

# ENTERPRISE AND REGULATORY REFORM ACT 2013

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Part 3: the Competition and Markets Authority and Part 4: Competition Reform*

#### **Part 3: the Competition and Markets Authority**

#### *Schedule 5: Amendments related to Part 3*

#### **Part 2: Transfer of functions under the Enterprise Act 2002 to the Competition and Markets Authority**

#### **General functions**

203. Paragraphs 60 and 61 transfer the general functions of the OFT in the EA 2002 to the CMA. These include the functions of obtaining and reviewing information about matters relating to the carrying out of its functions (currently section 5 of the EA 2002). This information gathering role, which the OFT currently relies on to carry out research and market studies, is with a view to the CMA having the information it needs to make decisions and carry out its functions. Also included in these general functions is the provision of information to the public (currently section 6 of the EA 2002), which enables the CMA to provide the public with information or advice on matters relating to its functions (including publishing guidance on compliance with competition law and educational literature).
204. Paragraph 62 transfers the OFT's function to provide information and advice to Ministers to the CMA (currently section 7 of the EA 2002). This enables the CMA to make proposals or give other information and advice to Government Ministers or public authorities on matters relating to its functions. Such advice may address the impact of future as well as existing legislation. In addition Government Ministers may also request proposals, information or advice from the CMA on matters relating to its functions.
205. Paragraph 63 provides for the repeal of section 8 of the EA 2002, which makes provision for the OFT to promote good practice in the carrying out of activities that may affect the economic interests of consumers in the UK, and includes the function of setting up and undertaking an enhanced role in respect of consumer codes of practice produced by a variety of bodies. As a result of changes announced on the consumer landscape,<sup>1</sup> the OFT's functions relating to consumer codes will be transferred to the Trading Standards Institute and Citizens Advice will lead on consumer advocacy.
206. The CMA will continue to provide information and education both in the UK and internationally by virtue of its duty to seek to promote competition for the benefit

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<sup>1</sup> Consultation on Empowering and Protecting Consumers, Government Response, April 2012

*These notes refer to the Enterprise and Regulatory Reform Act  
2013 (c.24) which received Royal Assent on 25 April 2013*

of consumers in section 25, and by virtue of paragraph 61 of this Schedule, which transfers the OFT's function to provide information to the public about ways in which competition may benefit consumers and information in respect to any of its functions. In addition, the CMA will assume the OFT's international role in promoting good consumer practice outside the UK (paragraph 19 of Schedule 4).

207. [Paragraph 64](#) has the effect of transferring the OFT's super-complaint function to the CMA. This enables certain designated consumer bodies to make a 'super-complaint' where they consider that there is any market feature or combination of features, such as the structure of the market or the conduct of those operating within it, that may be harming consumers to a significant extent. Where a super-complaint is made, the CMA must respond within 90 days with a considered response to the super-complaint, setting out what action, if any, it proposes to take. The mechanism was designed to encourage groups who represent consumers to make relevant complaints on their collective behalf.