

Edward Mountain MSP  
Convener, Net Zero, Transport and Energy Committee  
Scottish Parliament  
Holyrood  
Edinburgh  
EH99 1SP

From: Jennifer Halliday  
*Senior Director, Advocacy  
and External Engagement*

29 November 2023

Dear Mr Mountain

### **Circular Economy (Scotland) Bill**

I write to introduce myself and the Competition and Markets Authority (CMA), and outline some of our work relating to your Committee's scrutiny of the Circular Economy (Scotland) Bill.

The CMA is the UK's principal competition and consumer protection authority. We help people, businesses, and the economy by promoting competitive markets and tackling unfair behaviour. Our Annual Plan,<sup>1</sup> which is laid before the Scottish Parliament, sets out our purpose, ambition, medium-term priorities, and areas of focus for the year ahead.

Our work requires insights into the opportunities and challenges faced by consumers and businesses right across the UK, to help ensure that our work and the outcomes of it make a difference, wherever they are located. The CMA is therefore committed to deepening and broadening our understanding of the key issues for businesses and consumers in Scotland and identifying opportunities for us to engage constructively in the Scottish policy context. As you would expect, we also work closely with Consumer Scotland to help ensure our work is informed by the needs and experiences of consumers in Scotland.

### ***Sustainability Taskforce***

In March 2022, the CMA announced the creation of a Sustainability Taskforce, which is leading our work in this area by bringing together colleagues from across the CMA and drawing on external expertise where appropriate.<sup>2</sup>

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<sup>1</sup> [CMA Annual Plan 2023-24](#)

<sup>2</sup> [CMA publishes environmental sustainability advice to government - GOV.UK \(www.gov.uk\)](#)

The Sustainability Taskforce's core function is to lead on our work to enable us to realise our strategic vision to:

- ensure that markets for sustainable products or services develop in ways favourable to competition and consumers;
- ensure that consumers are able to make informed choices about the environmental impact of the goods and services they use; and
- enable businesses to pursue environmental sustainability initiatives, including through legitimate cooperation.

Our work on environmental sustainability includes advising governments across the UK on how competition and high standards of consumer protection can help meet their environmental goals. We have provided advice to the Scottish Government in a number of areas, including electric vehicle charging,<sup>3</sup> heat networks<sup>4</sup> and we responded to the consultation on its draft energy strategy and just transition plan.<sup>5</sup>

### ***Encouraging Innovation - Environmental Sustainability Agreements***

In October 2023, after extensive consultation, we published our Green Agreements Guidance.<sup>6</sup> The purpose of the Guidance is to provide direction on the application of the competition rules to agreements between competitors or potential competitors in relation to environmental sustainability ('environmental sustainability agreements'). The Guidance also sets out specific additional advice in relation to the assessment of agreements between competitors which combat or mitigate climate change ('climate change agreements') where a more permissive approach is adopted.

Given the scale of the challenge to address environmental sustainability and particularly climate change, and the degree of public concern about such issues, the CMA is keen to ensure that businesses are not unnecessarily or erroneously deterred from lawfully collaborating in this space due to fears about competition law compliance. This is particularly important for climate change because industry collaboration is likely to be necessary to meet the UK's binding international commitments and Scotland and the UK's domestic legislative obligations to achieve a net-zero economy, and to play an essential part in delivering the net-zero ambitions across the whole of the UK.

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<sup>3</sup> [Electric vehicle charging market study - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

<sup>4</sup> [Heat networks market study - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

<sup>5</sup> [Response to Scottish Government draft energy plan - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

<sup>6</sup> [Guidance on environmental sustainability agreements - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

Our approach to these agreements is supported by an open-door policy which allows businesses to approach the CMA for further informal guidance on specific environmental sustainability agreements they are considering.

We would welcome if you and your Parliamentary colleagues could encourage Scottish businesses to make use of this new approach, particularly as they consider the opportunities of the circular economy.

### ***Improving Consumer Understanding - Green Heating***

We produced a “Green Claims Code”<sup>7</sup> to help businesses ensure their green claims are genuine and not misleading. And a series of tips<sup>8</sup> to help consumers identify genuine environmental claims about products and services that they are thinking of buying.

In May 2023, we published a report<sup>9</sup> setting out the findings from our call for information on consumer protection in the green heating and insulation sector. We considered three key themes: people’s experience of buying green heating and insulation products; business practices and the landscape of standards bodies<sup>10</sup> which provide quality assurance; and consumer protection standards for member businesses.

We also published a consumer guide<sup>11</sup> to assist people when buying green heating and insulation products, which sets out a summary of their key rights and protections under the law; and a set of good practice principles for standards bodies, to help raise the level of protections in the sector.

We have also launched an investigation into Worcester Bosch over concerns it may be misleading shoppers in its marketing of boilers and “hydrogen-blend ready”.<sup>12</sup>

### ***Consumer Protection - Fast Moving Consumer Goods (FMCG)***

In January we launched a review<sup>13</sup> to examine a range of products which are essential items used by people on a daily basis and repurchased regularly, such as food and drink, cleaning products, toiletries and personal care items.

In 2021, the average household spent almost £70 a week on food and drink alone, and the FMCG sector as a whole is worth over £134 billion annually.

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<sup>7</sup> [Green Claims Code – Check your environmental claims are genuine](#)

<sup>8</sup> [Green claims code for shoppers - GOV.UK \(www.gov.uk\)](#)

<sup>9</sup> [Consumer protection in the green heating and insulation sector](#)

<sup>10</sup> [Good practice principles for standards bodies \(publishing.service.gov.uk\)](#)

<sup>11</sup> [Buying green heating and insulation products: consumer guide - GOV.UK \(www.gov.uk\)](#)

<sup>12</sup> [Investigation into boiler company over ‘green’ claims - GOV.UK \(www.gov.uk\)](#)

<sup>13</sup> [Fast Moving Consumer Goods \(FMCG\) - GOV.UK \(www.gov.uk\)](#)

As part of our work, we are analysing environmental claims made about such products, both online and in store, to consider whether companies are complying with UK consumer protection law. Concerning practices could include the use of vague and broad eco-statements, for example packaging or marketing a product as 'sustainable' or 'better for the environment' with no evidence; misleading claims about the use of recycled or natural materials in a product and how recyclable it is; and entire ranges being incorrectly branded as 'sustainable'. We are due to provide an update on our FMCG work next month.

Our FMCG work follows an investigation we announced in 2022 scrutinising eco-friendly and sustainability claims in fashion, made by ASOS, Boohoo and George at Asda.<sup>14</sup>

For completeness, separately, I am aware you are meeting with CMA colleagues who work in the Office for the Internal Market for a briefing on 5 December.

I have asked my colleague, Carol-Anne Frame, to keep your Clerk updated on CMA work that is relevant to your Committee's work, but please don't hesitate to reach out to me or the CMA team in Scotland if you, the Committee, or any of your wider Parliamentary colleagues would like any more information about us and our work.

Yours sincerely

Jennifer Halliday  
*Senior Director, Advocacy and External Engagement*

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<sup>14</sup> [ASOS, Boohoo and Asda investigated over fashion 'green' claims - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/asos-boohoo-and-asda-investigated-over-fashion-green-claims)