

Fuel Finder CMA Consultation

Please see below responses on behalf of the Petrol Retailers Association to the consultation questions on the draft guidance on the CMA's enforcement functions published on October 13, 2025.

1. Do respondents have any comments on the CMA's proposed targeted and proportionate approach to enforcement?

The PRA naturally supports the principles that the CMA's approach to enforcement should be targeted and proportionate. The CMA notes in Appendix A to the consultation document that effective enforcement can act as a deterrent against non-compliance. The PRA would also caution that if enforcement is unpredictable, arbitrary, disproportionate, or draconian—or even if it is merely perceived to be any of these things—there will be the risk that MFTs will be forced out of an already tough marketplace. That unintended consequence will end up reducing competition, compromise national fuel resilience and harm the very consumers that the regulations are intended to protect.

To reduce the disruption that the introduction of the FFS will cause, improvements to the guidance to better define the CMA's enforcement functions and procedures would be welcomed to make compliance under the FFS more specific, transparent, predictable, consistent, and therefore manageable for the MFTs upon which consumers rely.

The guidance (3.2) notes that the aggregator will have a critical role to play as the operator of the FFS with responsibility for resolving issues of non-compliance and for providing the CMA with details of instance of non-compliance, yet the aggregators procedures remain unknown in key areas. For example, transparency requires that a detailed schematic of the flow of information and timings as to when data from the aggregator will be sent to the App providers should be made available. If data is out of synchronization with what consumers are viewing on Apps this could lead to erroneous complaints and undue workload in investigating them. Relatedly, transparency into the terms and conditions put in place between the aggregator and App providers is necessary in order to ensure that erroneous complaints are not generated due to lag times relating to the visibility of price updates to the consumer.

As we have raised concerns from the outset, the maximum potential financial penalties constituting up to 1% of global turnover or 5% of daily turnover appear on their face to be disproportionate to the types of inadvertent violations that we anticipate may occur under the scheme. To be able to provide better feedback on proportionality, clearer guidance is needed regarding how the CMA intends to link the levels of potential financial penalties up to the statutory maxima with the types of non-compliance that may occur and the actual provable impact upon consumers caused by proven incidents of non-compliance.

Particularly with regard to the important role of the aggregator, the guidance offers little information or assurance that compliance enforcement will be properly targeted. As drafted, the regulations vest wide-ranging and potentially ambiguous discretionary power in the aggregator to fulfil a quasi-prosecutorial referral function as the gate-keeper, investigator, and escalator of alleged violations to the CMA.

The regulations compel the aggregator to “implement procedures for receiving, managing and action upon complaints relating to inaccuracies in the price information” (Reg 5) and to maintain minimum facilities for MFTs to provide the reportable information (Reg 10). Under regulations 14 (1)-(5) the aggregator’s monitoring and enforcement functions are further set out.

Given the delegation to the aggregator, the PRA would like guidance regarding the CMA’s monitoring and oversight of the aggregator’s role in the enforcement process in order to better understand the incentives, checks and balances upon the aggregator to ensure that complaints are adequately scrutinised before being escalated to the CMA.

We would also wish to have sight of the terms and conditions the aggregator has with App providers. Consumers will only refer to a price advice App and therefore it is critical that the data flow from the aggregator to the App provider is accurate and timely.

Further guidance and clarification of Section 13 of the CMA enforcement guidance is also needed as to what evidentiary support the aggregator must provide to the CMA so as to constitute reasonable belief under Reg 14.(5) that there has been a breach of the regulations.

2. Do respondents view the balance of informal and formal action to be appropriate?

As currently set out in the guidance the procedures for the CMA’s escalation between informal and formal actions would benefit from further clarity, particularly in light of the extremely large financial penalties available under Reg 19.

The PRA recommends that the CMA set out a defined process prior to escalation to formal action, including the expectation that it will formally issue mandatory warnings to alleged violators prior to the issuance of a formal compliance notice.

There should also be a defined period for violators to correct violations prior to the issuance of a formal compliance notice.

3. Do respondents have any comments on the factors we propose to take into account when considering penalties?

Reasonable excuse, as referenced in regulation 19.1 is undefined. The consultation guidance references that a significant and demonstrable IT failure (which could not reasonably have

been foreseen or avoided) which prevented an MFT from complying with a Requirement, depending on the circumstances, might amount to a reasonable excuse.

The CMA has stated that it welcomes further examples of circumstances that may constitute reasonable excuse. In practice the number of circumstances which might reasonably impede a MFT from timely compliance is endless. Common examples constituting reasonable excuse should include but not be limited to all types of force majeure, the need for MFTs to respond to emergency circumstances such as incidents of theft and other criminality which remain endemic challenges for forecourt operators, illness or death, as well as system failures other than IT failure that might affect data input to the aggregator such as phone network outages.

In addition to reasonable excuse, more and better clarity in the guidance on mitigation factors and how these may in practice be balanced against aggravating factors to reduce penalties would be welcomed.

The PRA notes that recidivism is an aggravating factor referenced by the CMA and understands that because the FFS is brand new, in the beginning any MFT found in violation will not be a repeat violator. The PRA strongly suggests that the CMA consider and explicitly state that for an initial period, for example twelve months, following the introduction of FFS, the fact that FFS is brand new and of an unprecedented nature should in itself be considered as a mitigating factor when considering enforcement and assessing penalties enforcement.

It is also important to have certainty as to whether, when, and how the CMA may pursue enforcement proceedings against alleged violations related to the provision of non-price data. We would like to see guidance that explicitly differentiates between penalties for price and non-price reporting to assuage concerns that the CMA will not seek to criminalise administrative errors.

Again, the CMA's guidance should be revised and clarified to set out a more formal framework or and rationale for the CMA's estimation as to how it will intends to access differing levels of penalties under the legislation. The current guidance on relevant factors is a starting point but weakened by its reliance on broad terminology. Further specific estimations would be welcome as to how the CMA intends to evaluate actual or potential adverse impact against actually or potentially affected consumers and how that evaluation will affect the levels of financial penalties assessed up to the statutory maxima set out in paragraph 19(5) of the regulations as described in Annex B paragraph 6.

4. Do respondents have any comments on the CMA's proposed approach to complaints relating to the exercise of the CMA's functions under the Regulations?

The PRA understands that the standard procedures in Chapter 5 of CMA6 will apply whenever disputes arise in relation to the conduct of a CMA investigation and that the consultation guidance indicates that under CMA 5.2. escalation of disputes from the senior

CMA contact should be directed by parties to the General Counsel. Because the application of accountability to the aggregator remains unknown, further guidance would be welcome as to how these standard accountability procedures will operate when a party wishes such as a MFT wishes to raise a dispute about the aggregator use of its delegated powers to escalate complaints.

5. Is the guidance clear on the CMA's proposed approach? If not, where would further clarification be helpful?

As noted above, better clarification regarding the enforcement role of the aggregator is needed. Therefore, further guidance is required as to what the aggregator's procedures are to be for managing complaints under Reg 5, and, also therefore, as to what specific consideration the aggregator must give to complaints made under these undefined procedures. Because the aggregator's role is the critical first stage of the CMA's process, guidance that is to be provided from the aggregator regarding procedures under regulation 5 should be integrated into the CMA guidance to avoid the burden of piecemeal and potentially inconsistent guidance.

We would also request clarity on the terms and conditions the aggregator will produce with App providers. These need to be consistent with the overall objectives of the scheme particularly with regards to the accuracy and timing of reporting fuel prices.

In order for the CMA to better communicate its processes for the informal and formal stages of the enforcement process, we ask that the CMA provide decision trees to clearly graphically illustrate the processes. Further, we would ask that the CMA includes information regarding the job titles and seniority levels of the officials who will be making decisions at each stage of the enforcement process up to and including the assessment of penalties.