offer free, independent, and confidential advice and information to anyone who needs it. In the past year, we have supported people with over 930,000 consumer problems, and have been at the forefront of helping consumers manage the unprecedented impact of the coronavirus pandemic.¹ Since 2014, Citizens Advice has also been the statutory advocate and advice provider for energy consumers. Our vision is for an energy market that is inclusive by design and recognises the essential nature of energy supply. It should facilitate and encourage innovation, be accessible by all and treat everybody fairly, regardless of their circumstances.

We support the suggested themes of the work plan, as well as the plans for ongoing engagement between the Competition and Markets Authority (CMA) and Citizens Advice to share our knowledge and insights on consumer markets. Our organisations work closely together on issues of importance for consumers and it is essential for our clients that the CMA is a highly functioning organisation, able to clamp down on markets or firms that aren't delivering good outcomes.

We have welcomed the work done by the CMA in response to the Covid-19 pandemic, and the work set out in the annual plan continues this positive direction of travel. It is essential that the CMA take a thoughtful evidenced approach to the interventions they make but the approach during Covid has seen a very positive balance of consideration, and quick action where necessary. This willingness to be pragmatic in response to quickly emerging detriment should continue.

¹ Citizens Advice, 2020/21, Consumer Service and Advice statistics.

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This is an important year for the CMA's strategic direction with a new CEO and Chair likely to come into post. We hope that both of these opportunities mark a continuation of the drive to protect consumers, rather than a shift in direction towards a more single-minded focus on competition.

It is positive to see the CMA refer so directly to the cost of living crisis in the foreword. This is the biggest challenge facing Citizens Advice clients this year, with rising energy bills just one factor. There is an important role for the CMA in clamping down on any market or firm charging excessive prices that could tip people (particularly those in more vulnerable circumstances) into financial difficulty. This could apply to whole sectors where many people are paying too much - like childcare or the private rented sector - or specific sharp practises like subscription traps.

Theme 1: Protecting consumers from unfair behaviour from businesses, during and beyond the COVID-19 pandemic

We are pleased to see a commitment to engaging with consumers in vulnerable circumstances to understand their specific needs, as they may be more at risk of unfair behaviour by businesses, and less able to engage with markets than other consumers. 2022 will be a difficult year for many, with already rising inflation and April's increase to the price cap on energy bills expected to push an additional 2 million households into poverty.² We are already seeing the effect on consumers in vulnerable circumstances, with an over 100% increase in cases where people ran out of money to top up their prepayment meter (disproportionately owned by customers in vulnerable circumstances) in December 2021 compared to December 2020.³

When protecting consumers from unfair behaviour for businesses, the CMA intends to act in areas where the highest number of complaints are received. We would be interested to know if the CMA could measure detriment, so that the level of consumer detriment could also be factored into the prioritisation of cases. One detrimental area the CMA should consider as part of its markets pipeline is the private rented sector. Citizens Advice have produced numerous reports showing how broken the sector is and comparing rights in this market unfavourable with other much less essential markets.⁴

² Citizens Advice, 2022, [How to protect consumers as energy prices rise](#).

³ Citizens Advice, 2022, [How to protect consumers as energy prices rise](#)

⁴ Citizens Advice, 2021, [One renter every minute: How the pandemic exacerbated the existing problems and what that means for the Renters Reform Bill](#)

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The Government has taken some action and has promised a Renters Reform Bill (which is yet to emerge). We think that the CMA are well positioned to take a market wide review of the sector and make recommendations to the Government about how some of the more systemic problems and imbalances of power between tenants and landlords can be solved.

Another area the CMA could investigate is the parcels market. The pandemic has demonstrated both the growth and importance of this market; for many this is now an essential service. Ofcom have limited powers to solve some of the more systemic problems and we think the CMA should launch a cross market study into what a better functioning market could look like.

Theme 3: Promoting effective competition in digital markets

We welcome the establishment of the Digital Markets Unit (DMU) in shadow form and the commitment by the Government to legislate at the first opportunity. There is increased scope for consumer detriment as these markets grow and we think that the suggested regime, focusing on those firms with Strategic Market Status, represents the right way to intervene where appropriate. We look forward to working with the CMA on this agenda where it intersects with our own priorities for clients.

Recent rapid growth in digital markets, with innovations in technology and the sophisticated use of consumer data, has generated significant benefits for consumers. But Citizens Advice research into financial quicksand⁵ (online spending that's easy to get into and difficult to get out of, such as Buy Now, Pay Later⁶) shows that innovation brings the potential for new risks, with firms often competing to use their insights into consumers' behaviours and biases in ways which can be harmful. It is welcome that the CMA has committed to tackling these challenges, and to promote competition and innovation to the benefit of consumers. We also welcome the introduction of the Digital Markets Unit (DMU), and steps being taken to introduce powers and a new regulatory regime for digital markets. With new innovations entering the market all the time, including advances in the use of algorithms and machine learning which present particularly novel opportunities and risks, it is essential that regulators adapt quickly and creatively to make swift interventions to protect consumers.

⁵ Citizens Advice, 2021, [Financial quicksand is popping up everywhere — what is it? And why should we be concerned?](#)

⁶ Citizens Advice, 2021, [Buy Now...Pain Later?](#)

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Theme 4: Supporting the transition to low carbon growth, including through the development of healthy competitive markets in sustainable products and services

As the consumer advocate for energy, Citizens Advice supports the goal of reaching net zero emissions by 2050. Last year we published a report on the consumer protections needed to reach this target, including a mandatory accreditation scheme for businesses active in the home energy technology market, through the use of a single accreditation and inspection body.⁷ Consumers need to be able to cut through the current confusion caused by the number of protection schemes, codes and bodies and have the confidence to engage, knowing that the government has ensured they'll be protected if things go wrong. This is particularly important as we transition to net zero, as some groups of people will likely benefit from the changes, whilst others, particularly those in vulnerable circumstances, could be disadvantaged if their situations are not properly understood or mitigated.⁸

We support the investigation into the 'postcode lottery' of public EV charging. As discussed in our response to the CMA's consultation on accepting binding commitments in relation to certain exclusive arrangements for the supply of electric vehicle chargepoints⁹, we would like to see a more competitive public charging market in which a broader range of parties can participate. More competition, supported by the removal of exclusivity clauses, should encourage innovation and drive up standards in customer service and consumer choice.

We also welcome the planned review of misleading green claims in early 2022, to help consumers make informed choices when shopping for low carbon on sustainable products and services. We supported the introduction of the CMA's draft guidance on green claims last year¹⁰, while recognising there was further clarity to bring from an enforcement perspective, particularly where there are sectoral regulators such as in the energy sector. Consumer demand for green products and services is growing and consumers value transparency highly in this area. Consumers are willing to make the transition to low-carbon technologies and green products, with nearly 80% backing the

⁷ Citizens Advice, 2021, [Navigating net zero: A framework to give people the confidence to invest in home energy technologies](#)

⁸ Citizens Advice, 2021, [Rough trade? Balancing the winners and losers in energy policy](#)

⁹ Citizens Advice, 2021, [Citizens Advice response to the CMA's notice of intention to accept binding commitments in relation to certain exclusive arrangements for the supply of electric vehicle chargepoints](#)

¹⁰ Citizens Advice, 2021, [Citizens Advice response to the CMA's draft guidance on environmental claims on goods and services](#)

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net zero target, but they require clear information to enable them to make informed choices.

Our work has identified markets where competition or consumer law may be compromised in the sustainable energy space, that the CMA may want to look into under this work theme. One emerging area of the energy retail market is demand side response, where consumers flex their energy use to take advantage of cheaper times when the grid is under less pressure. Our research¹¹ found that there is currently very little consumer protection for those unable to engage (due to either digital exclusion, unavoidable inflexibility of energy use or living in the private rented sector), or against poor quality installations. Additionally, there are limited protections against mis-advertising, opaque terms and conditions, lack of interoperability, or the product or service not meeting the consumer's energy needs. Currently there is also no obligation for DSR providers to provide redress, including even basic complaints handling. While we expect some of the risks outlined to fall away as the market develops, we would like to work collaboratively with the market, regulators and industry to protect consumers.

Our Home Truths report¹² highlights the problems consumers encounter when installing energy efficiency measures or low carbon technologies in their homes. This market will be crucial for helping the UK government achieve its Net Zero targets, but there are currently many issues, including scams eroding consumer trust, monitoring and compliance systems that may not go far enough to protect consumers against poor installation work and struggles to access redress.¹³ Promoting competition and protecting consumer rights in this market could be an important part of the CMA's work theme of supporting the transition to low carbon growth.

We believe that to deliver net zero at least cost to consumers, it is essential that the rate of return allowed to regulated companies, such as energy companies, is set at an appropriate level. The CMA has recently re-examined many of the same issues with setting a rate of return in appeals across aviation, water and energy sectors. In each case, the appealing companies are seeking more money from consumers and the appeals are costly and repetitive. We believe the CMA should work with government

¹¹ Citizens Advice, 2021, [Demanding attention: Managing risks with demand-side response, to improve consumer experience tomorrow](#)

¹² Citizens Advice, 2021, [Home truths: The challenge and experience of making home energy improvements](#)

¹³ Citizens Advice, 2021, [The net zero protections puzzle: Helping people piece together home energy improvements](#)

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and sectoral regulators to reduce the likelihood of appeals and improve the regulated network sector appeals processes. In particular, the CMA should be seeking a more coordinated regulatory approach to components of the allowed rate of return. This will be more efficient and should provide greater clarity and consistency for all stakeholders. The CMA is well-placed to establish best practice across sectors and review how effective regulatory appeals processes are in representing consumer interests.

Theme 5: Delivering our new responsibilities and strengthening our position as a global competition and consumer protection authority

We are pleased to see a focus on safeguarding personal data in digital markets under the fifth theme. Our research shows that concern around the handling of data is a barrier to accessing smart energy technologies - 23% of survey respondents rated it their biggest barrier.¹⁴ Greater enforcement of data protection would likely help energy consumers to feel more able to engage with green tariffs that rely on data usage to offer cheaper rates.

Yours sincerely,

Alice Williams
Policy Researcher

¹⁴ Citizens Advice, 2021, [Smartening Up: How to improve people's confidence in smart home technology](#)

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