

Cynulliad Cenedlaethol Cymru	National Assembly for Wales
Pwyllgor yr Economi, Seilwaith a Sgiliau	Economy, Infrastructure and Skills Committee
Blaenoriaethau ar gyfer Pwyllgor yr Economi, Seilwaith a Sgiliau	Priorities for the Economy, Infrastructure and Skills Committee
EIS 17 Yr Awdurdod Cystadleuaeth a Marchnadoedd	EIS 17 Competition and Markets Authority

CMA submission on the priorities for the Economy, Infrastructure and Skills Committee of the Welsh Assembly during the Fifth Assembly

The Competition and Markets Authority (CMA) is grateful for the opportunity to contribute to the setting of priorities for the Committee. The CMA is the UK-wide authority that enforces competition law, operates the merger control regime and undertakes studies and investigations into markets that may have systematic or structural problems that prevent competition from working effectively or cause consumers to get a bad deal. The CMA has a Representative in Wales, Simon Harris, who promotes the work of the organisation in Wales and who helps the CMA understand the Welsh context, through engagement with a wide range of Welsh business, consumer and government stakeholders. In recent years, this has included discussions with Welsh Government officials on a wide range of policy issues, including property management regulation, alcohol pricing, banking and higher education. CMA has an advocacy function that advises government on how policies can be designed and implemented in ways that promote competition, or avoid undue restrictions on competition in markets. Effective competition in markets can bring down the cost of public sector procurement; lead to higher quality, lower cost outcomes for consumers and service users in both public and private sector markets; and drive growth in productivity and, ultimately, the economy as a whole.

Recently, the CMA has undertaken research and produced policy recommendations that may be relevant to the Committee's work. This includes our recommendations on the UK Government's Bus Services Bill, our report on on-rail competition, work we have done to help public procurers detect bid-rigging and our programme of work to assist local authorities in considering how their functions impact upon competition in local markets. We have also recently published guidelines for policy makers to help them assess the impact of policies on competition. The Committee may want to consider where CMA findings or recommendations, some of which are set out below, are relevant to its work in holding the Welsh Government to account.

On-rail competition

At present, most competition in the UK rail sector is based on rail providers competing to win franchises from government. This has delivered benefits; since the introduction of competition in the 1990s there has been an increase in rail usage and passenger satisfaction. However, our report finds¹ that greater competition *between* providers on the rail has the potential to lead to improved service levels, innovations such as free Wi-Fi, growth in the market for rail travel, and lower costs and fares. The trend in several other European countries is towards greater competition on the rail.

¹ Competition in passenger rail services in Great Britain, CMA, March 2016, https://assets.publishing.service.gov.uk/media/56ddc41aed915d037600000d/Competition_in_passenger_rail_services_in_Great_Britain.pdf

We note that the Welsh Government is currently gathering views on the specification of the next Wales and Border franchise, ahead of the formal procurement process.

Bus Services Bill

In our public letter to the UK government on the Bus Services Bill² we observed that on-road competition can provide incentives for innovation in networks and service provision, a high quality of service, low fares and an efficient operation, and should only be abandoned in favour of competition for the market (i.e. franchising) where it is clear that this is the only way to secure better outcomes for the travelling public. Improved outcomes can be delivered by making the local market work better through partnerships.

Bid-rigging tool

The CMA has recently developed a 'bid-rigging e-learning tool' to help public and private sector procurers and supply chain professionals understand why bid-rigging is harmful, learn how to spot potentially suspicious bids and where to go for further information and help. The tool is free to use and can be found, along with a short video and an open letter from the CMA, on the CMA website.³

The CMA is also developing a software tool that tests public sector procurement data with tender bids against criteria for signs of potential cartel activity. The tool is showing prospects of being able to identify procurements with signs that are consistent with bid rigging. However, it remains unproven because we have not been able to test it against a sufficiently large data set. We would be interested in working with the Welsh Government and the National Procurement Service on this project should opportunity arise.

Competition and Local Authorities (LA)

The CMA is examining how Local Authorities, in their role as buyer, seller and regulator (licensing authority), can support competition. Over the next 18 months, the CMA intends to run a number of projects to:

- Raise LA awareness of the benefits of competition and competition law
- Help LAs understand how their interventions may have a harmful impact on competition, and
- Encourage LAs to consider how competition could support better public service outcomes, including best value for the taxpayer.

The issues we may consider include procurement requirements acting as an entry barrier for firms, licensing conditions protecting local shops at the expense of street traders, and LAs restricting of private firms' ability to compete with their own trading activities. We will report on the emerging themes in the coming months.

Competition Impact Assessment (CIA) Guidelines

Our CIA guidelines⁴ are designed to help policy makers assess the impact on competition of policy proposals, in order to avoid policies having an unduly adverse impact on competition in markets. The

² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/533700/cma-recommendations-on-bus-services-bill.pdf. This letter is largely based on the 2011 Competition Commission Local Bus Services Market Investigation: http://webarchive.nationalarchives.gov.uk/+http://www.competition-commission.org.uk/inquiries/ref2010/localbus/pdf/00_sections_1_15.pdf

³ <https://www.gov.uk/government/news/procurement-tool-targets-bid-rigging-cheats>

⁴ Competition impact assessment: guidelines for policymakers, CMA, September 2015, <https://www.gov.uk/government/publications/competition-impact-assessment-guidelines-for-policymakers>

guidelines outline how policies can harm competition, such as restricting the number of providers, restricting the ability of providers to compete, restricting the choices or information available to consumers, or incentivising providers to collude. This matters because competition is good for businesses and the taxpayer. Competition drives productivity in three ways:

- it places pressure on the managers of firms to become more efficient
- it ensures that more productive firms increase their market share at the expense of less productive firms
- it drives firms to innovate, coming up with new products and processes which can lead to step-changes in efficiency.

Efficiencies can be passed on to consumers in lower prices, better quality or more choice. For those procuring public services, efficiencies can lead to better value for money for the public purse.

Concluding remarks

Our work has found that promoting competition in markets can help to deliver better, lower cost services for consumers and users, greater efficiency, and ultimately, economic growth. In holding the Welsh Government to account, the Committee might like to consider, as one aspect among many, whether competition considerations are being taken into account in the design and implementation of policy. This might include encouraging the use of the CIA guidelines in the Welsh Government. The CMA is always ready to offer advice and assistance to policy-makers in thinking about the competition impacts of their work and has provided bespoke CIA training to both UK and Scottish Government officials in recent months. The CMA is also willing to provide any specific evidence we have on other policy areas that fall in scope of the Committee's work.