Third Edition

CMS
law·tax·future

UK competition law enforcement:

Regulatory proceedings and private litigation compared

November 2026



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Introduction

Welcome to the third edition of the CMS Competition Law Enforcement report. This year we have added a new section devoted to private enforcement of competition law in the Competition Appeal Tribunal (**CAT**). This supplements our updated analysis of all CMA competition law infringement decisions and associated appeals, and all concurrent regulator decisions.

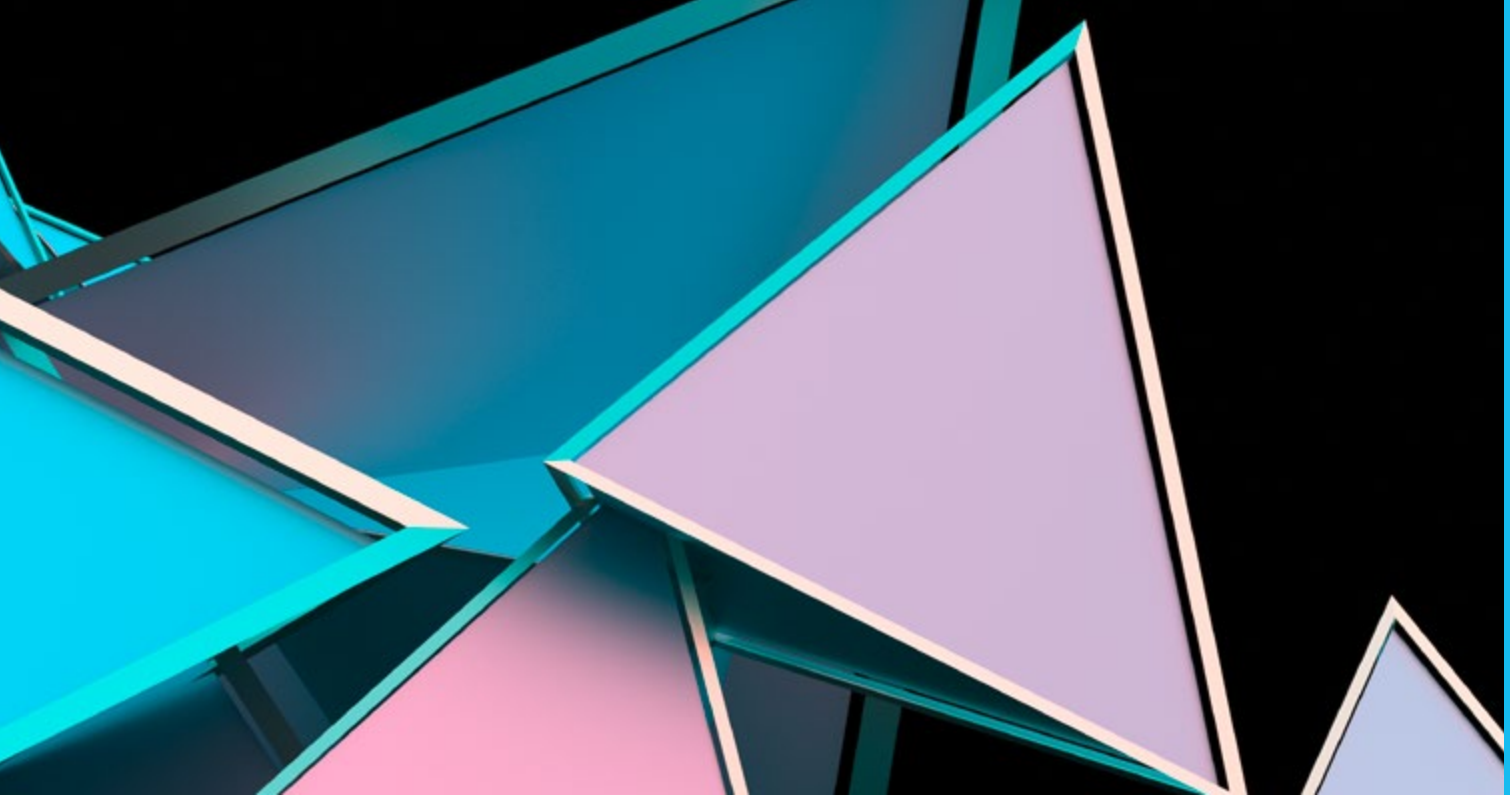
Competition law enforcement is at an inflexion point in the United Kingdom. Private competition litigation has grown rapidly, in the form of both individual claims and opt-out collective claims for damages and/or non-monetary relief. Meanwhile the Competition and Markets Authority (**CMA**) has, for the time being, increased its focus on consumer protection and digital markets regulation following newly gained powers. That in turn requires the CMA to be more selective in the competition enforcement cases it takes, adding to the Government's economic growth steer discussed in the second edition of our report. There has, in other words, been a rebalancing of private and public competition law enforcement in the UK.

Our analysis is designed as a tool to assist with the commercial assessment of competition law risk. Both public and private enforcement must be factored into that assessment. The risks have similar substantive components but a different judgement overlay.

For public enforcement the overlay includes whether an investigation is likely to be prioritised. In private enforcement the CAT cannot prioritise – it has to take a case brought to it, at least as far as a strike-out application; the judgement therefore includes the likelihood that actions will be brought. For collective actions, the likely appetite of funders is a key consideration.

As in previous years, our analysis is comprehensive, data-driven and primarily substantive.

Specifically, our analysis now covers: all CMA cases and associated appeals since prohibitive competition law began in the UK with the coming into force of the Competition Act 1998; all concurrent regulator competition enforcement cases; and all private competition litigation in the CAT since the Consumer Rights Act 2015 came into force on 1 October 2015.



That Act expanded the CAT's jurisdiction to hear "standalone" claims (i.e. not based on a prior regulatory infringement decision) and – crucially – to hear claims brought on an "opt-out" basis, allowing actions to be brought on behalf of very large numbers of claimants, without members of the class having to specifically opt in. It also gave the CAT the ability to grant injunctions and extended the collective regime to encompass business claimants.

Among other data cuts, we look at types of infringement (anti-competitive agreements; abuse of dominance); sub-types of infringement; sectors, both overall and over time; and case duration. We examine outcomes, including, for public enforcement, fines, settlements, appeals and de-prioritisation; and, for private enforcement, dismissals (pre-trial or post-trial), settlements, damages, final injunctions and declarations. Our concurrent regulator analysis examines the data in aggregate and split by each of the seven concurrent regulators covered in this report. In private enforcement we look at type of complainant (e.g. consumer versus business), type of proceeding (individual versus collective) and basis for the claim (follow-on versus standalone and a number of variants). Many of these data cuts are also shown combined.

Our inclusion of private litigation cases enables us to draw interesting comparisons between public and private competition law enforcement in the UK.

For example, public enforcement has seen a greater focus on financial services, life sciences and building and construction; private enforcement on tech and communications, among other sectors. Some comparisons may seem surprising: we show empirically that interim relief applications (including own-initiative consideration in the CMA) have been equally successful at delivering outcomes in the CMA as in the CAT.

But competition law enforcement never stands still. Having seen an evolution towards private enforcement the question now is whether we will see a re-calibration back towards a more even public/private balance. Looking to the future, businesses ignore the CMA at their peril. There is likely to be a renewed uptick in public competition law enforcement as consumer protection and digital regulation bed down. Conversely, a number of developments we discuss in this report signal that we may see a plateauing or decline in opt-out private enforcement cases. However, while the number of individual private actions registered has fluctuated year-on-year we expect a steady stream of those to continue.

That is the UK competition law enforcement landscape as we see it at the time of this third edition of our report. We hope you will find the data analysis and conclusions useful in your business decision-making.

The CMS Antitrust, Competition and Trade team

November 2026

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Public enforcement of competition law by the CMA and relevant CAT appeals

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How CMA investigations are instigated

One of the key questions that businesses face when considering competition law enforcement risk is how conduct comes to be investigated by the Competition and Markets Authority (**CMA**).

Where the reason the CMA instigated an investigation under the Competition Act 1998 (**CA98**) is known (in approximately two-thirds of cases), nearly 60% of closed investigations since 2000 were triggered by third-party complaints and tip-offs.

The prominence of third parties as a source of the CMA's enforcement activity is significant, bearing in mind that companies generally have limited awareness or control over these types of approaches to the regulator. Therefore, businesses need to ensure that they are minimising the risks of investigative action being taken, by identifying areas within their business that could give rise to competition concerns and ensuring they have comprehensive and up to date competition law compliance programmes and training in place. It also means that where a company is aware that a third party may have a competition law concern, the potential for that company to make a successful complaint to the CMA cannot be underestimated. Compared to litigation, such a complaint is a relatively low-cost option.

A total of 23% of the regulator's investigations started with a leniency application informing the CMA of cartel activity. As part of any compliance programme, businesses should ensure they are aware of the processes that will need to be put in place rapidly if they become aware of non-compliant behaviour and wish to explore a leniency application.

In some cases, a market study/investigation uncovers conduct that results in the CMA opening an investigation under the CA98 (c. 8% so far). Businesses should ensure they are well informed as to ongoing market studies/investigations in their sector and the risk of this leading to a CA98 investigation.

In light of the number of CMA investigations involving a dawn raid, it is vital that relevant employees are fully aware of what is expected of them in the event of an unannounced inspection. In particular, the CMA's enhanced investigatory powers under the Digital Markets, Competition and Consumers Act 2024 (**DMCCA**) now mean personal devices may be seized and domestic premises more easily searched.

In this Part, CMS's Antitrust, Competition and Trade team has researched and analysed the enforcement activity of the CMA and its predecessor the Office of Fair Trading (**OFT**), since 2000 up to the research cut-off date of 31 May 2026.

> "Where a company is aware that a third party may have a competition law concern, the potential for that company to make a successful complaint to the CMA cannot be underestimated."

Reason for initiation of investigation

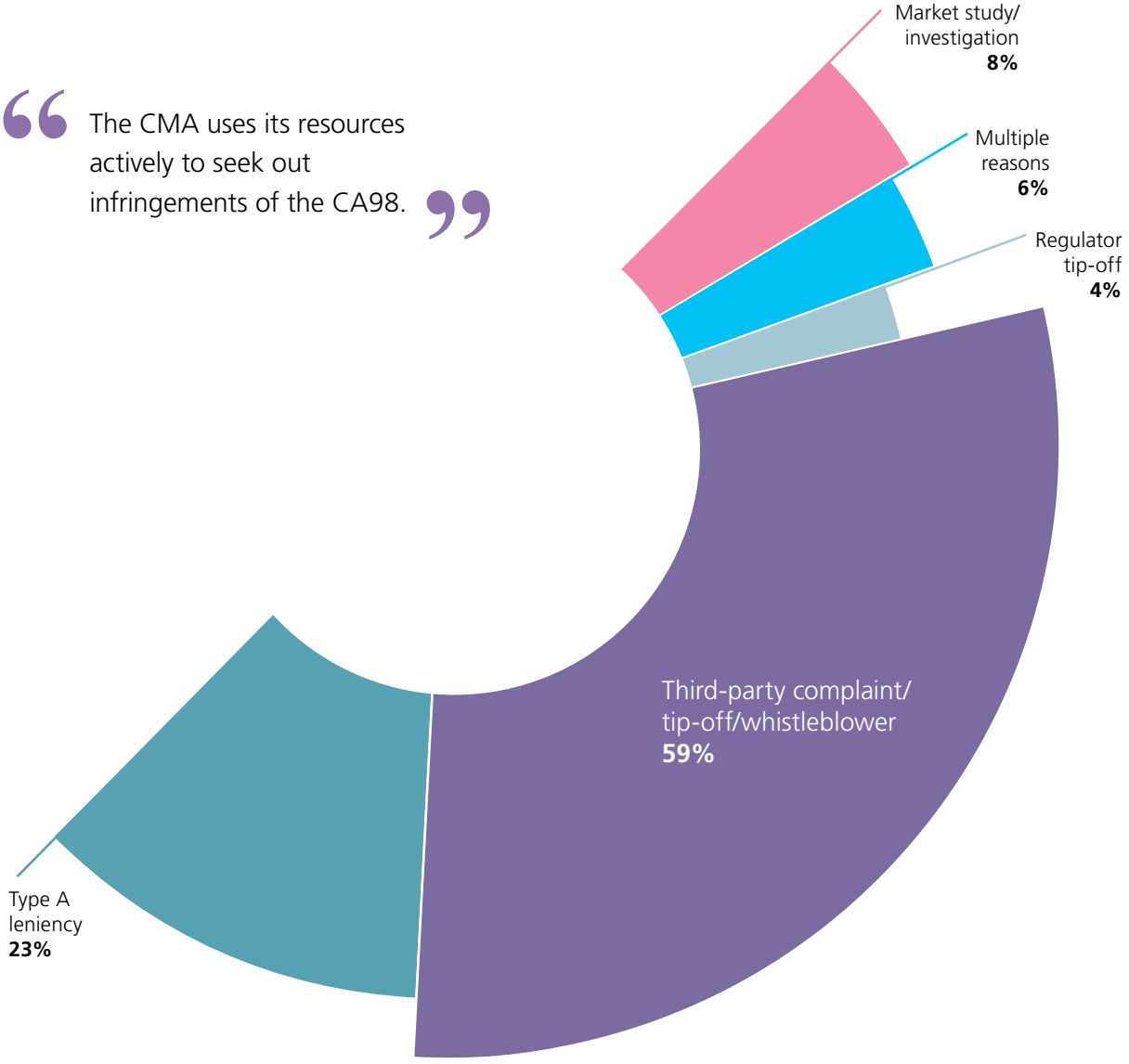
The CMA does use its resources actively to seek out infringements of the CA98 – for example, through the development of its in-house Bid Rigging Intelligence Tool (BRIT). However, frequently cases come to it: nearly 60% by virtue of a third-party tip off and a further 23% from one of the parties to an infringement seeking leniency (this will be a Type A application where the CMA was not previously aware of the infringement).

The remaining investigations typically originate from a CMA market study/investigation (8%), or information received in the context of another CMA investigation or a referral from another UK or international regulator (such as The Department of Health and Social Care or the European Commission) (4%).

Some investigations have multiple potential sources. For example, third-party complaints received at the same time as a Type A leniency application or market study/investigation; or where the CMA obtains information in the context of another investigation at the same time as receiving a leniency application.

The CMA separately publishes statistics on whistleblowing disclosures. In 2025 to 2026, there were 48 whistleblowing disclosures (up from 32 in 2024–2025, and 17 in 2023–2024), of which 75% were held for intelligence only, with 25% leading to further investigation.

> “The CMA uses its resources actively to seek out infringements of the CA98.”



Proportion of infringement decisions involving a dawn raid

70% of all infringement decisions involved a dawn raid. This indicates that dawn raids are a powerful tool for the CMA and frequently provide valuable evidence leading to an infringement decision. Raids of domestic premises are more likely as more people work flexibly and the CMA uses its powers to search for documents held away from the office. New powers under the DMCCA allow the CMA to "seize and sift" personal IT equipment and phones in the course of a domestic raid. The use of such powers is inevitably intrusive, with the Competition Appeal Tribunal (**CAT**) recently amending the proposed terms of a domestic search warrant to reduce the risk of its execution at a time when school-age children could be present.

The 51 dawn raids carried out during the course of the CMA's investigations (resulting in an infringement decision) cover both unannounced and pre-announced inspections (although typically the former). In both cases, the process subjects businesses and their employees to stress and unpredictability.



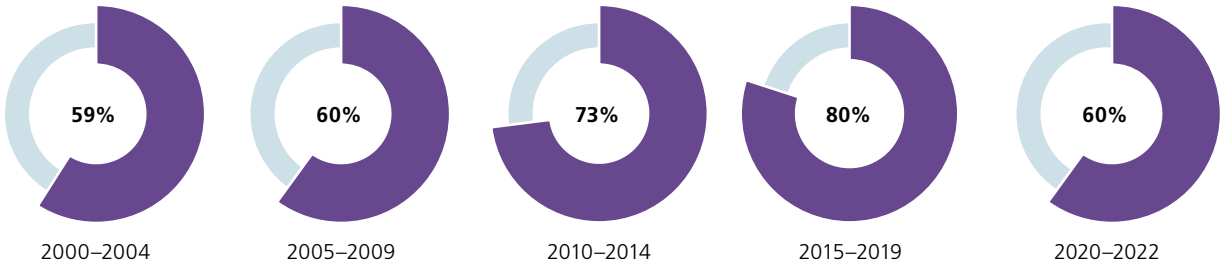
It is therefore vital that companies have procedures in place to ensure that the business and its key employees are prepared and ready in the event of a raid. Notably most dawn raids focus on access to electronic means of communication and so businesses need to be aware of their document security and retention policies.

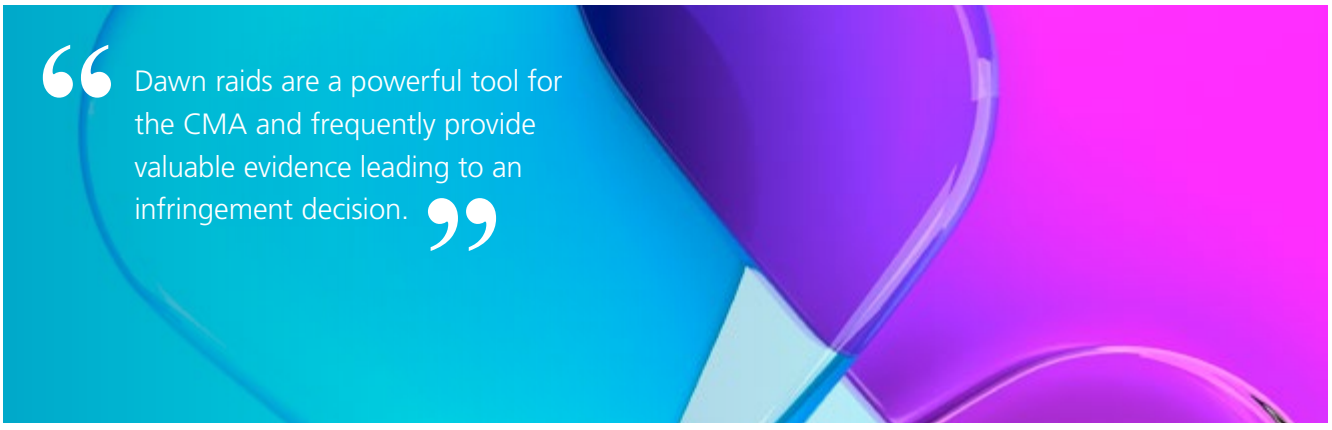
The CMA has recently, and for the first time, imposed civil fines on individuals for concealing evidence during a dawn raid and has indicated that under its enhanced enforcement powers, businesses that fail to comply with CMA investigative requirements may face higher penalties for non-compliance.

Proportion of infringement decisions involving a dawn-raid by investigation start year

The data indicates a gentle upward trend in the proportion of infringement decisions involving a dawn raid: from 59% in 2000–2004 to 80% in 2015–2019.

The recent fall to 60% in 2020–2022, reflects the impact of COVID and the smaller number of infringement decisions (five) out of the cases initiated in this period.





How CMA investigations are instigated:

Key takeaways



Companies need to have comprehensive internal processes in place to identify non-compliant behaviour – there is a real risk of competitors, customers or whistleblowers complaining to the regulator about conduct without a company's knowledge. Threats to complain by a third party or employee need to be taken seriously.



More often than not, a CMA investigation resulting in an infringement decision involves a dawn raid (whether unannounced or planned) so businesses and their employees need to review and refresh their training and dawn raid procedures on a regular basis.



The CMA's enhanced investigatory powers under the DMCCA mean dawn raids are more intrusive than ever before. Businesses need to be aware that the CMA increasingly requests comprehensive access to digital data and now has enhanced rights to take materials during domestic raids.



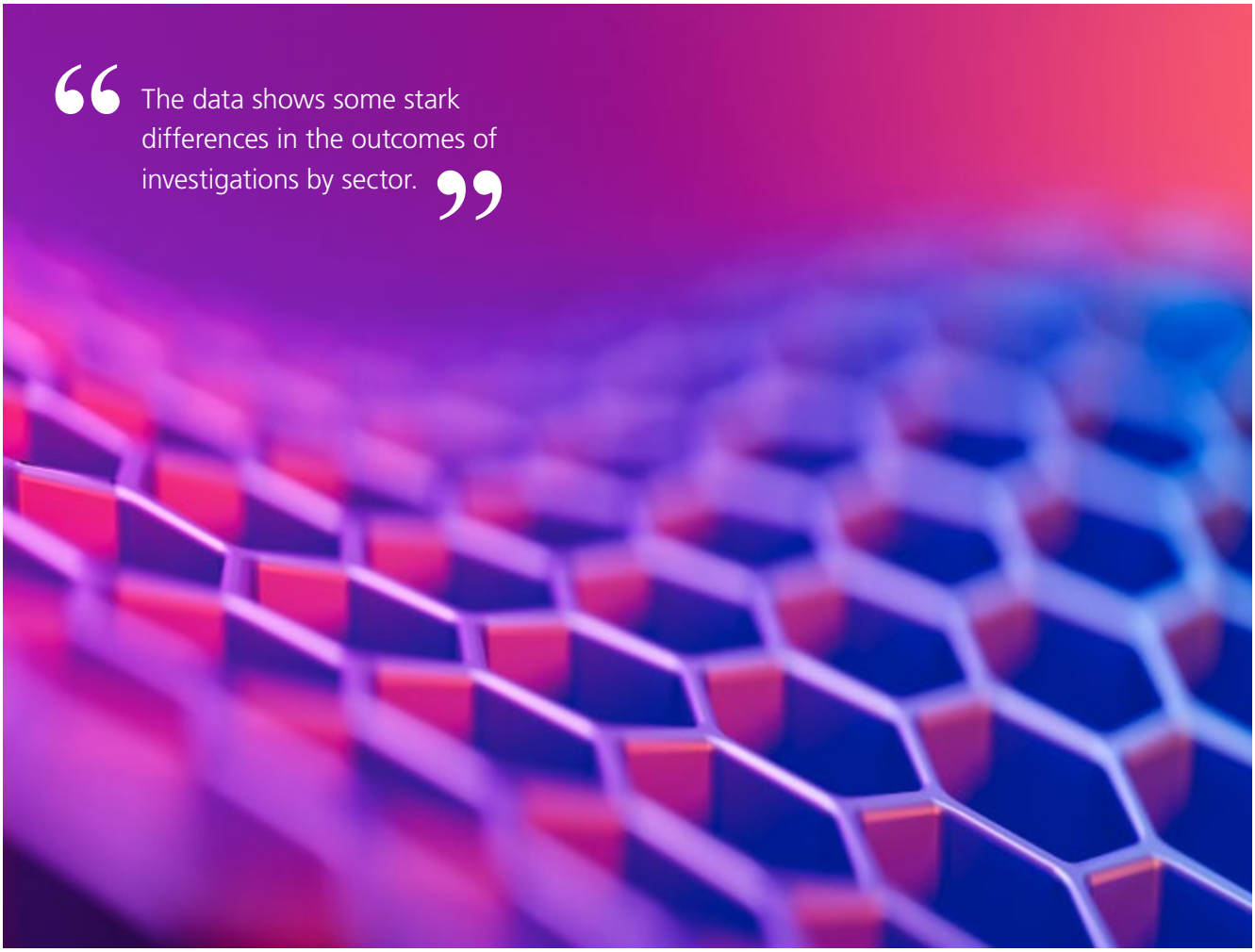
Employees need to understand their obligations regarding document retention and cooperation with CMA officials in order to avoid personal penalties. The CMA recently fined two individuals for attempting to conceal a mobile phone and documents in the course of a dawn raid – even though the materials were handed over later in the day.

Different sectors see different risks

The CMA has launched 164 investigations since the entry into force of the CA98, with companies in the Consumer and Retail sector being the most investigated.

This is not surprising, as the CMA is increasingly prioritising action that directly prevents consumer harm. The Consumer and Retail sector is also at greater risk of whistleblowing and media scrutiny, which may result in the CMA being under more pressure to commence investigations.

The data shows some stark differences in the outcomes of investigations by sector. As an example, the Building and Construction sector saw 80% of investigations result in an infringement decision, all of which involved some form of anti-competitive agreement/ concerted practice (most commonly around bid-rigging). All of these investigations also included a dawn raid. In contrast, the Technology and Communications sector has the highest proportion of commitments decisions, reflecting the fact that a number of investigations in this sector have related to abuse of dominance concerns, which are more readily addressed by forward-looking commitments.



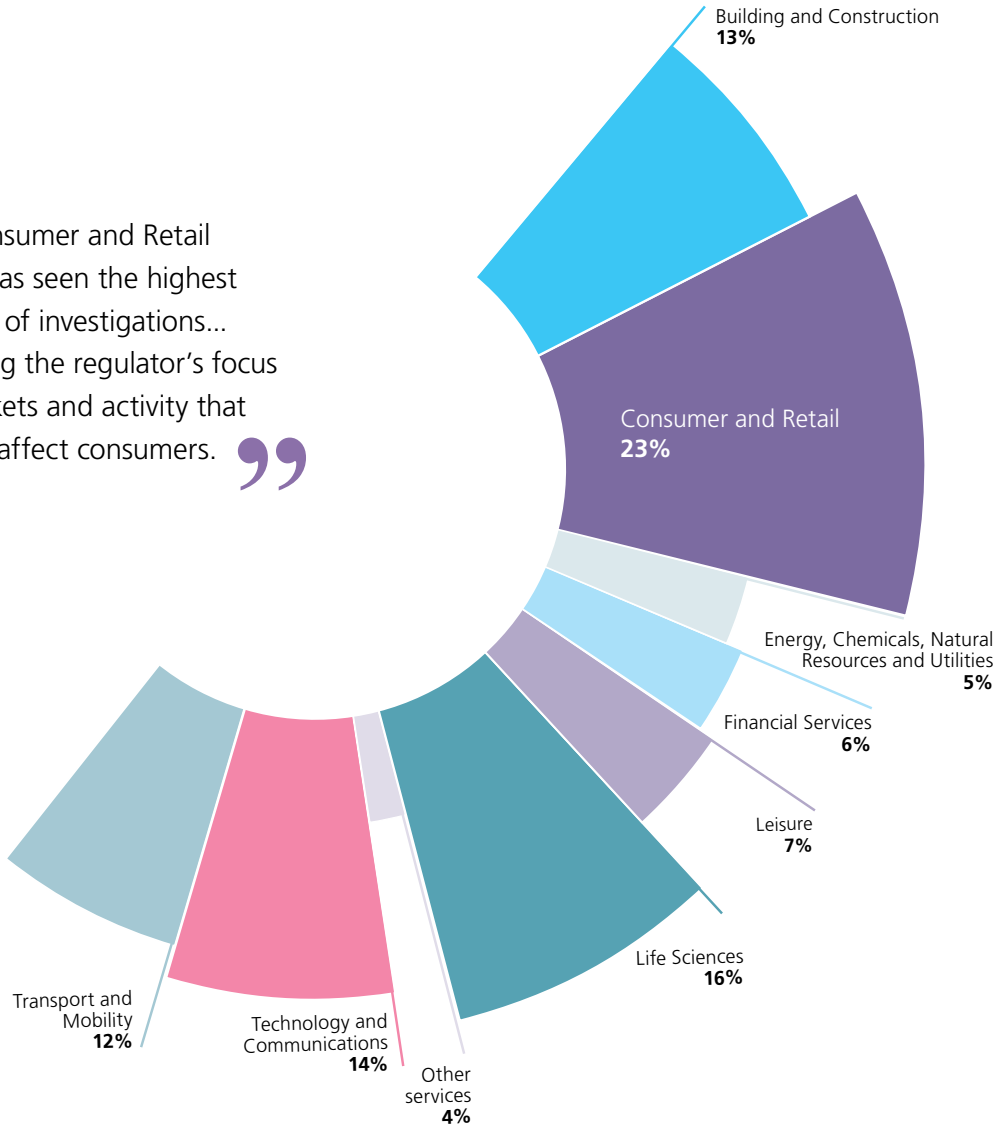
Investigations initiated by sector

The CMA, and its predecessor the OFT, have carried out investigations across a very wide spread of industry sectors. Of these, the Consumer and Retail sector has seen the highest number of investigations (23% – including those that are still ongoing), reflecting the regulator's focus on markets and activity that directly affect consumers.

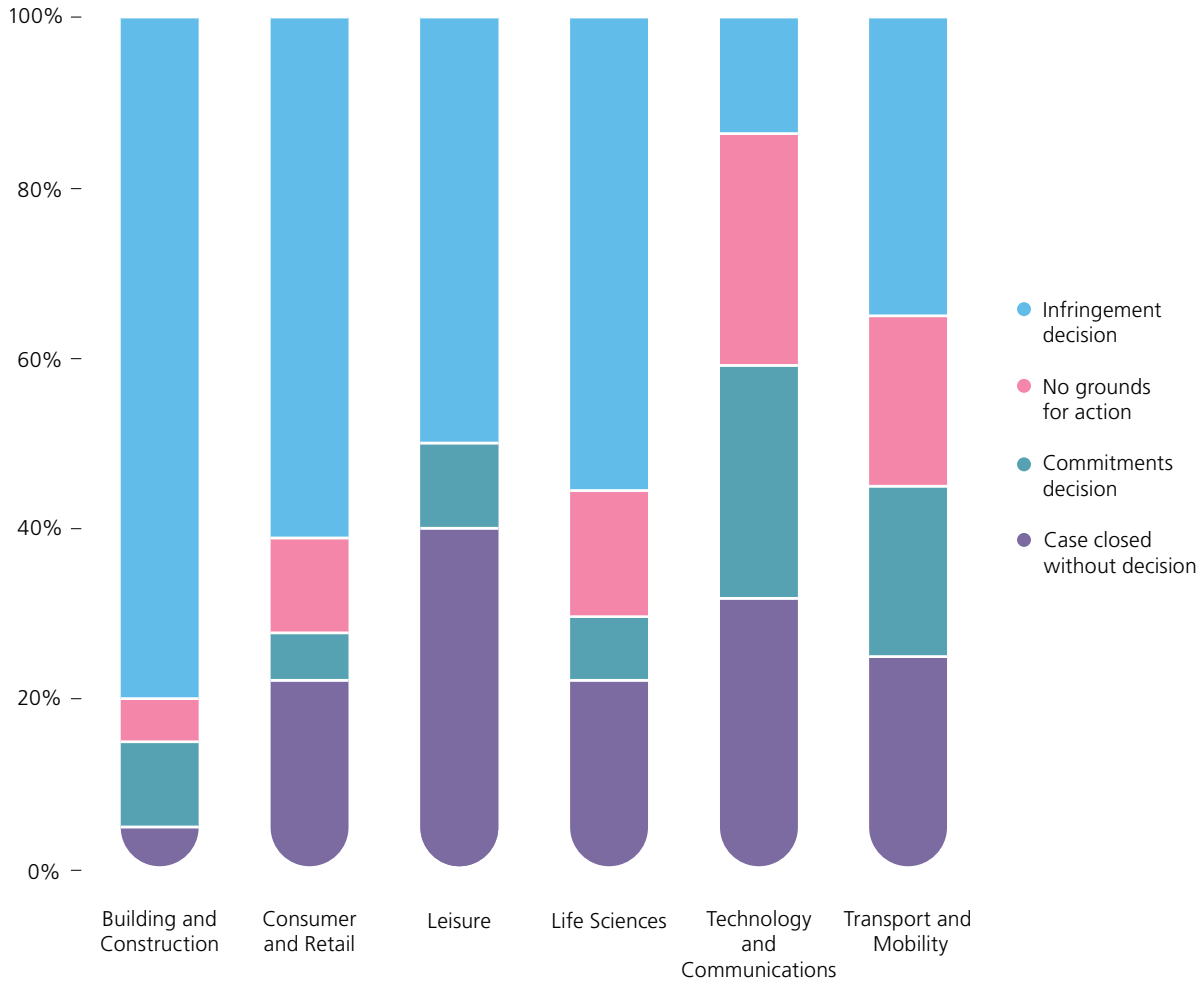
Other main areas of focus have included Life Sciences (16%), Technology and Communications (14%) and Building and Construction (13%). The importance of ensuring pharmaceutical products are accessible and fairly priced may explain the CMA's focus on the Life Sciences sector, especially given that most medicines are procured by the publicly-funded NHS. The historically lower awareness of competition law within the Building and Construction sector and the presence of many smaller family-owned businesses, is likely to have resulted in increased enforcement activity in this industry.

Businesses active in sectors that have so far not been a focus of the CMA's investigation should not rest on their laurels. In its 2025/2026 Annual Plan the CMA stated that competition enforcement priorities will be aimed at supporting innovation and enterprise, ensuring procurement for infrastructure and construction projects is compliant with competition laws and that consumers are protected from unfair prices e.g. in pharmaceutical markets. In its most recent 2026/2027 Annual Plan, the CMA has adopted a more politically inspired agenda by saying it will focus on enforcement action that (a) helps consumers address the cost of living crisis and (b) encourages collaboration and pro-growth strategies by UK businesses. Specific behaviours that are called out for attention are (a) activity which prevents innovative companies entering markets or scaling, and (b) bid-rigging in procurement processes which result in inflated prices and algorithmic collusion.

> The Consumer and Retail sector has seen the highest number of investigations... reflecting the regulator's focus on markets and activity that directly affect consumers.



Investigation outcomes by sector



The Building and Construction sector stands out as the vast majority of the investigations in this sector have resulted in an infringement decision. However, in 2025, this sector also saw its second commitments decision and a notable shift in the CMA's approach. By accepting commitments in a case involving the exchange of anti-competitive information between seven UK housebuilders, the CMA indicated its willingness to take a more pragmatic approach to case handling, even for more serious breaches of competition law.

In the Consumer and Retail, and Life Sciences sectors, between 55-61% of cases have resulted in infringement decisions, with the remainder split between commitments decisions, "no grounds for action" findings and closures without decisions.

Notably, outcomes in the Technology and Communications sector are relatively balanced, with the sector receiving the highest proportion of commitments decisions and a relatively low rate of infringement decisions. However, there has been a higher proportion of Chapter II cases brought in this sector, reflecting the strong market position of some Technology and Communications players.

It is notable that in the last two years, four CA98 investigations have been closed without a decision in this sector, reflecting the fact that the CMA now has powers to address concerns relating to conduct of large technology companies under the new digital markets regime (and indeed has begun to do so, using a mixture of commitments and formal conduct requirements under the DMCCA). The CMA has stated that it still intends to consider use of its CA98 powers against large technology companies where it considers this to be the more appropriate tool in a particular case, but we anticipate that we will see greater use of the digital markets regime going forward.

Looking at the CMA's activity since 2025, its competition enforcement activity has become more focused on cases in sectors that have the greatest impact on consumers and taxpayers. In addition the CMA has moved towards making greater resources available to consumer enforcement cases of which there have been 20 since the consumer law provisions of the DMCCA came into force in April 2025.

Different sectors see different risks:

Key takeaways



The building and construction industry is still very much on the CMA's radar. Companies active in this sector need to be particularly cautious when it comes to interactions with competitors. Regular compliance training sessions are a worthwhile investment for these companies.



The entry into force of the new digital markets regime under the DMCCA in 2025 resulted in "Big Tech" platforms being subject to fewer investigations under CA98. Smaller and more niche tech companies should still be aware of the risks of a CA98 investigation for Chapter I or Chapter II infringements.



Companies active in sectors that are directly consumer-facing (e.g. retail) or are funded from the public purse (e.g. pharmaceutical companies selling to the NHS and publicly funded infrastructure projects) have historically been in the regulator's spotlight – a trend that is unlikely to change.



Businesses active in sectors that have not been subject to a particularly large number of investigations in the past should by no means become complacent. Depending on future political and social developments, they could easily become the next target.

The investigation timetable: is the CMA becoming more efficient at handling cases?

There is no legal constraint on how long the CMA can take to complete an investigation. In some cases, investigations have lasted over five years, in others the matter has been wrapped up in a few months. Inevitably, for investigations involving many parties or where complex facts or economic arguments are at play, the CMA will need more time. Recently though, we have seen a renewed effort by the CMA to consider ways to shorten the timetable and fulfill its "duty of expedition", required when exercising its competition enforcement functions.

The CMA's latest Annual Report confirms its commitment to acting with "pace" in line with its 4Ps framework (pace, predictability, proportionality and process). However, the complexity of competition investigations does not always allow for this in practice. The length of time taken to reach an infringement decision has varied significantly from eight to 90 months.

Where the authority is actively engaged with a party in agreeing suitable commitments, there is a higher likelihood of both sides reaching a mutually satisfactory decision in a shorter period of time.

Settling a case also has a significant impact on its length. The average length of a fully contested investigation (commenced since 2014) was 40 months. This figure dropped to an average of 32 months where one or more parties agreed to settlement (so called "hybrid" settlement) and around 22 months where all parties agreed to settle a case.

In the absence of leniency or settlement, the regulator typically requires more time to reach an infringement decision.



Investigation duration by start year



In recent years, the average duration of CMA investigations has dropped – averaging at 17 months for investigations commenced between 2019 and 2022 (the most recent 'start year' in which all CMA decisions have concluded).

This follows periods with more lengthy investigations; with the UK government bonds and Atlantic Joint Business Agreement cases both launched in 2018 lasting over six years.

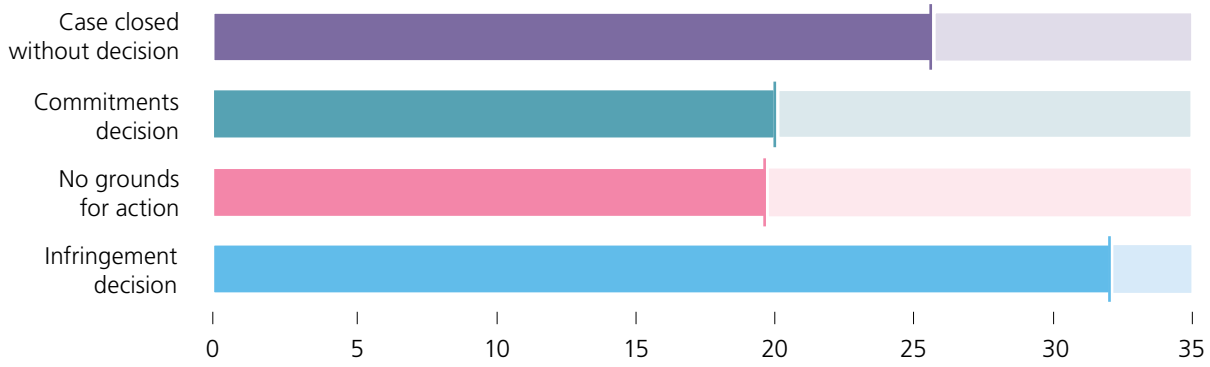
As noted above, "Pace" is one of the four "Ps" that the CMA committed to in its 2025/2026 Annual Plan and has restated in its 2026/2027 plan. The CMA has to weigh this goal against the need to ensure its decisions will stand up to scrutiny on appeal (which is increasingly common). In practice, the best way for the CMA to achieve faster outcomes is by using tools such as warning and advisory letters, or resolving cases by consensual agreement (i.e. settlements or commitments). On a more pragmatic note, the CMA has chosen to close some cases on administrative grounds where the outcome is unclear or where resources need to be re-allocated on policy grounds. For example, an investigation into TV production companies was opened in October 2023 but closed in March 2025.

The international dimension of some investigations can also increase length. Of the CMA's five ongoing cases, three have already exceeded 20 months, with both the Google Adtech and Fragrances investigations involving related actions in the US and EU. In future, the CMA (as in merger cases) may prefer to 'wait and see' if action taken by other international authorities can resolve UK concerns, so as to reduce the potential burden of duplicative investigations.

While there is no guarantee of how long future CMA investigations may take, particularly where more complex issues of law and/or fact patterns are involved, the potential remains for lengthy investigations with implications for costs, resources, reporting obligations and ongoing publicity.

> "In practice, the best way for the CMA to achieve faster outcomes is by using tools such as warning and advisory letters, or resolving cases by consensual agreement (settlements or commitments)."

Average duration by decision type



Since 2000, the average length of time for an infringement decision to be issued is 32 months. In recent years, the CMA has rarely published 'No grounds for action' decisions, with only one published in the last five years. Where the CMA decides not to pursue a case, it will normally close the case on administrative priorities grounds without a formal decision. Typically, such case closures are reached in less than two years from the case launch. Commitments decisions are also typically achieved in a similar timeframe.



The relationship between duration and outcome:

Key takeaways



Antitrust investigations can be unpredictable and businesses need to be realistic about their potential length in order to ensure adequate internal resourcing and cost management. Listed companies also need to be abreast of their reporting obligations throughout the duration of an investigation.



Driven by its desire to achieve an expeditious outcome, the CMA may be increasingly willing to resolve more 'borderline' cases using tools such as warning and advisory letters, or commitments.



Companies could consider the benefits of filing for leniency and/or engaging in settlement discussions with the regulator. While the two options are very different, both can help reduce the duration of an investigation, as well as the magnitude of a fine. However, both options also require an admission of an infringement, which may be undesirable where there are strong arguments to contest liability. It can also significantly increase the risk of follow-on damages claims by third parties who have suffered loss as a result of the infringement.

The prevalence of different types of decision

The CMA has a reasonably high success rate, with 48% of investigations resulting in an infringement decision. Companies need to be aware that once they come onto the regulator's radar, there is a real risk of an infringement finding, with the costs and negative publicity that entails.

The actual prospects of an infringement decision in an individual case are obviously going to differ based on several factors, not least the merits. While 48% of cases have resulted in an infringement decision, in around 23% of cases the CMA has closed its investigation without reaching a decision.

In a further almost 18% of cases, the CMA has issued a reasoned decision finding no infringement. This figure is somewhat overstated, as it includes decisions reached by the OFT under the historic system whereby companies could seek comfort from the regulator that their agreements complied with competition law. Such decisions are rarely issued now.

Businesses should also be aware that there are alternatives to infringement decisions at the regulator's disposal. Commitments decisions have been used to address the regulator's concerns, particularly in abuse cases, but also more recently in a case involving the exchange of competitively sensitive information.

And, while not an alternative to a final decision, the CMA's interim measures powers need to be taken seriously. The CMA has considered interim measures in 12 cases, although it has only successfully imposed them in one case. With recent legislative changes to make their use easier for the CMA, we expect that this figure will increase.

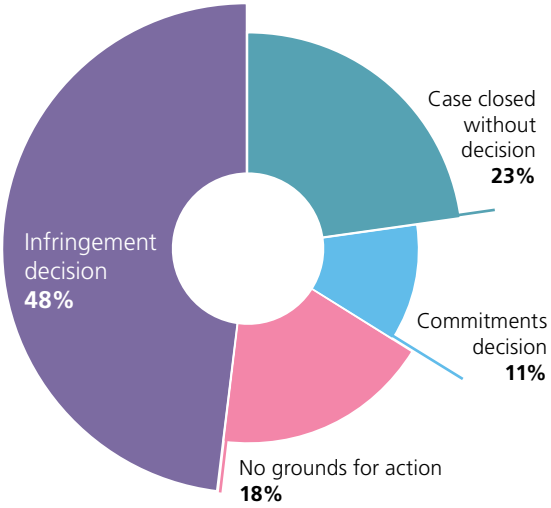


Case outcomes

Of the total number of cases concluded by the CMA under the CA98, just under half resulted in an infringement decision. Such decisions have the strongest individual and general deterrent effect, both in terms of the financial penalties and negative publicity involved for the businesses concerned. They may also encourage funders to support follow-on claims often for sums exceeding the fine levied by the CMA.

Of all cases concluded by the CMA under the CA98, approximately 23% were closed without a decision, while a further 18% found no grounds for action – the majority of which relate to investigations launched before 2010 (and which, as explained, include OFT exemption decisions under the historic notification system).

A significant number of cases were closed in early 2025 (five in total). Only two further cases were closed in the period 1 June 2025 to 31 May 2026 – both of which were resolved by way of commitments. Commitments decisions accounted for 11% of closures in all cases concluded by the CMA under the CA98.



These outcomes benefit the CMA and the parties involved – the former in terms of increasing the throughput of cases and freeing up of resources, and the latter in terms of avoiding a formal finding of infringement, lower costs and expenses.

Interim measures

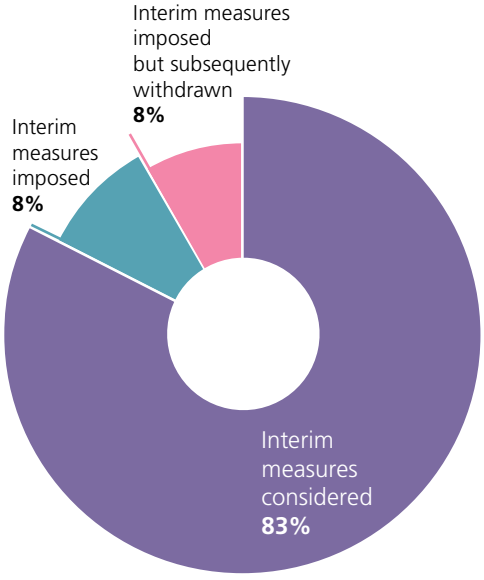
Interim measures cases are not strictly an "outcome" – they are a temporary measure pending resolution of the investigation. They are controversial given that they effectively impose a remedy prior to a full investigation having been carried out.

To date:

— Interim measures have been imposed in two investigations with one subsequently withdrawn (following appeal to the CAT).

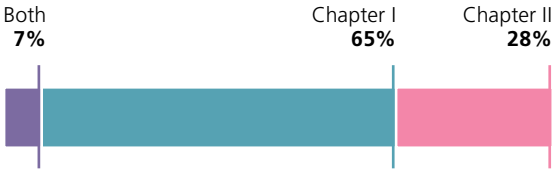
— They were considered in a further 10 investigations: in eight cases an application was received from a third party, and in two cases they were considered at case opening. In four of these 10 investigations, the case was resolved with commitments (the majority in under a year), suggesting that interim measures were an effective way of getting the parties to the table.

— In only one case did the CMA publish a formal decision explaining why it had decided not to exercise its powers.



Cases by CA98 infringement

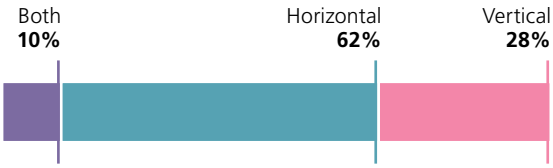
There have been more investigations into potential Chapter I infringements (65%) than into Chapter II infringements (28%). While the CMA is arguably more likely to become aware of Chapter II infringements (e.g. through customer or competitor complaints), this provision only applies to the subset of companies considered to have a dominant position on a given market, whereas Chapter I applies to businesses of any size (although certain anti-competitive agreements may be considered to be de minimis where the parties have very low market shares and the restrictions are not "by object" infringements of competition law). At the same time, we are seeing more private litigation claims



for breach of Chapter II and there is a question whether this may be part of a trend away from public towards private enforcement of unilateral conduct. It may also be because the deep pockets of the "Big Tech" companies make an attractive target for funders and claimant firms to pursue.

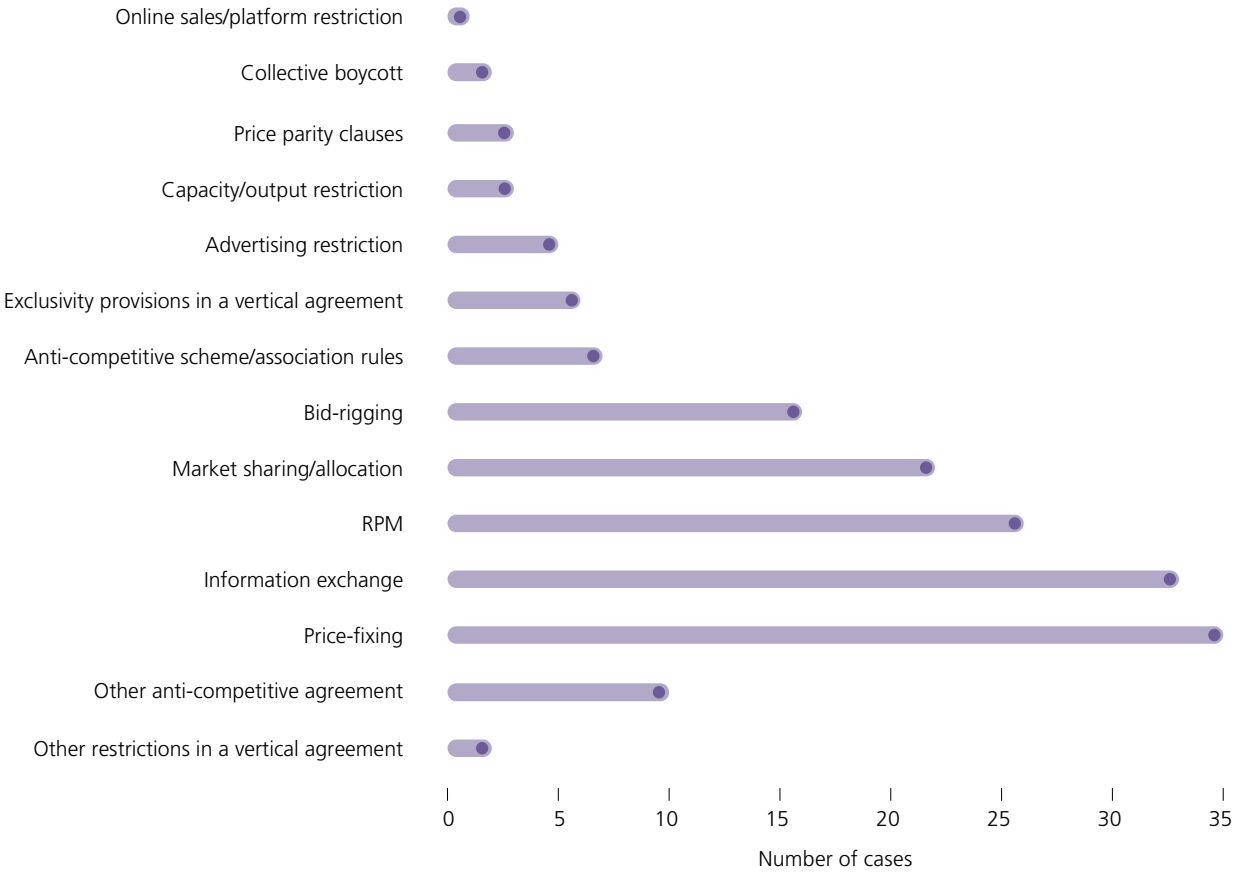
Horizontal and vertical infringements investigated for Chapter I cases

A greater proportion of Chapter I investigations investigated by the CMA involved horizontal infringements (62%) than vertical infringements (28%), clearly reflecting the fact that the regulator has prioritised the most serious forms of competition law breach. Only a small proportion (10%) involve both horizontal and vertical infringements.





Chapter I infringements investigated

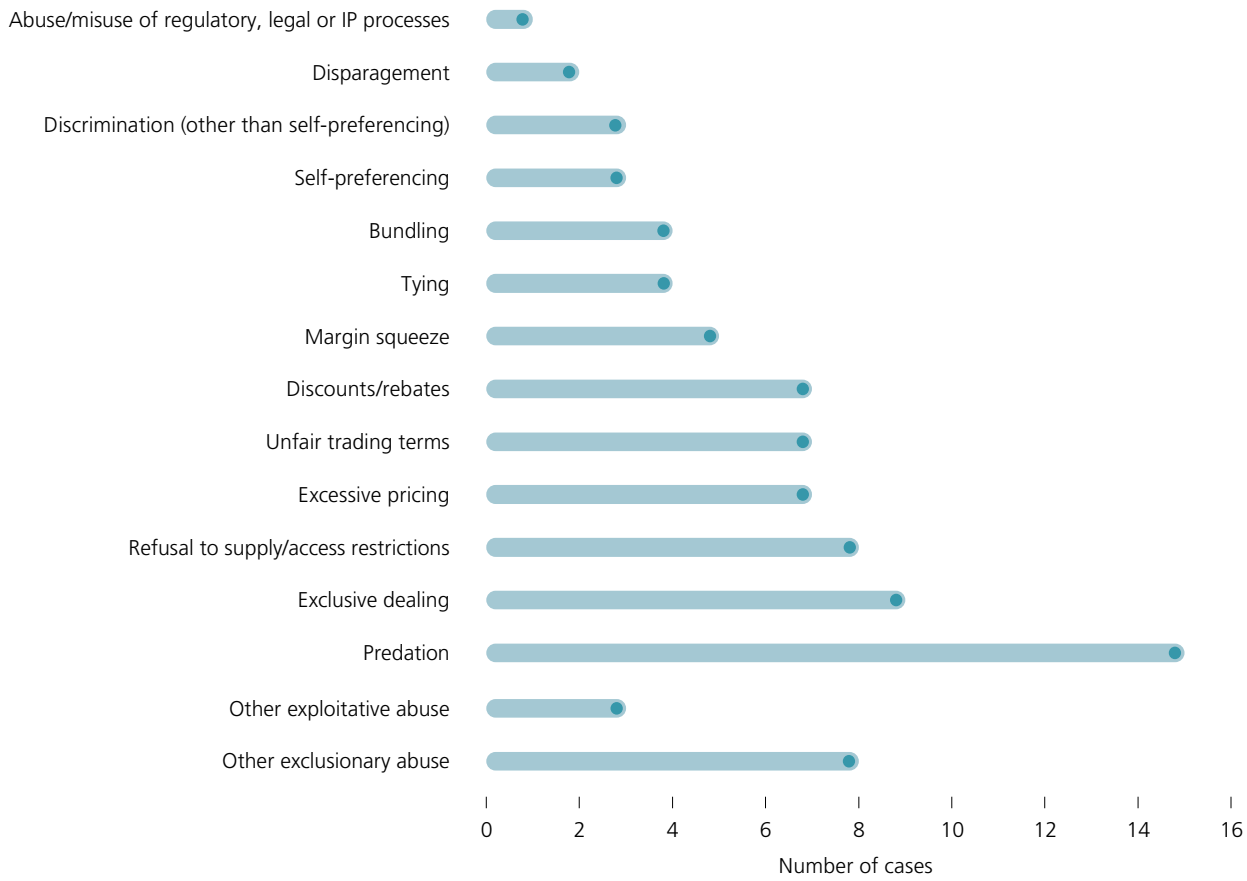


The spread of investigations (both concluded and ongoing) across the different categories of infringement brings out some interesting trends. There are a higher number of bid-rigging, market sharing/allocation, resale price maintenance (**RPM**), information exchange and price-fixing investigations brought by the CMA. These types of infringements will frequently meet the CMA's prioritisation principles, in particular, in terms of their strategic significance, impact and the CMA's potential to act.

The above chart shows, however, that the CMA is not restricted to pursuing only hardcore infringements of competition law. There are a significant number of other infringement categories that have formed the basis of CMA investigations. Seven cases have involved anti-competitive scheme or association rules – the majority being in the financial services sector. There are also restrictions in the context of vertical/distribution arrangements that have been investigated: including six relating to exclusivity and three price parity cases. Other restrictions, such as those relating to capacity/output and advertising restrictions have encompassed both vertical and horizontal contexts.

There continues to be a tail of cases that do not fall within any clear category, showing that the CMA remains willing to explore cases going beyond the traditional infringement categories.

Chapter II infringements investigated



Of the typical categories of abuse, the CMA has conducted more investigations into predation (typically predatory pricing) – perhaps because it is the subject of a greater number of competitor complaints. Companies being forced out of a market or weakened as a result of a competitor pricing below an appropriate measure of cost are very likely to complain to the regulator. Some of these cases have also involved parallel allegations of discrimination and margin squeeze.

There are a significant number of cases involving exclusive dealing. Exclusive supply or distribution agreements can generate competition concerns in situations where they prevent the entry or expansion of rivals. Just under half of these cases were pursued under both Chapter I and Chapter II, with the majority also being resolved through commitments. This suggests that such practices can generally be resolved with 'quick fix' changes to the behaviour of the dominant firm. The CMA has also investigated a significant number of refusal to supply/access restriction cases, with such practices being used across a wide range of sectors.

The data shows that the CMA has investigated a wide range of other practices. Disparagement and excessive pricing allegations have featured prominently in Life Sciences, whilst unfair trading terms and self-preferencing allegations have often been pursued in the Technology and Communications sector.

The data also shows shifts in the CMA's approach over time. Whilst there are seven discounts/rebates cases, these are all relatively historic – with no new cases being brought with this type of allegation since 2017. Meanwhile, unfair trading terms and self-preferencing allegations have featured in over half of the Chapter II cases brought by the CMA in the last five years.

A large number of investigations still involve elements that cannot be categorised into the typical "buckets" of abuse. This explains the relatively high number of cases in the chart above for "other exclusionary" (e.g. forcing rivals to leave the market or deterring potential new entry) and "other exploitative" (e.g. imposing unfair prices or conditions) abuses. This is interesting in itself, as it demonstrates that the CMA is always prepared to consider novel theories of abuse.



The prevalence of different types of decision:

Key takeaways

The CMA has a relatively high rate of success, with 48% of cases resulting in an infringement decision.

The CMA has alternative tools at its disposal and has agreed commitments with the parties in a number of cases.

The CMA's prime focus is likely to be on breaches of competition law between competitors at the same level of the supply chain. However, businesses also should be aware of the regulator's interest in so-called vertical infringements involving players at different levels of the market.

The CMA has recently arguably adopted a more cautious approach to opening new investigations, focusing on the more "traditional" infringements, such as price-fixing, market/customer sharing and information exchange. These, as ever, need to be a priority in any company's competition law compliance programme.

The intrusiveness of competition investigations on individuals' lives

Competition law investigations do not simply intrude on the day to day business of a company. They intrude on people's lives. Recognising this and having the benefit of experienced advice to best handle it are key.

Investigations can intrude on people's lives in six ways. The first five are relevant to employees with relevant information irrespective of grade. The sixth is relevant to directors.

Employees

First, the DMCCA imposes a duty on individuals to preserve documents relevant to investigations (even ones that are likely but have not yet started). The CMA can impose fines on individuals who fail to comply with this requirement (where they have no reasonable excuse).

These powers are not theoretical – as mentioned above, the CMA has recently imposed fines on individuals who failed to comply with its investigatory requirements during a dawn raid. In that case, by removing a work mobile phone and paperwork from the company's premises and falsely telling CMA officers that they did not have a work mobile phone.

Second, under the DMCCA, employees have to be particularly aware of their obligations in the context of domestic raids, which have become more common with today's hybrid working models.

The CMA has a right to "seize and sift" evidence at employees' homes, meaning that CMA officials can take documents and electronic devices away with them where it is not practical to decide on the premises what specific evidence should be taken.

Third, the CMA can fine anyone who (without reasonable excuse) obstructs a CMA official from entering business premises (with or without a warrant) or domestic premises (with a warrant). Intentional obstruction is also a criminal offence under section 42 of the CA98.

Fourth, relevant employees can be and are regularly interviewed by the CMA during investigations, either on a voluntary or a compulsory basis. We provide statistics and analysis on the prevalence of this activity below.

Fifth, the criminal cartel offence. The details of this are beyond the scope of this report. The CMA will consider the appropriateness of bringing criminal proceedings in any cartel case but for a number of reasons the CMA's focus has shifted towards pursuing director disqualification – to which we now turn.



Directors

The sixth issue concerns directors specifically. Individuals in managerial positions need to be attuned to the substantial personal risks they may face in the event of their business being subject to a CMA investigation. The CMA will consider director disqualification measures in every case it investigates.

A director can be disqualified for up to 15 years where a company that they have managed is found to have infringed Chapter I or II CA98 and the director's conduct makes them unfit to manage companies going forward. The regulatory aim is two-fold: to disbar the specific director from office but also to encourage other directors to ensure that their companies are compliant with competition law. Disqualification is possible for any infringement of competition law, not just serious infringements (but seriousness will affect the duration of the disqualification, see further below).

There are two options available to the CMA:

1. applying to the court for a competition disqualification order (**CDO**); or
2. accepting a competition disqualification undertaking (**CDU**) – effectively a plea-bargain.

To apply for a CDO, the CMA must prove that a company of which the individual is a director has committed a breach of competition law and that that individual's conduct makes them unfit for office. A CDO can result in a director being disqualified for up to 15 years, with different "brackets" for periods of disqualification depending on the severity of infringement (over 10 years for particularly serious breaches, six to 10 years for serious cases that do not warrant a penalty in the top bracket and two to five years for less serious cases).

In considering whether to apply for a CDO, and when considering the appropriate duration of a disqualification, the CMA will have regard to the extent to which a director cooperated with the regulator during its investigation.

As an alternative to applying to the court for a CDO, the CMA can agree to a CDU offered by a director, which has the same effect as a CDO and has the same consequences when breached. Again, directors can be disqualified for up to 15 years under a CDU.

One consideration for directors of companies deciding whether to apply for leniency (see further below) is the effect that doing so can have on the individual liability of their relevant directors. The CMA has recently changed its policy towards immunity for current and former directors of leniency parties. For businesses granted Type A leniency, immunity from disqualification is guaranteed for all current and former directors (provided that they cooperate with the CMA's investigation). For Type B and C leniency parties, the CMA immunity may be available for some or all cooperating current or former directors, but this is now at the discretion of the CMA. Such cooperation may involve being interviewed by the CMA and disclosing all relevant information helpful to the CMA's investigation.

The CMA provides details of all CDOs and CDUs to Companies House, which keeps a register of all disqualified directors. The negative publicity, not just in the corporate sphere, can therefore be immense and greatly harm a director's personal reputation, as well as that of any companies of which they are in charge.



Statistical analysis: the role of individuals

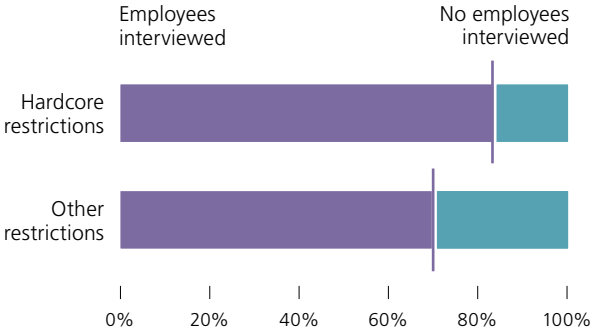
Investigations involving employee interviews

Companies should be aware that the CMA will more likely than not conduct interviews with employees during the course of an investigation. Employees are likely to provide the CMA with important evidence especially as regards how competition works within a particular market and also factual information about interactions that may have occurred with competitors. Employee interviews took place in 78% of all of the CMA's investigations that have resulted in an infringement decision under the CA98. It is important that employees fully understand their rights, particularly regarding the privilege against self-incrimination.

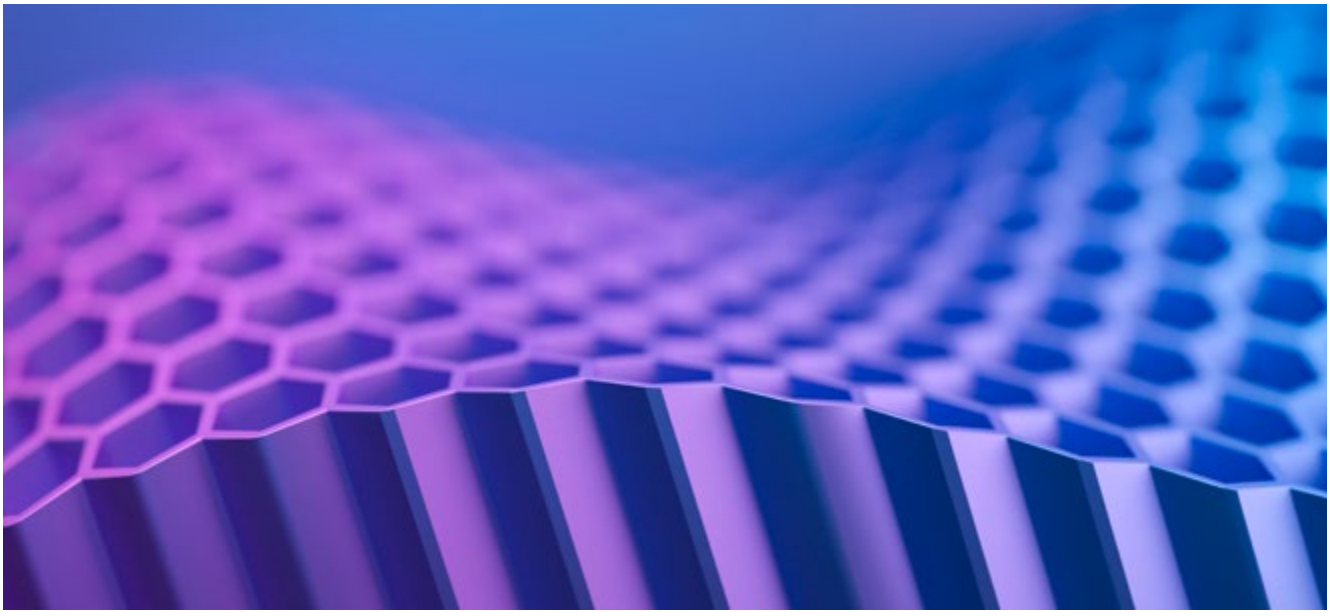


Lawyers for the companies need to consider and manage actively the potential conflicts issues involved – which can differ from case to case.

Employees interviewed by restriction type



The CMA appears more likely to interview employees in cases where "hardcore" (i.e. the most egregious) restrictions were found compared to cases where there were no such hardcore restrictions. The CMA has powers (under the DMCCA) to seize and sift personal devices such as phones and laptops at an individual's own home. Employees can be expected to be questioned about any incriminating evidence found on such devices.



Proportion of infringement decisions involving directors



Directors were involved in 65% of cases that resulted in an infringement decision – this increases to 88% if individuals in any 'senior employee' positions are included. This shows that senior management have frequently been aware – to some degree – of the conduct subject to investigation. Across the subset of infringement decisions involving directors, the CMA secured director disqualification in the High Court or a CDU in 19% of cases.

All of these disqualifications have been secured in cases commenced during the last decade, reflecting a change to the CMA's policy which is now to consider whether to pursue director disqualification in all CA98 cases.

Proportion of director disqualifications pursued following infringement decisions



Therefore, the proportion above rises significantly if considering only cases begun since 2016 (which is roughly when the CMA policy changed). Of those cases, 44% resulted in director disqualifications being secured in the High Court, or a CDU. This likely reflects that in some cases where an infringement decision refers to director/senior management involvement, the CMA nevertheless will choose not to pursue a CDO where such involvement was very limited, or the evidence is less clear.



The intrusiveness of competition investigations on individuals' lives:

Key takeaways



Businesses need to be prepared for CMA interviews with employees and include clear guidance about their rights around self-incrimination. Businesses need to consider and manage actively any conflicts of interest.



Directors need to be particularly aware of the risk of disqualification with the CMA's policy being to consider pursuing disqualification proceedings in all investigations.



The consequences for directors in terms of their personal reputation and future employability are substantial and should not be underestimated.



Where directors are faced with the risk of the CMA applying to the court for a CDO, they should weigh carefully the pros and cons of offering a CDU to the CMA, including the likelihood of the company being held liable. While a CDU may lead to them being disqualified for a substantially shorter period of time, it is effectively giving up on the prospect of disqualification falling away on account of a no infringement finding.

How companies approach investigations

Since the introduction by the OFT of a leniency procedure in 2002 and the introduction of the CMA's formal settlement procedure in 2014, parties to investigations are often keen to benefit from the advantages that these schemes have to offer. In fact, more often than not, companies have sought to be awarded leniency or benefit from settlement (or indeed both) to gain a reduction in the level of fines imposed by the regulator in its infringement decisions.

Leniency

Under the CMA's leniency scheme, businesses that provide evidence of cartel activity and co-operate with the CMA's investigation can benefit from a reduction in, or, in certain circumstances, complete immunity from, penalties. Time is of the essence in the race for leniency. Any delays can have a substantial effect on the level of fines imposed on businesses at the end of the regulator's investigation. Equally, there is a danger in being too hasty. The decision as to whether or not to seek leniency is a finely balanced one, taking into account multiple competing considerations. It should not be taken without careful specialist competition law advice, in particular, as there have been recent changes to the CMA's leniency guidance.



Settlement

Under the settlement procedure, a business under investigation can admit that it has breached competition law and confirm that it accepts that the CMA will follow a streamlined administrative procedure for the remainder of its investigation, in exchange for reductions in financial penalties.

The operation of a settlement process and the decision as to whether to settle CA98 cases is at the discretion of the CMA. The regulator may reach out to parties to discuss if they would be willing to engage in settlement discussions, or businesses may proactively explore whether the CMA would be willing to consider settling the case.

Businesses may not be aware of whether other participants in an infringement are also seeking to enter into settlement discussions. In those circumstances, a business can inquire as to whether the CMA would be prepared to settle the case against that individual business, whilst pursuing its case against other parties not open to settlement (so-called "hybrid" settlement). The CMA is not obliged to settle any CA98 case it brings. But it will consider requests to settle by parties under investigation in cases where the evidential standard for giving notice of its proposed infringement decision is met and where settlement is likely to achieve procedural efficiencies and resource savings.

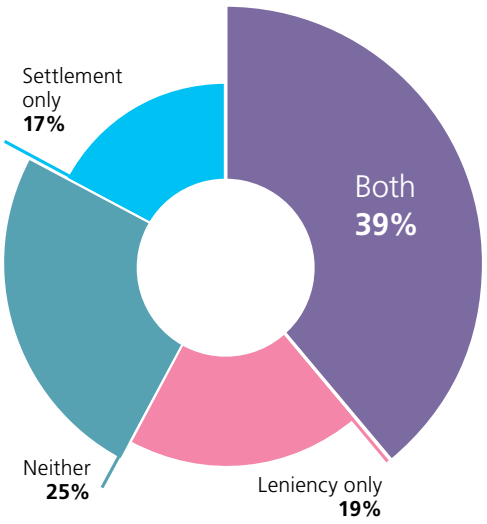
By entering into settlement discussions with the regulator, companies can benefit from substantial reductions in financial penalties imposed at the end of a CMA investigation. In December 2024, the CMA issued updated guidance which resulted in the raising of the maximum level of discount for non-cartel cases from 20% to 40% for settlement prior to the regulator issuing its statement of objections (SO) (the SO being the formalised prosecutorial case against the parties to an investigation) – and from 10% to 25% for settlement following issuance of the SO. For cartel cases, discounts remain capped at 20% pre-SO and 10% post-SO.

Businesses need to balance these advantages against the fact that once they have admitted the infringement as part of a settlement procedure, it is binding on them and may give rise to a follow-on damages claim. A company that settles a CA98 case with the CMA will need to be aware of the potential effects on its subsequent rights of defence. The CMA's settlement agreement requires the settling party to agree not to appeal against the settlement decision. Whether such a voluntary agreement can waive the party's rights to appeal as set out in section 46 CA98 has not been subject to legal challenge. But clearly settlement will act as a deterrent against an appeal, not least as the party will lose the benefit of its settlement discount.

Infringements involving leniency or settlements

In around three-quarters of cases resulting in an infringement decision, parties have sought to benefit from leniency, settlement or both. The fact that in only 25% of cases, companies have not been incentivised to go down either path is good evidence of the popularity of both procedures.

> "A company that settles a CA98 case with the CMA will need to be aware of the potential effects on its subsequent rights of defence."

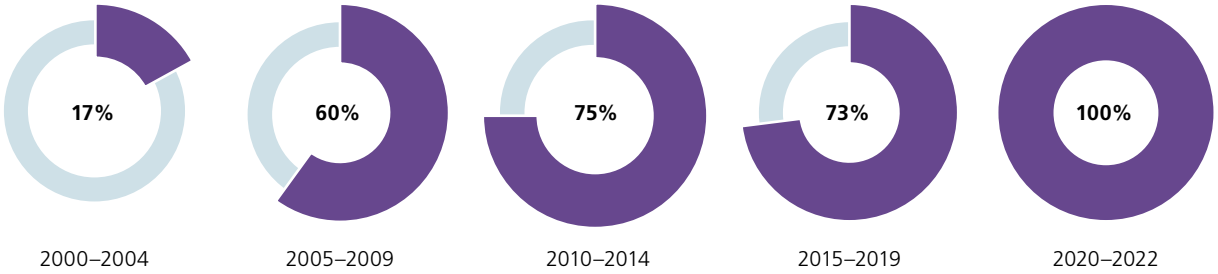


Settlement cases

Proportion of infringement decisions involving settlements (both CA98 grounds)



Proportion of settled infringement decisions by investigation start year



56% of the regulator's investigations under both Chapter I and Chapter II CA98 that have resulted in an infringement decision have involved settlement with at least one party.

The second figure shows how this trend has evolved over the years:

- Settlement rates generally increased across the earlier periods, rising from 17% in 2000–2004 to 75% in 2010–2014.
- The rate remained broadly stable at 73% in 2015–2019.
- All cases started in 2020–2022 were settled.
- As of 31 May 2026, all cases started in 2023 were either ongoing, the subject of commitments or closed without a decision.

The increased use of the settlement procedure likely reflects (i) prioritisation decisions taken by the CMA and the types of cases pursued – parties are more likely to settle cases where the law and evidence of the party's culpability is clear; (ii) the CMA's increased willingness to use settlements as a means to achieve its policy of greater "pace" in competition investigations. This figure may further increase in light of the increased settlement discounts for non-cartel cases.

Since 2021, settling parties have been required to agree not to appeal a settlement decision to the CAT. The CMA is keen to bring finality to its investigations and ensure that they cannot be re-opened by the settling party subsequently appealing against the infringement decision and undoing the settlement. As referred to above, the legal effect of this waiver has not been tested by the courts, but it is clear that this waiver of appeal rights has not impacted on the popularity of the settlement procedure.

Hybrid settlements



The CMA has successfully settled 42 of its investigations under Chapter I CA98.

Almost 30% of those investigations have involved "hybrid" settlement, whereby one or more parties settle the case, whilst others choose to contest it. This statistic indicates the CMA's openness to this dual approach, in spite of it offering more limited overall resource savings.

How companies approach investigations:

Key takeaways



Leniency and settlement procedures are important elements in the CMA's enforcement toolkit. There can be substantial benefits in pursuing these routes during an investigation, but the disadvantages need to be carefully weighed in the balance.



Alongside actively seeking to mitigate the risks of becoming involved in infringements, companies should ensure they are familiar with the leniency and settlement procedures in the event that they become aware of wrongdoing or the CMA launches an investigation.



The race for leniency is time-critical and needs considered discussion with specialist competition lawyers. Delays can lead to higher fines at the end of an investigation, but companies need to ensure they have enough evidence before approaching the regulator.



There is more flexibility in the way the regulator structures its investigations. A company under investigation should actively explore with the CMA a hybrid approach, if the business thinks settlement is the best option for it in the circumstances but other parties to an investigation might not be willing to go down the same route.

Fines

The CMA has the power to impose fines of up to 10% of global group turnover on any entity found to have infringed the CA98. Fines can therefore be very significant and are one of the main incentives for companies to ensure they are complying with competition law.

The CMA has issued fining guidelines which set out in detail how the fine will be calculated in any particular case. These guidelines give the CMA considerable discretion when setting a fine. As well as punishing companies for their infringement, fines are also seen as having an important deterrent effect.

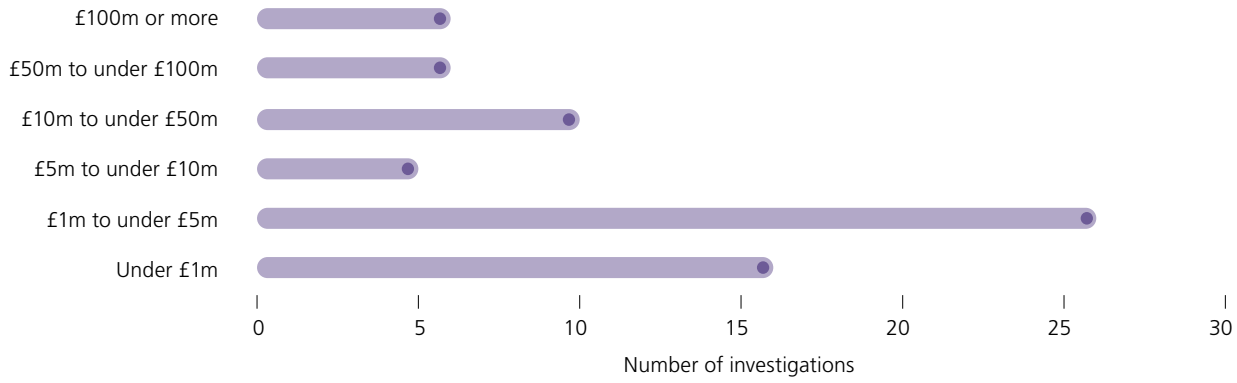
In this section, we principally consider fines before the application of any settlement/leniency discounts, so that comparisons can more readily be drawn between different investigations.



Fines by investigation

The CMA's fines (in aggregate by investigation) have varied significantly, from £53,000 at the lowest level to a high of over £275 million (before the application of any discounts), reflecting differences in the company size, seriousness of infringement, duration and need for specific deterrence. Just over 60% of CMA fines are below £5 million, with the largest share (c. 38%) falling between £1 million and £5 million. A further 23% of fines have been under £1 million.

While higher fines are less common, they are not insignificant: nearly a third of cases exceed £10 million (in aggregate), including 12 in total that resulted in fines above £50 million, with six of those being above £100 million. Notably in February 2025, the CMA fined four banks over £100 million for sharing sensitive information about UK Government bonds between 2009 and 2013 – a figure which was over £130 million before the application of leniency and settlement discounts.

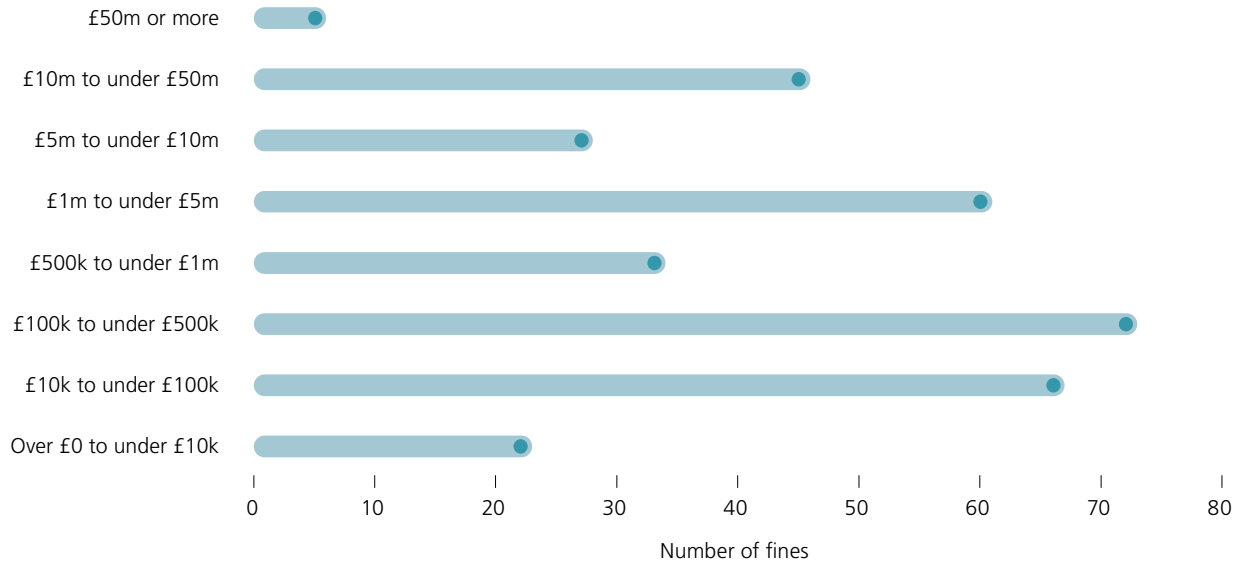


Fines by individual company

At the party level, the distribution is more concentrated in the lower fine bands, with £100,000–£500,000 being the most common band (22%). However, higher-value penalties nevertheless accounted for a substantial proportion of fines. Some 42% of individual fines were £1 million or more, including nearly a quarter reaching £5 million or more.

Fines above £50 million remain relatively rare, with just six individual penalties exceeding that level and only three parties fined more than £100 million.

This data reflects the breadth of enforcement – with the CMA using its fining penalties against smaller and larger companies, and in the context of various types of infringement finding. In some cases, larger investigation totals comprise multiple smaller fines imposed on individual companies. This is outlined further when considering fines on individual companies by sector below.



Individual company fines by sector

When looking at sectors with at least five investigations involving recorded fines:

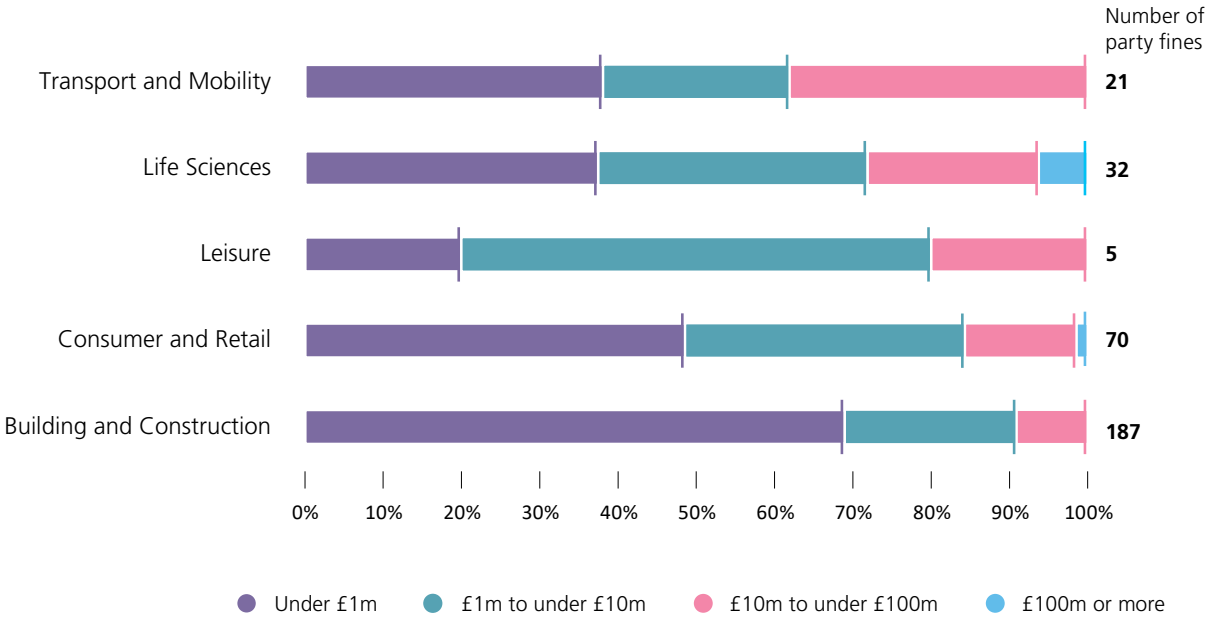
— **Building and Construction**: Individual company fines were predominantly smaller amounts, with 129 of 187 fines (69%) under £1 million and only 17 (9%) of £10 million or more. This may reflect a higher distribution of lower turnover companies than in other sectors, e.g. those involved in regional infringements. However, when looking at aggregate fines per investigation, seven of 17 investigations (41%) involved total fines of £10 million or more, indicating that larger investigation totals comprise multiple smaller fines imposed on individual companies in this sector.

— **Consumer and Retail**: As with Building and Construction, whilst nearly three quarters of investigations had aggregate fines above £1 million, these were generally made up of multiple smaller fines.

— **Higher-value fines accounted for a greater proportion of individual party fines in Transport and Mobility and Life Sciences**. Fines of £10 million or more represented eight of 21 fines (38%) in Transport and Mobility and nine of 32 (28%) in Life Sciences, compared with 11 of 70 (16%) in Consumer and Retail and 17 of 187 (9%) in Building and Construction.

— **The highest individual party fines were recorded in Life Sciences and Consumer and Retail**. Life Sciences accounted for two of the three individual company fines of £100 million or more, with the remaining fine recorded in Consumer and Retail. The highest fines have been levied in connection with excessive pricing, market sharing and price fixing investigations.

It is important to note that a regulatory fine is often only the start of the financial pain. In many cases, damages claims follow from a regulatory decision with the quantum of damages (and associated legal costs) frequently much higher than the regulatory fine imposed. This is especially so in the context of opt-out class action regimes which may involve a class of many millions of consumers. These cases are covered in detail in Part C of this Report.



Fines:

Key takeaways



Fines can be up to 10% of an undertaking's group global turnover and are perhaps the strongest deterrent effect ensuring companies comply with competition laws.



In practice most fines fall considerably below the 10% maximum but have nonetheless on occasion exceeded £100 million.



Any fine on a listed company will have serious consequences on reputation and share price and so the ultimate financial losses may go well beyond the fine itself.



For smaller companies fines may constitute a significant share of annual profits and therefore can have harsh consequences for the owners of such businesses.



This analysis ignores the potentially significant financial implications of any follow-on damages claims following a finding of infringement.

Appeals

Around a third of the CAT appeals brought against CMA decisions have been successful (meaning that the appellants have succeeded in having the CMA's decision on substance overturned or remitted, or, if they have only appealed on penalty, in having the fine reduced).

In addition, a further third of appeals have been partially successful (meaning that the appellants have succeeded on at least one of their grounds of appeal, but not all). This is based on the methodology used (see Methodology on page 109 for further details), which has required a number of judgement calls to be made in order to present findings in a consistent manner.

There have been a number of recent appeals of CAT decisions to the Court of Appeal (**CoA**), all relating to long-running litigation in the Life Sciences sector. These cases are harder to subject to statistical analysis – in being both highly case-specific and involving appeals and cross-appeals of CAT findings. The CMA had success in *Hydrocortisone* with the CoA upholding the CMA's appeal on the market sharing agreement (overturning the CAT's judgment) and dismissing the companies' appeals relating to the excessive and unfair pricing infringements, although the companies' appeals against penalty were allowed and remitted to the CAT. In *Liothyronine*, the CMA's findings of infringement were upheld, with the CMA's cross-appeal of the CAT penalty decision also upheld. The *Phenytoin* litigation continues with the CoA allowing both the CMA's and the companies' appeals.

Appeals on substance

A substantive appeal is a full appeal on merits but it is an appeal against the CMA's substantive findings. The CAT does not start its review with a "blank slate". The CAT can (and typically does) hear evidence, including fresh evidence not presented before the CMA, and makes findings on issues of both fact and law. Businesses need to be aware that at the point at which they appeal a CMA decision, the case ceases to be an administrative procedure and instead becomes a judicial proceeding. A CAT appeal will typically involve a full adversarial trial, during which the court will hear live witnesses and detailed submissions on issues of fact and law.

The CAT has so far upheld just under half of the CMA's findings on substance. But in around 29% of cases, the CAT has set aside the CMA's decision on substance and in around 11% of cases it has remitted the decision back to the CMA.

Appeals on penalty

Whilst the CAT will scrutinise the CMA's decision on penalties on the merits, it will place greater weight on the CMA's findings on matters of which the CMA has particular experience (e.g. the need for deterrence against certain infringements or the value provided by a particular leniency applicant). This means that it may be harder for an appellant to argue successfully that the CMA has erred in its findings on certain fining grounds. Nevertheless, the fact that in 15 cases appellants have been successful in reducing the level of fine imposed by the CMA clearly indicates that companies should carefully consider appealing a fining decision if they feel that there are strong grounds for the CAT to review the CMA's findings.

Companies should note that appealing a CMA decision does bear the risk of the CAT increasing the level of fine originally imposed by the CMA – albeit this has occurred in only two cases so far. In both cases, the parties appealed against the CMA's penalty finding in circumstances where they had entered into settlement agreements with the CMA. The CAT held that they should lose the benefit of the 20% settlement discounts, as they had breached the bargain with the CMA to accept a lower fine in return for agreeing not to appeal.

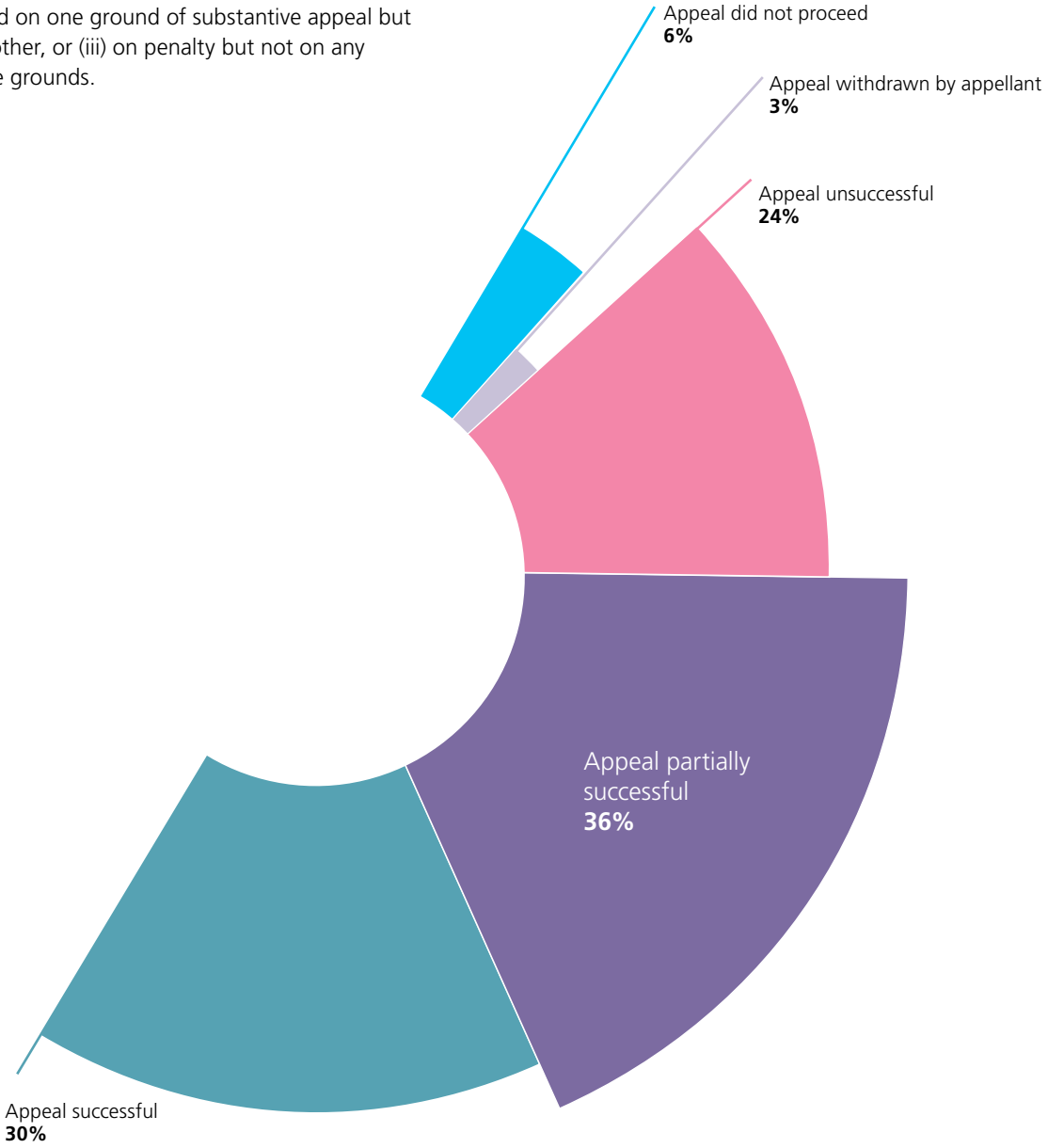
CAT appeals (substance and penalties)

The nature of the often iterative stages of appeals against CMA decisions, plus the possibility of cross-appeals, makes an analysis of the CAT appeal judgments complicated. It requires a number of judgement calls to be made in order to present findings in a consistent manner.

CAT appeal outcomes

Based on the methodology used, appeals to the CAT against CMA decisions on grounds of substance and/or penalty have been successful, or at least partially successful, in over 66% of cases. An appeal is deemed partially successful if the appellant wins (i) on one ground of substantive appeal but not another, (ii) on penalty and on one ground of substantive appeal but not on another, or (iii) on penalty but not on any substantive grounds.

Of the remaining c.33% of appeals to the CAT against CMA decisions, the appellant withdrew its appeal in another case, and the appeal did not progress in two further cases. On this basis, only 24% of appeals to the CAT against CMA decisions were fully unsuccessful. This success rate should give companies dissatisfied with the CMA's findings comfort that the CAT is prepared to exercise a strong level of scrutiny over the CMA's decisions.



Appeals on substance

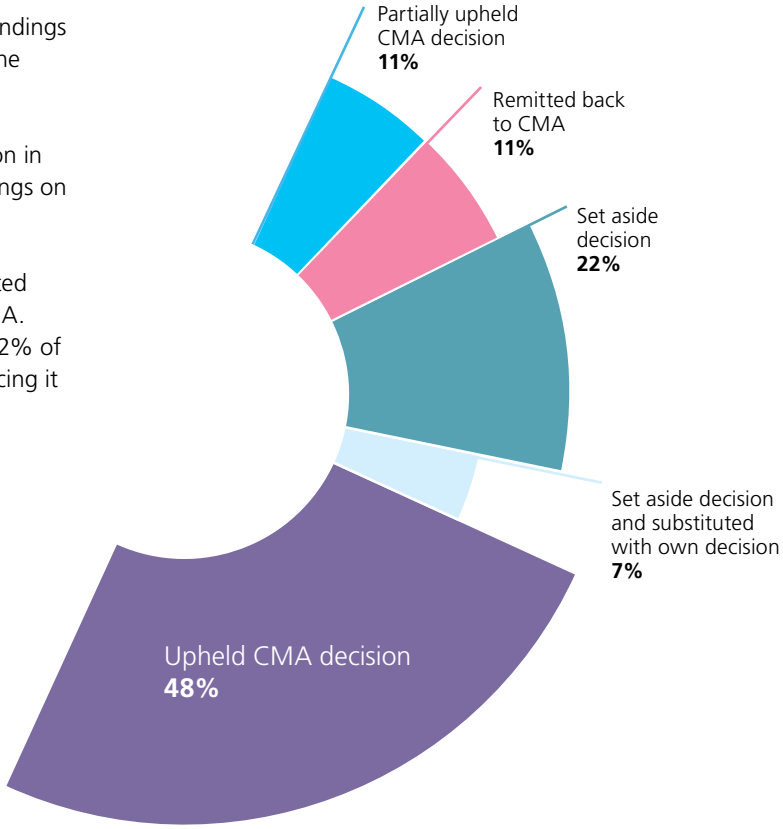
CAT judgments on substance

Appeals against the *substance* of the CMA's findings have yielded some form of positive result for the appellant in just over 40% of cases.

The CAT has upheld the CMA's original decision in 48% of cases and has partially upheld its findings on substance in around 11% of cases.

Around 11% of appeals to the CAT have resulted in the court remitting the case back to the CMA. The CAT has set aside the CMA's decision in 22% of cases and set aside the original decision, replacing it with its own in around 7% of cases.

Companies therefore can take comfort from the fact that CAT appeals on substance have been successful in over a third of cases, albeit this is evidently highly specific to the facts and legal arguments in the case.

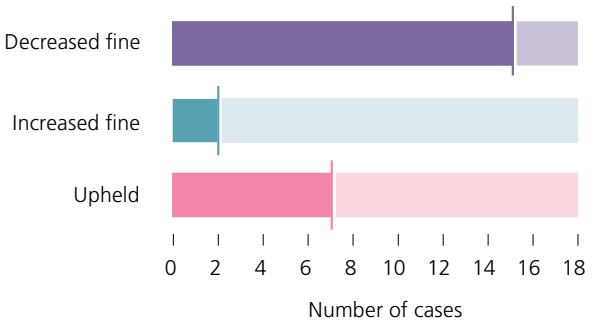


Appeals on penalty

CAT decision on penalty

In cases where parties have appealed the *level of fine* imposed by the CMA, their appeals have been relatively successful, leading to a reduction of the financial penalty in 63% of cases. However, a large number of these cases were determined under the CMA's previous guidance, which has been amended twice since it was originally introduced. In more recent cases, the level of success has been lower with the CAT decreasing the CMA's penalty in only 25% of cases where the infringement decision was issued post-2018. This may be because more recent penalty guidance has been amended to take account of these earlier judgments and provides the CMA with significant discretion at Steps 4 and 5 of its penalty calculation. This discretion applied by the CMA may be more difficult to challenge.

The risk of the CAT increasing the financial penalty is limited, albeit not non-existent. In two cases, the CAT has removed the company's discount for settlement as a result of its appeal, although in one of these cases (*Keltbray*), the CAT had decreased the overall fine from the CMA's decision before the settlement discount was revoked (i.e. the CAT accepted some of the appellants' arguments, including around the seriousness percentage applied, but this was counteracted by the discount revocation).



Appeals:

Key takeaways



If companies and their advisers consider that they have a strong reason to appeal against a CMA decision they should not shy away from doing so. The CAT has demonstrated that it is willing to rigorously test the CMA's findings.



Companies can appeal against a CMA finding on substance and/or against the level of fine imposed.



Appellants have to prepare themselves for the possibility of a full adversarial trial before the CAT.



In some cases fines have been increased following an appeal so there are risks in bringing a challenge.

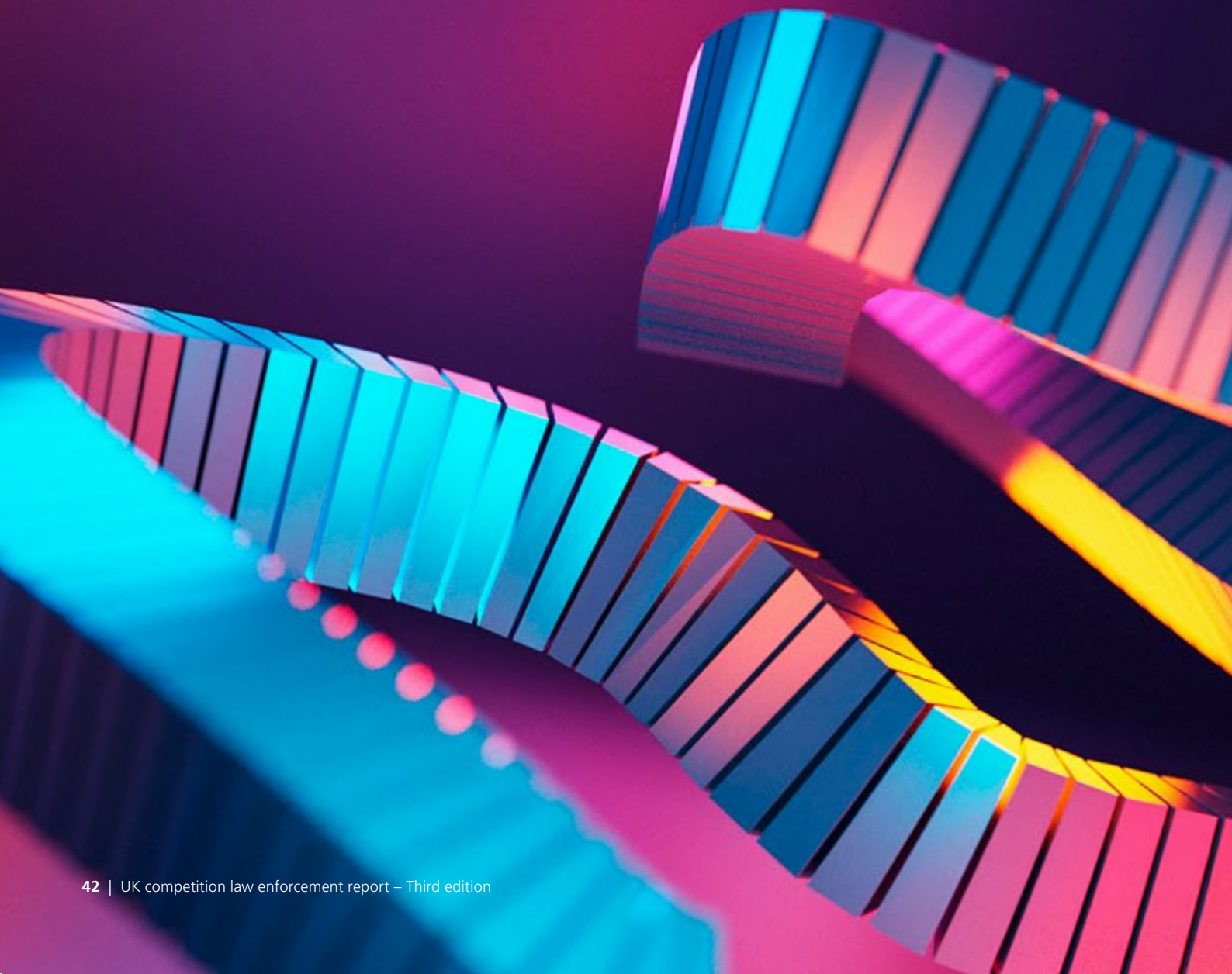
Part B:
Public enforcement of competition law by the concurrent regulators

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Concurrent regulators in action

Competition enforcement in the UK is shared between the Competition and Markets Authority (**CMA**) and a number of concurrent regulators (currently eight) with powers to investigate and enforce competition law within their respective sectors, operating alongside the CMA.

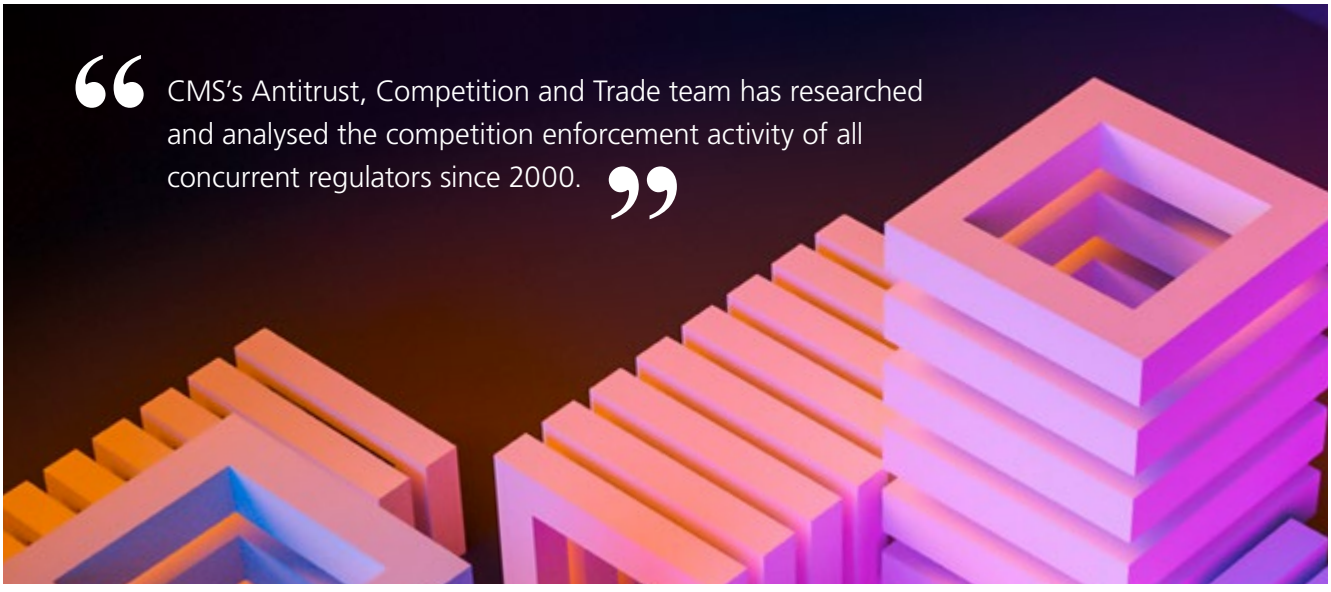
With this in mind, CMS's Antitrust, Competition and Trade team has researched and analysed the enforcement activity of all concurrent regulators since 2000 up to the research cut-off date of 31 May 2026, giving you a data-driven view of the competition enforcement landscape.

There are seven concurrent regulators covered in this report:

- the Civil Aviation Authority (**CAA**)
- the Financial Conduct Authority (**FCA**)
- the Office of Communications (**Ofcom**)
- the Office of Gas and Electricity Markets (**Ofgem**)
- the Water Services Regulation Authority (known as **Ofwat**)
- the Office of Rail and Road (**ORR**)
- the Payment Systems Regulator (**PSR**).

Where relevant, this includes predecessor authorities (e.g. Oftel for Ofcom), but for ease we generally refer only to the authority as it is currently named (unless otherwise specified).

For completeness, the Northern Ireland Authority for Utility Regulation (generally known as the **Utility Regulator**) is the eighth concurrent regulator. But to date it has not initiated an investigation under the Competition Act 1998 (**CA98**), though it has received at least two competition complaints. Until it was abolished in 2022, Monitor also had concurrent powers in respect of healthcare services in England, but it never formally used them. As a result, these two regulators do not feature in the data analysed, which focuses on CA98 investigations (see Methodology on page 109 for further details).



A different approach of the concurrent regulators

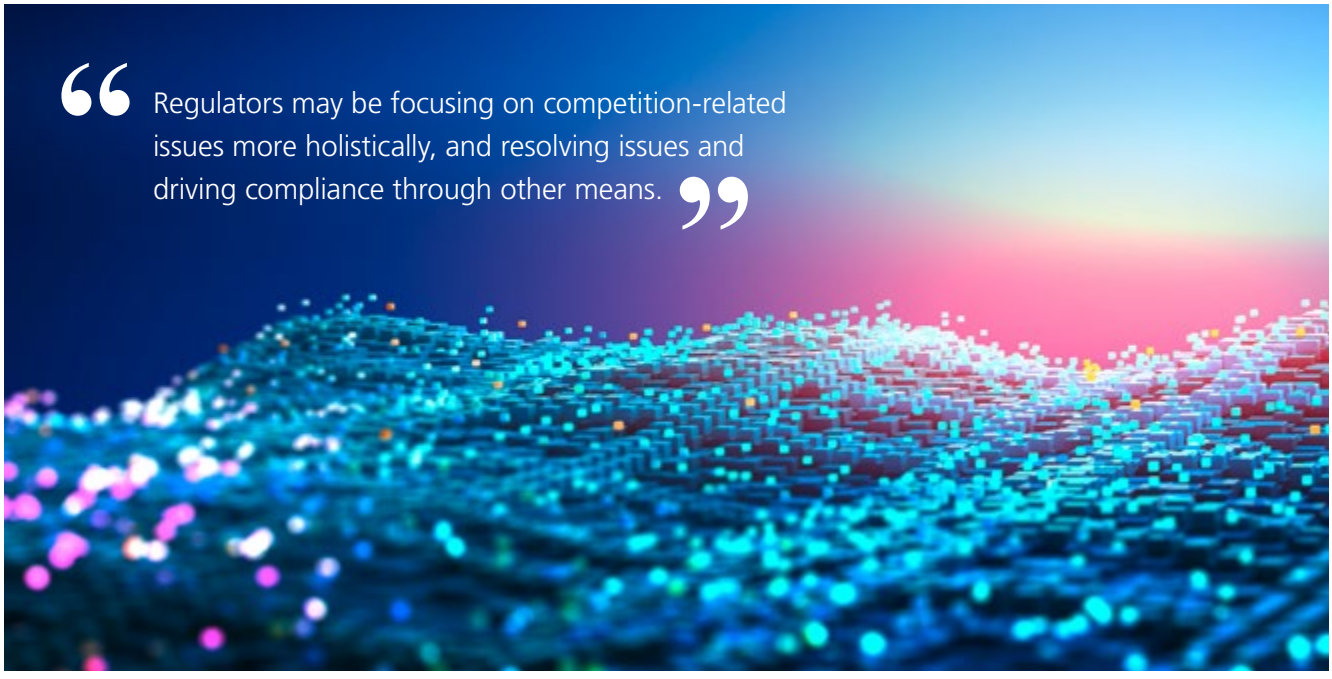
The data shows that the competition enforcement activity of each concurrent regulator varies considerably – though there are common features, such as the types of infringement investigated and case outcomes.

Interestingly, a majority of investigations using concurrent competition enforcement powers were either resolved without a decision or with a decision finding no grounds for action. Over time outcomes have varied with commitments and infringements becoming more prominent.

The concurrent regulators' enforcement also differs materially from the CMA. Perhaps unsurprisingly, they have a much higher proportion of abuse of dominance (Chapter II) cases, especially triggered by third-party complaints, reflecting the characteristics of the industries they regulate (as explained further in this part of the report). More surprisingly, only a small proportion of concluded cases resulted in infringement decisions – 9% compared to roughly half for the CMA.

While there are fewer cases and decisions, there is a lot of competition-related activity that is not captured in the data set. Regulators may be focusing on competition-related issues more holistically, and resolving issues and driving compliance through other means. Examples include:

— **Informal engagement to drive awareness and compliance.** Several regulators have extolled the benefits of being able to leverage existing regulatory relationships to address issues before they have a material impact on the market. Most sector regulators also commonly use advisory, warning or open letters where they have concerns about certain practices. Strikingly, the FCA has issued a total of 70 warning letters ('on notice' letters in FCA terms) and 44 advisory letters since acquiring concurrent competition powers (unusually, it issued no such letters in the period from 1 April 2025 to 31 May 2026).



— **Use of regulatory powers to address competition problems.** Several regulators have introduced *ex ante* regulation to address competition concerns and prevent their reoccurrence (usually, without following through on *ex post* infringement decisions against the companies concerned). For example, Ofgem has introduced (and enforced against) several standard licence conditions regulating conduct that was initially investigated under concurrent competition powers. Similarly, Ofcom opted to use its regulatory powers to require Openreach to provide access to its physical infrastructure. In recent years, the PSR, the FCA, Ofwat, and the CAA have all reported deciding to use their regulatory rather than competition powers. This was sometimes because they did not consider concurrent competition powers appropriate to address the concerns. In other cases, because they considered regulatory powers to allow a more targeted and timely approach to strategically significant issues.

— **Use of market reviews to scrutinise potential competition issues, with the potential then to refer them to the CMA for an in-depth market investigation.** Market studies can be a useful tool to explore potential competition issues without first deciding whether to exercise competition or regulatory enforcement powers. For example, the ORR has in recent years carried out three market studies analysing competition and wider consumer issues. Ofcom reviewed and then referred cloud services to the CMA.



Against this background, the low number of CA98 infringement decisions should not necessarily be taken as a sign the sector regulators are soft on competition issues. Businesses ignore competition-related issues and compliance at their peril, particularly given the high proportion of third-party complaints as a source of investigations and the complex interplay between competition and regulation in these sectors.

The risk is not confined to public enforcement: private competition enforcement has become a more prominent feature of the regulated sectors, including through collective proceedings. Its interaction with public enforcement extends beyond conventional follow-on claims; regulatory investigations and market reviews can inform standalone claims, even where the regulator has made no finding of a competition law infringement. Businesses active in regulated sectors should therefore be mindful of this additional, and growing, source of litigation exposure.



Key findings at a glance



Variability in enforcement activity: Ofcom is the most active concurrent regulator, initiating over half of all recorded investigations since 2000. Ofgem and the FCA have also played significant roles.



Trends over time: The majority of investigations were initiated in the early 2000s, followed by a marked decline in activity after 2005. While there was a rise in 2015-2020, enforcement activity has generally decreased in recent years. The FCA bucks that trend: it continues to maintain a steady level of investigations since acquiring concurrent competition powers in 2015.



Investigation triggers: The most common trigger for investigations across these regulators has been third-party complaints. This highlights the importance of robust internal compliance and whistleblowing procedures.



Grounds of infringement investigated: The focus of investigations varies by regulator. Ofcom, Ofwat, Ofgem and the ORR have predominantly investigated alleged abuses of dominance (Chapter II), while the FCA's cases have largely concerned anti-competitive agreements (Chapter I).



Outcomes and enforcement approach: "No grounds for action" decisions – i.e. finding no infringement – are the most common result, particularly for Ofwat, Ofcom, and the ORR, while infringement decisions are rare. Commitments decisions account for 10% of concluded cases overall but feature prominently for Ofwat and Ofgem. Over time, the outcome mix has shifted: there have been no "no grounds for action" decisions since 2020 and infringement/commitments decisions together account for 60% of outcomes since 2015.



Types of infringements investigated: Chapter II cases (approximately 80% of investigations) most commonly concern discrimination, followed by margin squeeze, predation and refusal to supply/access restrictions – consistent with sectors combining incumbent networks with the introduction of competition. Chapter I cases most commonly involve information exchange, alongside a varied range of other restrictions (such as joint selling and exclusivity).



Duration of investigations: The average duration of investigations is often close to 20 months. Ofcom, despite its high caseload, has the shortest average duration (12 months), although this largely reflects short cases undertaken by its predecessor, Oftel. Cases resulting in enforcement action tend to take significantly longer to resolve.



Leniency and settlements: Leniency applications played a role in the majority of cases that reached a Chapter I infringement decision (leniency not being available for Chapter II). Settlements were reached in approximately 40% of all cases resulting in infringement decisions, with settled cases concluded on average 12 months quicker than contested cases.

A brief overview of the concurrency model in the UK

The UK operates a specific model for the enforcement of competition law.

Sector regulators, with responsibility and powers to enforce regulatory rules within their industries, also have competition-related powers which they share with the CMA. These include powers to investigate and enforce the CA98 and to conduct market studies and make market investigation references under the Enterprise Act 2002.

The sector regulators have defined areas of jurisdiction (which broadly match the sectors they regulate), while the CMA, the UK's primary competition authority, has powers across the entire UK economy. Under "concurrency" arrangements, the CMA and sector regulators cooperate in relation to these powers; they share know-how and expertise, agree how to allocate cases, and cooperate in ongoing cases.

The concurrency arrangements were reformed in 2014 to enhance cooperation and encourage greater use of competition powers. This included the introduction of a "primacy obligation" placed on all concurrent regulators. It requires them to consider whether it would be more appropriate to proceed using CA98 powers before taking certain regulatory action (widening the obligation to all regulators where some regulators had similar pre-existing obligations).

The CMA recently carried out a 10-year review of the current concurrency model. It recommended various measures to further increase cooperation and support sector regulators. These were aimed at addressing the twin challenges of retaining sufficient competition expertise and managing competing demands on their resources. Most of these measures – e.g. strengthening co-operation and inter-regulator secondments, and investing in a strong pipeline of cases – can be implemented by the CMA and sector regulators without any legislative change. The CMA has stated that they are already working on addressing the findings. Indeed, in October 2025, the CMA and concurrent regulators shared best practice on case identification and development in the context of a "pipeline" workshop, where the CMA presented on its use of data science techniques to screen procurement data for bid-rigging.

What are the 'concurrent powers'?

In brief, within their respective sectors concurrent regulators can:

- **Investigate and take action against anti-competitive behaviour under the CA98**, including both anti-competitive agreements (Chapter I) and abuse of dominance (Chapter II). This includes powers to consider complaints, impose interim measures, gather information/carry out dawn raids, impose penalties, accept commitments and settle cases.
- **Carry out market studies to examine why particular markets may not be working well.** Though many concurrent regulators can also carry out reviews under their regulatory powers.
- **Make a market investigation reference to the CMA.** A market investigation is a more detailed examination (by the CMA) of whether market features may restrict competition and if so what remedial action is needed. The CMA's powers to address any identified issues are very broad (and include e.g. divestment of businesses). The Government had proposed replacing this power with an ability to "recommend" a CMA market review under the new single-phase model; it is currently unclear whether these reforms will proceed.

The powers to take competition enforcement action under the CA98 are the focus of this report, and references to "concurrent powers" in the remainder of this report refer to those unless otherwise specified.

This was a specific recommendation from the 10-year review aimed at improving the pipeline of potential cases and making the best use of information concurrent regulators hold through their regulatory activity.

The growing prominence of private competition enforcement in regulated sectors also has implications for the role of concurrent regulators. Alongside their own enforcement work, regulators may assist courts and the Competition Appeal Tribunal through sector expertise, disclosure of regulatory material and formal intervention. Recent examples include Ofwat's intervention in the Roberts water-company litigation and the PSR's permission to intervene in the merchant interchange proceedings. Such participation can clarify the relationship between private remedies and regulators' statutory functions, while reinforcing the value of cooperation between the CMA and sector regulators on the interaction between public and private enforcement.

Not all regulators have had concurrent powers over the full period since the entry into force of the CA98 on 1 March 2000. Set out below is a simplified timeline showing when different regulators acquired concurrent powers and other relevant changes. This excludes any broadening of the scope of such powers, in the interests of simplicity.

2000 Ofcom, Ofgem, Ofwat and the ORR (including where relevant their predecessors) acquire concurrent powers.

2001 The CAA acquires concurrent powers.

2013 Monitor acquires concurrent powers.

2015 FCA and PSR acquire concurrent powers.

2022 Monitor is abolished but its concurrent powers do not transfer to NHS England with its other functions.

2025 UK Government announces the PSR will be abolished and its functions integrated within the FCA.

UK Government announces Ofwat will be abolished and its functions consolidated with the water functions of the Environment Agency, Natural England and the Drinking Water Inspectorate.

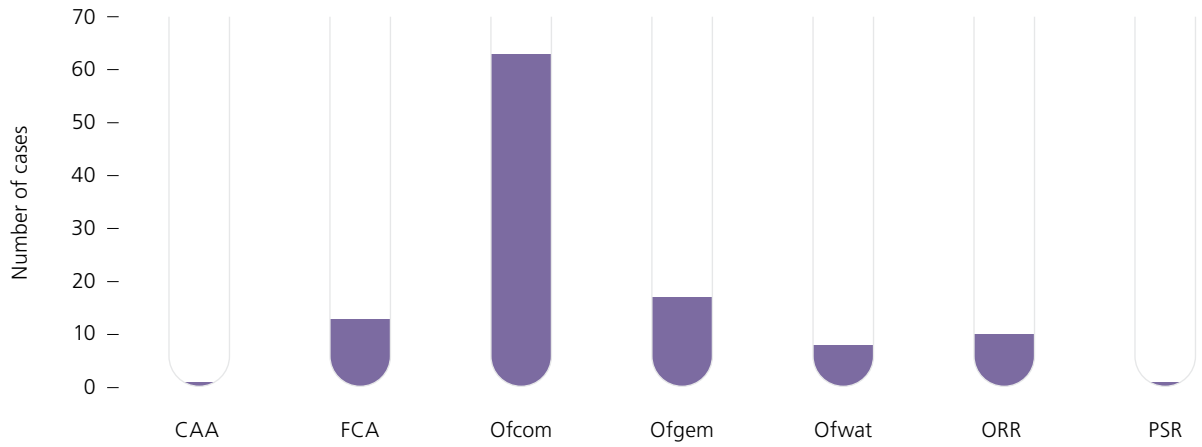
Implementation of these announced reforms is still in progress. In 2026 the Welsh Government also proposed the creation of a dedicated Welsh economic water regulator.

The impact of the DMCCA on concurrency

Certain aspects of the Digital Markets, Competition and Consumers Act 2024 (**DMCCA**) are relevant to concurrency. The duty of expedition introduced by the DMCCA applies to both the CMA and sector regulators. The DMCCA also imposes a formal duty on the CMA to consult certain regulators in relation to the exercise of its regulatory digital markets functions, including the FCA and Ofcom in matters where they may have concurrent jurisdiction. In addition, it enhances the existing court-based regime for consumer law enforcers (including the sector regulators) to allow courts to impose monetary penalties for breach of consumer law. As it beds in, the DMCCA will provide further opportunities for cooperation between the CMA and sector regulators regarding consumer law, digital regulation and competition powers (as already illustrated by the PSR and FCA's joint submission to the CMA in the context of mobile ecosystems).

The data on concurrent regulators' competition enforcement

Investigations by regulator



The overall distribution shows a significant disparity in the number of competition enforcement investigations initiated across sector regulators. Ofcom has been the most active regulator by far, initiating 63 investigations, which represents over half of all cases recorded across sector regulators since 2000.

Ofcom's record is skewed by the very high number of cases launched by its predecessor, Oftel, in the early years of the CA98. The number drops to 17 – on a par with Ofgem – when considering only Ofcom. But even then, Ofcom still has the highest number of infringement decisions (three) of all the concurrent regulators and, until recently, has maintained a comparatively high level of investigative activity.

Two key factors may explain this:

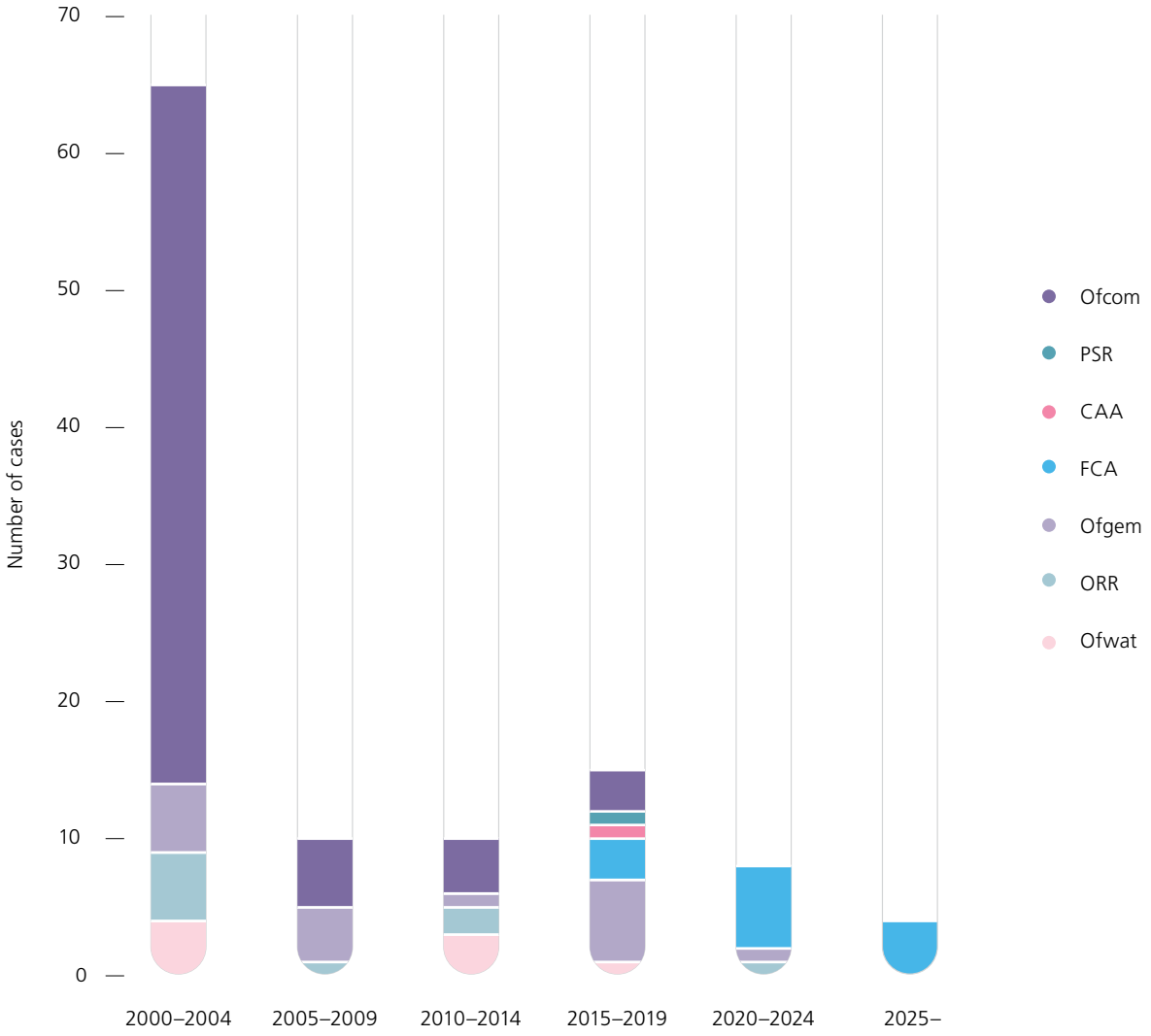
— The communications sector within Ofcom's remit is competitive and dynamic, with established incumbents operating alongside newer entrants in fast-developing markets. This gives Ofcom more scope to apply its competition enforcement powers than regulators in other sectors, where, for example, natural monopolies may make it harder to sustain meaningful competition, or there is just generally more limited competition (such as water). Direct regulation may also narrow the scope for competition enforcement and provide alternative, more targeted, means of addressing competition concerns (such as in the energy sector).

— Ofcom has a comparatively large number of staff with relevant skills and expertise, helped by the complementary nature of its regulatory tasks (such as significant market power assessments, which it routinely carries out and which are comparable to a dominance analysis). This experience, coupled with senior leadership steeped in competition law and economics, likely lowers the familiarity barrier which may discourage enforcement. It helps sustain the internal appetite for such cases. By contrast, aside from the FCA, the other regulators are comparatively less well resourced. Ofgem reports having struggled to maintain a critical mass of competition expertise.

However, this data needs to be considered in the context of time, which we discuss next.

> "Direct regulation may narrow the scope for competition enforcement and provide alternative means of addressing competition concerns."

Investigations across time



Most investigations were initiated in the period 2000–2004. Nearly 81% of Ofcom investigations were conducted during this five-year span – with its record year being 2000, the year the CA98 entered into force. Other regulators, such as the ORR and Ofwat, were also more active during this period than in any period subsequently. This could reflect initial enthusiasm for using concurrent competition powers acquired at the beginning of this period. The CMA similarly had a high number of investigations launched in the early years of the CA98 – though it has returned to such high levels in subsequent periods.

Between 2005 and 2009, recorded enforcement activity declined, before modestly increasing between 2010 and 2019, particularly from 2015. Two reasons likely explain this: the enhanced concurrency arrangements, including the primacy obligation, introduced in 2014 and the FCA and PSR both acquiring concurrent enforcement powers in 2015. Together they account for four new investigations in the 2015-2019 period.

However, since 2020 enforcement activity has declined significantly across all regulators other than the FCA, which has initiated 10 of the 12 investigations in that period and is the only concurrent regulator to have initiated (four) new investigations since the start of 2025. This probably reflects its more recent acquisition of competition powers, more dynamic/less monopolistic markets within its remit, and the relatively large number of staff with expertise that can be deployed in the exercise of such powers.

> “The current thinking has shifted towards the benefits of *ex ante* regulation.”

Resource constraints, driven by challenges recruiting or retaining competition expertise, combined with a lack of investment in the case pipeline are all documented reasons for low levels of competition enforcement, which may have contributed to this decline.

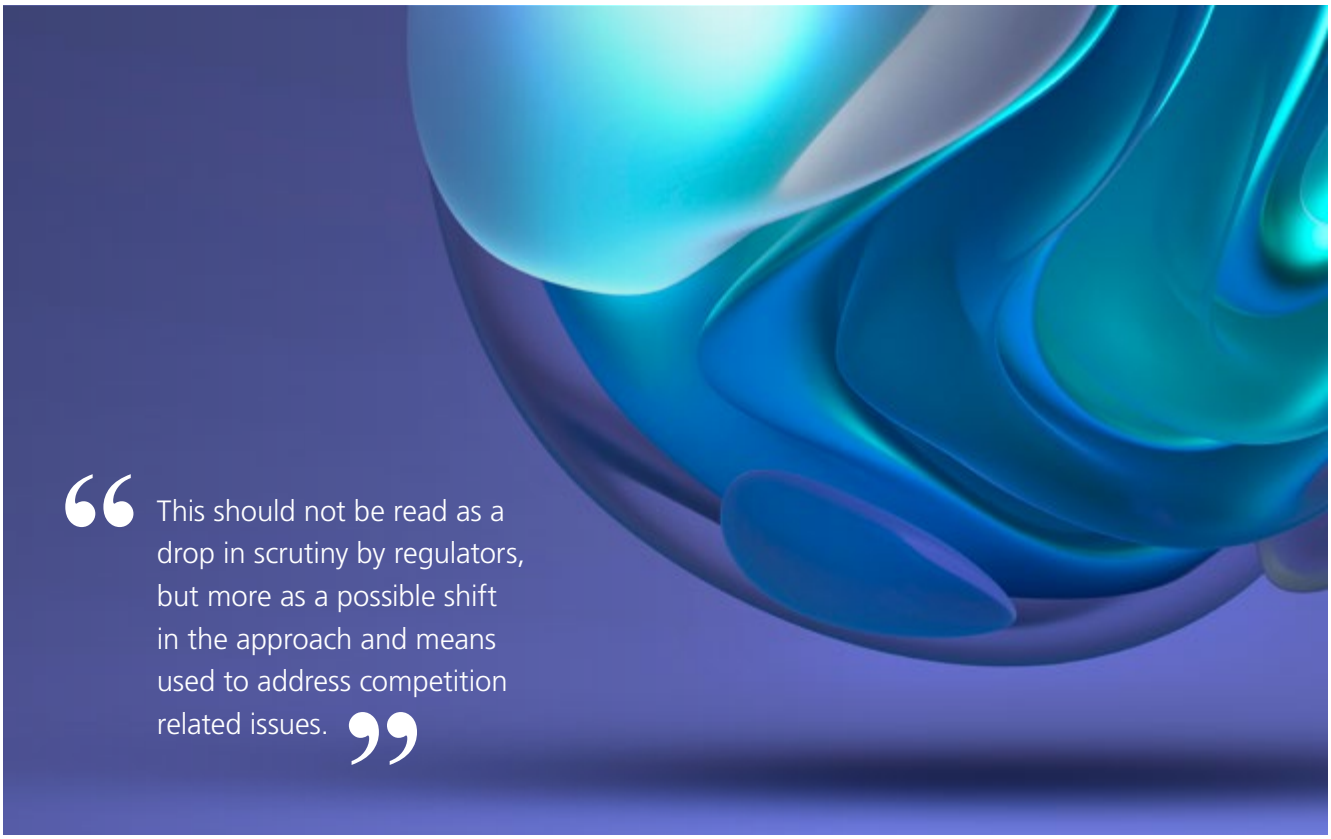
But the backdrop has also evolved considerably, as the CMA alludes to in its 10-year review. The concurrency model was last reviewed when a general belief in the merits of *ex post* competition enforcement prevailed. The current thinking has shifted towards the benefits of *ex ante* regulation, as illustrated by the introduction of the CMA's new toolkit for digital markets under the DMCCA. CA98 investigations can also be procedurally onerous, with a demanding burden of proof and risk of resource-intensive appeals – and results may be mixed. For example, in 2022 the Supreme Court refused Royal Mail permission to appeal, meaning Ofcom's 2018 abuse of dominance decision against Royal Mail ultimately still stands. But Whistl – whose market entry plans were the target of Royal Mail's abuse according to Ofcom's findings – had long exited the bulk mail delivery market.

This likely influences regulators' choice of the powers to deploy, notwithstanding their primacy obligation. Even Ofcom, for example, chose in 2021 to continue to oblige Openreach to provide access to its physical telecoms infrastructure using its regulatory rather than competition powers (on grounds which included greater certainty and timely enforcement).

Concurrent regulators regularly report considering the exercise of their CA98 powers, before opting for regulatory levers for various reasons (including more timely outcomes, more targeted action and broader strategic issues which needed addressing), or in some cases keeping this choice under review (as Ofgem reported doing in 2022–2023 in relation to certain activities in the electricity market).

The data may also not be telling the full story. One theory is that regulatory practice has evolved from a position of regulators more readily launching formal investigations, in the early years of the CA98, to making informal enquiries first and proceeding more cautiously with a more outcomes-focused mindset. Cases in which information gathering powers were used are consistently higher than the number of formal investigations (based on concurrency reports).

For parties in the relevant sectors, this should therefore not be read as a drop in scrutiny by regulators, but more as a possible shift in the approach and means used to address competition-related issues. And this does not necessarily translate into an easier ride for the businesses concerned. For example, the use of market study powers to look at competition issues across a sector means scrutiny of a wider number of market participants in one review (and can also then lead to enforcement).

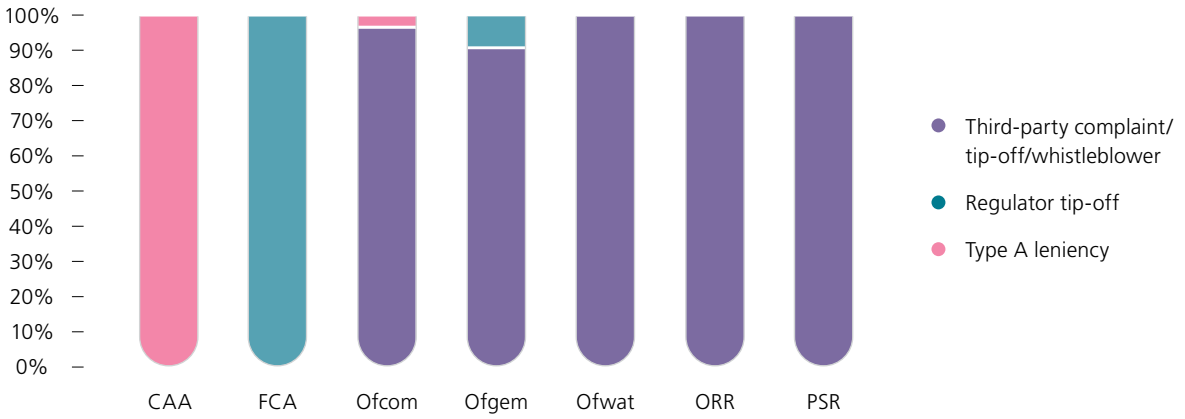


Why investigations are initiated

As a preliminary point, regulators do not always disclose in public decisions the reason for launching a CA98 investigation. The data analysed below is therefore based on cases where triggers are known (and excluding ongoing cases).

It is also sometimes based on a relatively small number of cases making it particularly sensitive to individual outcomes.

Known triggers for concluded investigations by regulator



Third-party tip-offs

Across the concurrent regulators, the most common trigger for investigations was third-party tip-offs (and in particular third-party complaints). This was the only consistent source across multiple authorities, accounting for all investigations carried out by the ORR, PSR and Ofwat, as well as nearly all investigations by Ofcom (over 90%). These proportions are much higher than for the CMA where they accounted for nearly 60% of its concluded cases. This possibly reflects the higher level of investment by the CMA in its pipeline of cases.

For Ofgem and the FCA, information on investigation triggers was less available: the trigger was unknown in just over a third of Ofgem's cases and in all but two of the FCA's concluded cases. For the FCA, this reflects the large proportion of cases closed on grounds of administrative priority with few details in the public domain. Where investigation triggers are known for Ofgem investigations, third-party complaints were most common, with one additional case arising from a regulator-initiated tip-off, i.e. from a regulator's other activities (in this case from Ofgem's review into competition in electricity connections markets).

A regulator-initiated tip-off was also the trigger in the only FCA investigations for which the initiation reason is known. The first is the FCA's decision in the asset management sector which, although involving a leniency applicant, appears to have been triggered by an FCA-initiated review. The second is the FCA's investigation into the London Stock Exchange Group (LSEG)'s lease arrangements regarding data centre rooftop access, which seems to have followed from the initial Chapter II investigation into LSEG.

Leniency applications

Type A leniency applications were also recorded as investigation triggers, though they were relatively rare, appearing in just three cases across two regulators (CAA and Ofcom). It is possible that this slightly understates the true number, because decisions do not always record the type of leniency.

Leniency applications are made to the CMA rather than sector regulators under a 'single queue system' which they coordinate to operate (even if the sector regulator is already investigating). Applicants will be redirected to the CMA if necessary and it is the application to the CMA which determines an applicant's order in the leniency queue. The concurrency arrangements operate in the usual way to determine case allocation as between the CMA and sector regulator and whichever regulator takes the case makes the ultimate decision on the grant of leniency.

An interesting feature of the PSR's only infringement decision is that the investigation was launched following a complaint by one of the parties the PSR ultimately found to have infringed Chapter I (rather than a third-party). By exception to the methodology adopted in the rest of the report, it has nonetheless been recorded as a "third-party" tip off.

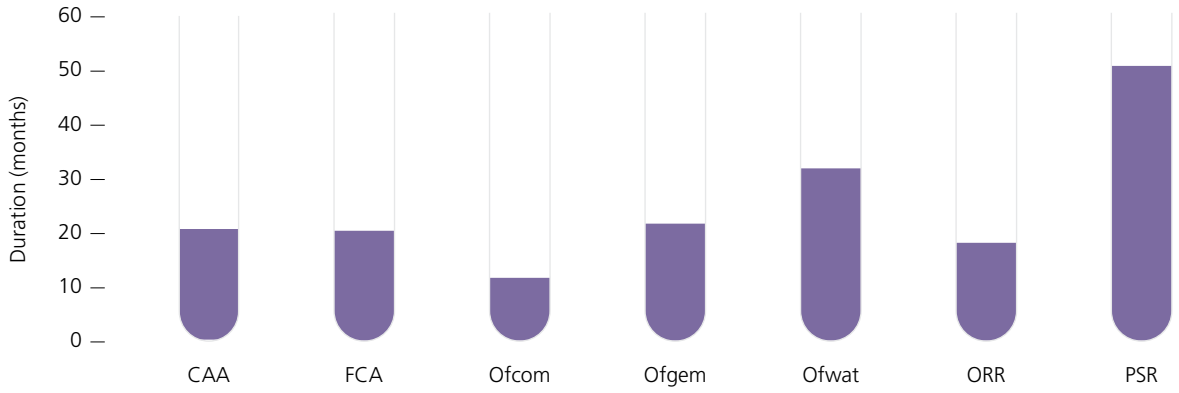
Duration of investigations

The average duration of CA98 investigations initiated by each regulator varies, though is often close to approximately 20 months (apart from the PSR, based on its only case, and Ofwat). It is helpful for companies under investigation that this period is kept as short as possible, particularly where the regulator ultimately decides not to take action, given the levels of business disruption and costs incurred in dealing with investigations. A complainant whose concerns are rejected quickly may take a different view. Duration may also impact outcome, particularly in fast-moving markets. In response to the CMA's call for inputs on the concurrency model, Vodafone highlighted its belief that, had Ofcom's investigation into wholesale call pricing been quicker, it may have resulted in a different outcome. Instead, after five years, Ofcom found no grounds for action. Competition enforcement has often been criticised for being too little, too late.

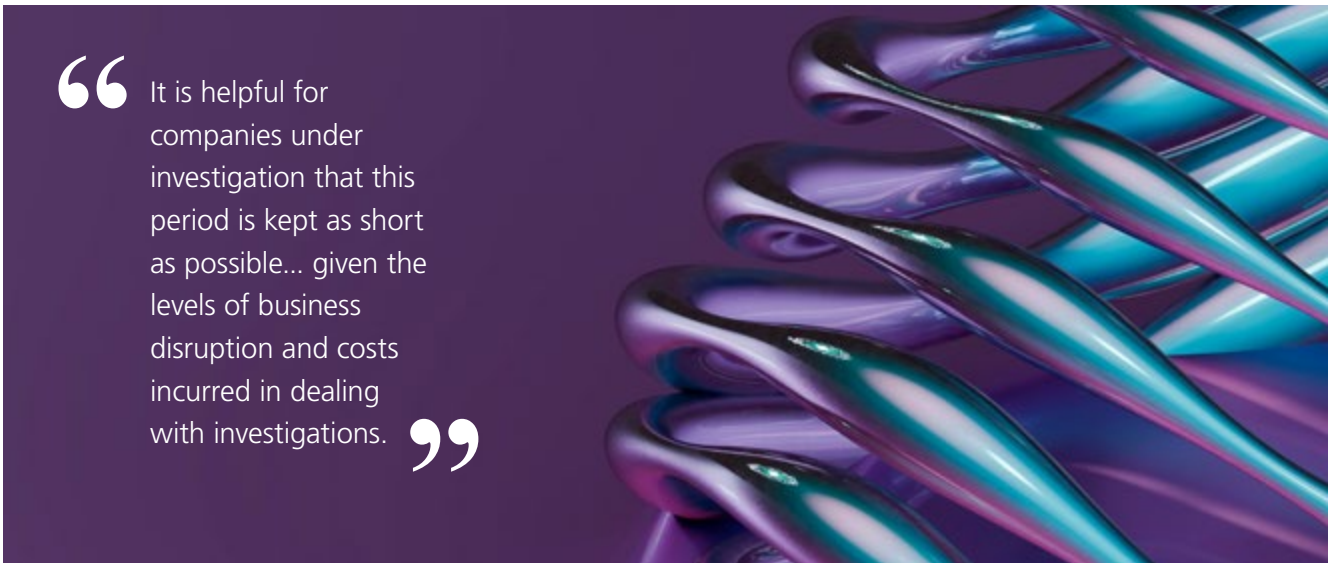
Interestingly, Ofcom recorded the shortest average investigation duration, at approximately 12 months, despite handling the largest number of cases.

This likely reflects the high number of decisions confirming no grounds for action and cases closed without a decision, as a proportion of Ofcom's overall caseload (see the next section for an explanation of what these types of decisions are). The early Oftel cases, which were usually very short, also play a big part in lowering this overall average. It rises to just under 22 months when considering only Ofcom.

The average duration of investigations by the FCA, CAA, the ORR and Ofgem ranges between 18 and 22 months. However, the averages for the FCA, Ofgem, Ofwat, and the ORR are based on relatively small numbers of concluded investigations (i.e. excluding ongoing investigations), making them more sensitive to individual outcomes. In particular, the ORR's average has been affected by a single long-running investigation of 66 months – its only infringement decision, finding that EWS Railway had abused its dominant position in supply of coal haulage by rail – with most of its other cases completing in a much shorter timeframe (many in under a year).



Note: *Figures show mean duration; some averages are based on a single case (CAA and PSR).*



The duty of expedition introduced by the DMCCA, which entered into force in January 2025, applies to concurrent regulators as well as the CMA – requiring them to make decisions and take action as soon as reasonably practicable. It remains to be seen what impact this will have on duration of investigations and processes (e.g. whether the practice of issuing draft requests for information before formal issuance will continue). It is also not clear that the CMA's focus on "Pace" as part of its "4Ps" framework will have much, if any, bearing on concurrent regulators, although they will be alive to the more general scrutiny of regulators. And as referred to in the section on Case outcomes over time below, there is some indication that they are taking into account aspects of the 4Ps framework.

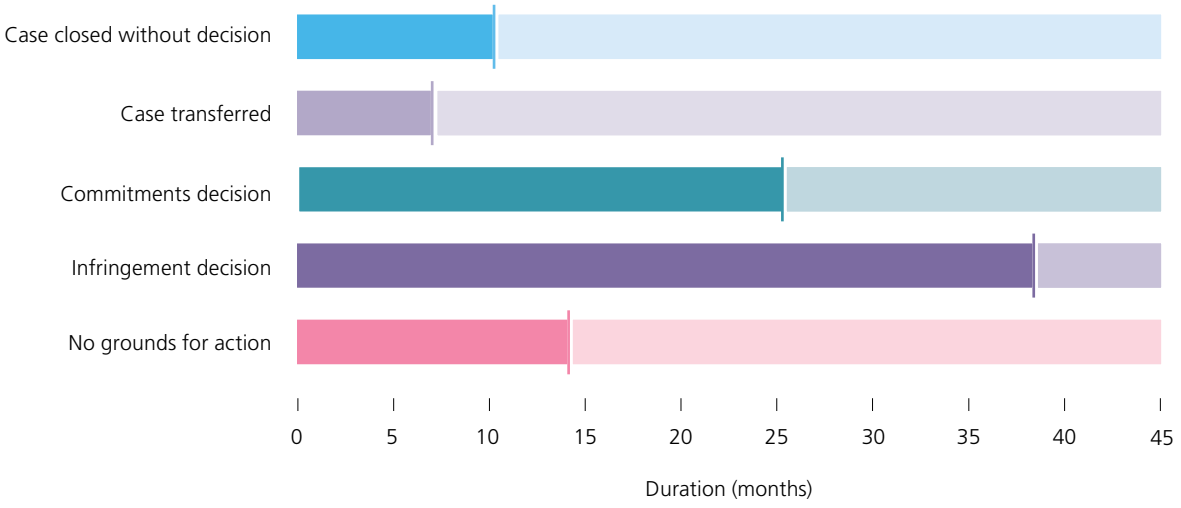
The impact of outcome

Cases involving enforcement action unsurprisingly took the longest to conclude, given the time needed to gather and consider the evidence, and substantiate findings in a decision which can withstand scrutiny on appeal.

Infringement decisions averaged around 38 months, which is remarkably close to the CMA's average of 40 months (for fully contested (i.e. not settled) decisions since 2014). Commitments decisions averaged just under 25 months.

No grounds for action (meaning there was found to be no infringement), cases closed without decision (meaning the case was closed without a finding either way, usually on the grounds of administrative priority), and transferred cases were resolved in comparatively shorter time periods. Transferred cases refer to two instances where jurisdiction was transferred to another regulator: from Ofgem to the CMA pursuant to concurrency arrangements in one case and from the FCA to the European Commission in another (under arrangements which no longer exist post-Brexit).

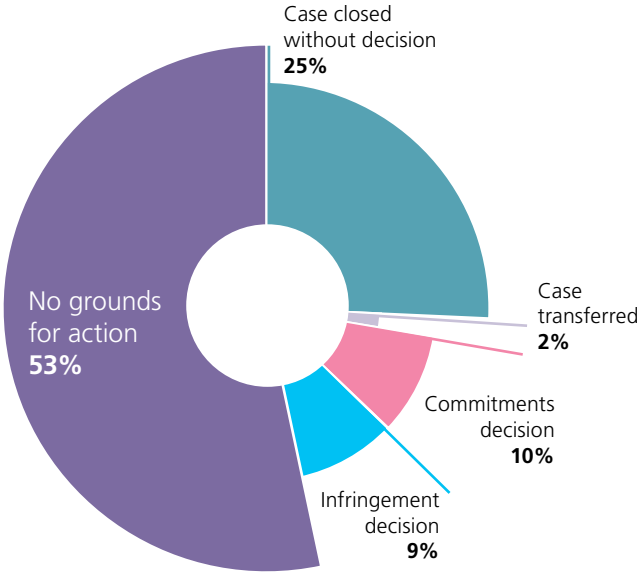
Average duration by investigation outcome





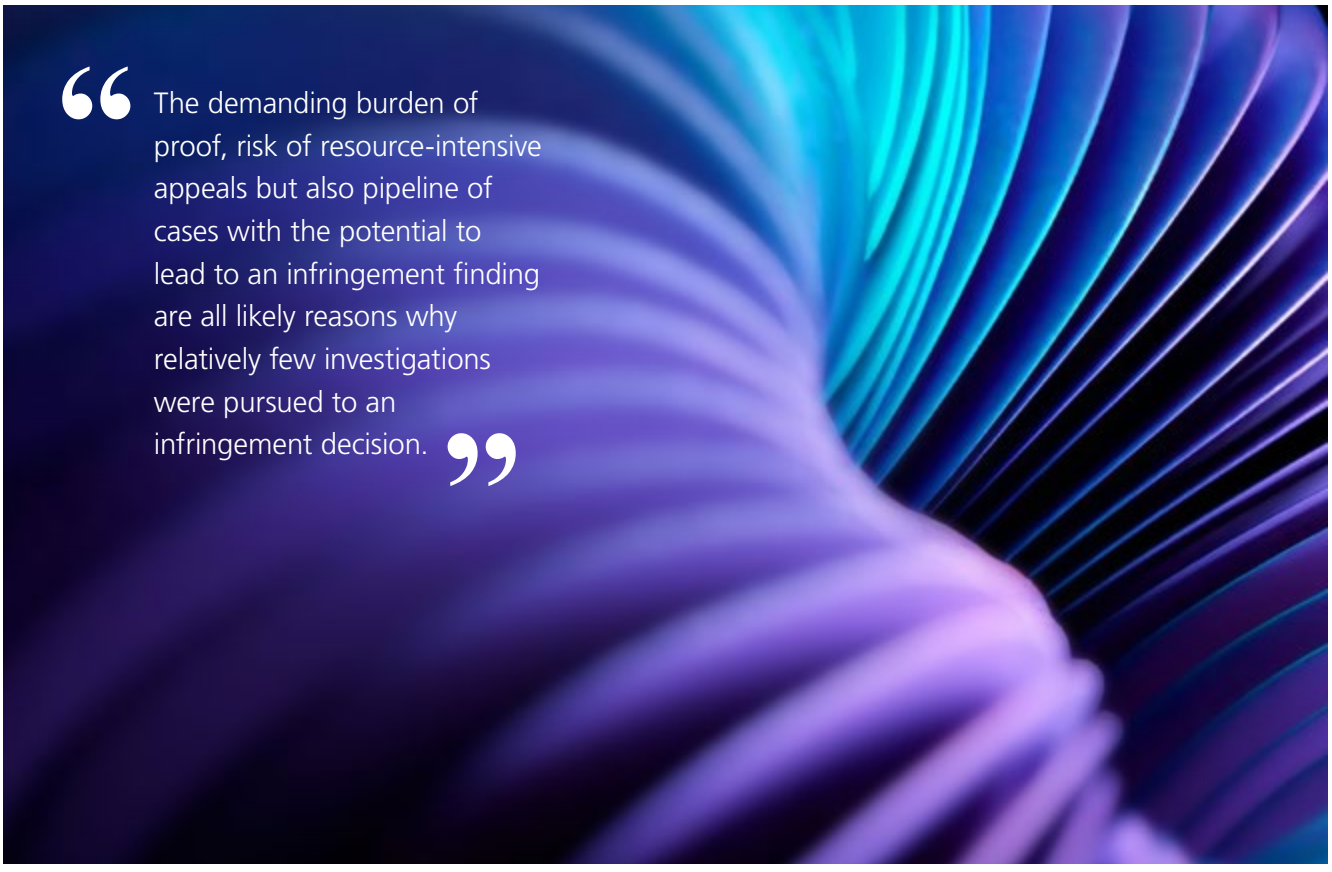
Case outcomes by regulator

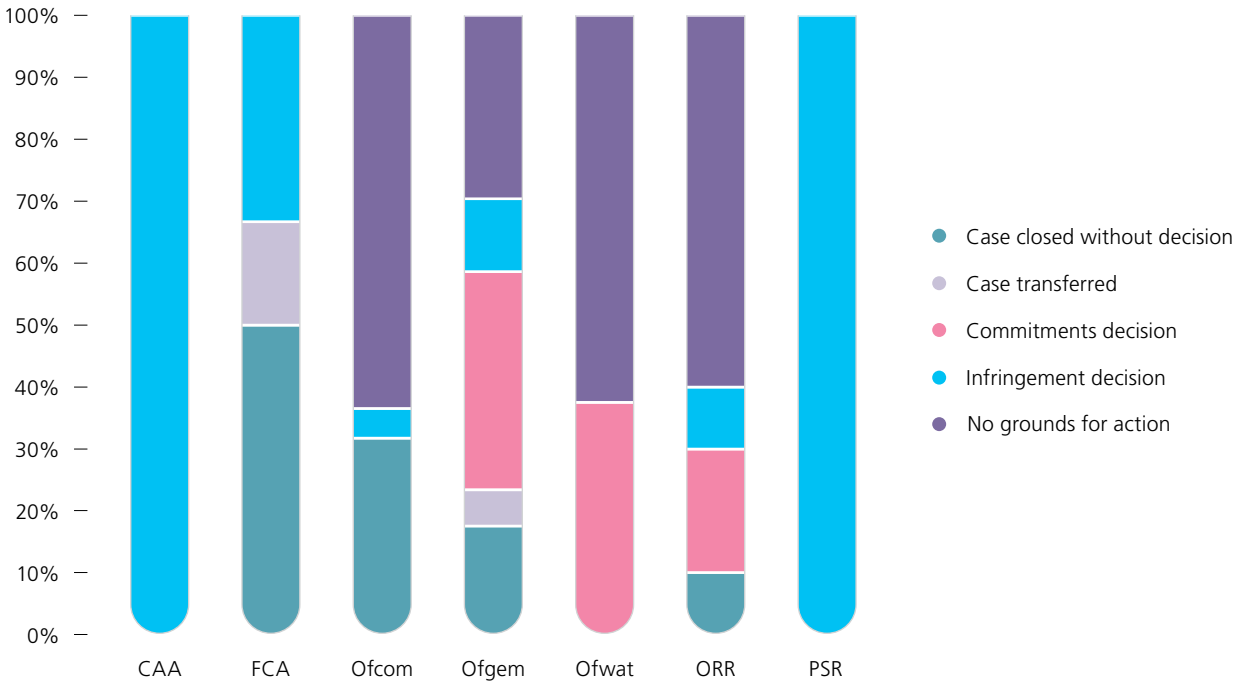
Across concurrent regulators, the most common outcome recorded was "no grounds for action", accounting for 53% of concluded investigations. This outcome was particularly common for Ofwat, Ofcom and ORR, where it made up approximately 63% of outcomes for both Ofwat and Ofcom and 60% for the ORR.



96% of decisions finding no grounds for action involved Chapter II allegations, where the regulator in question concluded, following investigation, that there was insufficient evidence to establish an infringement. The overall high proportion of this outcome is perhaps illustrative of the complexity of competition law, and the challenges in evidencing satisfaction of the relevant legal tests. This is particularly true of Chapter II cases, which often involve technical tests requiring complex economic analysis. It can therefore be difficult to predict at the outset whether credible concerns about a party's conduct can ultimately be borne out in the evidence and support an infringement decision.

Several regulators also made use of case closures without a formal decision, most notably Ofcom and the FCA. Ofcom reached this outcome in around 32% of cases, and the FCA in half of its concluded cases (noting that it has seven cases still ongoing). In almost all these cases, the closure was stated to be on administrative priority grounds. In a handful of cases, it was because the complainant withdrew its complaint or failed to follow up with evidence.





Infringement decisions were relatively rare overall, with a formal finding of infringement reached in approximately 9% of concluded cases, equating to 10 decisions in total across the dataset. The demanding burden of proof, risk of resource-intensive appeals but also pipeline of cases with the potential to lead to an infringement finding are all likely reasons why relatively few investigations were pursued to an infringement decision.

However, despite the low number of infringement decisions, all regulators other than Ofwat have issued at least one infringement decision. It is notable that eight of the 10 infringement decisions have been issued since enhanced concurrency arrangements were introduced in 2014 and the FCA/PSR acquired competition powers in 2015 (accounting together for three of 10 infringement decisions). The CMA has noted the FCA's efforts to invest in its pipeline of cases. It may also be assisted by sector-specific regulation – and in particular "Principle 11 of the FCA's Principles for Business" – which requires firms to self-report potential competition infringements.

Although there are few infringement decisions, decisions finding no grounds for action can still have an important deterrent effect and provide useful guidance. They build up a body of precedent explaining why certain conduct may be permissible where in other circumstances it may not. These are reasoned and typically detailed decisions which set out the evidence, and how the regulator considered it and applied the legal test. The investigated party was ultimately not found to infringe. But the public decisions likely shed an unwelcome light on its business practices and internal workings, and signal to other market participants where to draw the line.

Commitments decisions were also limited, featuring in just 10% of concluded investigations (similar to the CMA's overall average of 11%). Commitments feature most prominently in Ofwat and Ofgem investigations, where they accounted for a striking 38% and 35% of their cases respectively.

This is mainly driven by the types of behaviour investigated by both authorities. Ofgem and Ofwat often scrutinised allegations of unfair treatment by incumbents of new entrants seeking to compete in services opened up to competition, such as price or non-price discrimination. These types of conduct lend themselves to resolution through behavioural commitments. Parties' readiness to engage with commitments will also have been key, and may have been encouraged by close relationships between regulator and regulated party.

Like decisions finding no grounds for action, commitments decisions can play a significant role in aiding compliance.

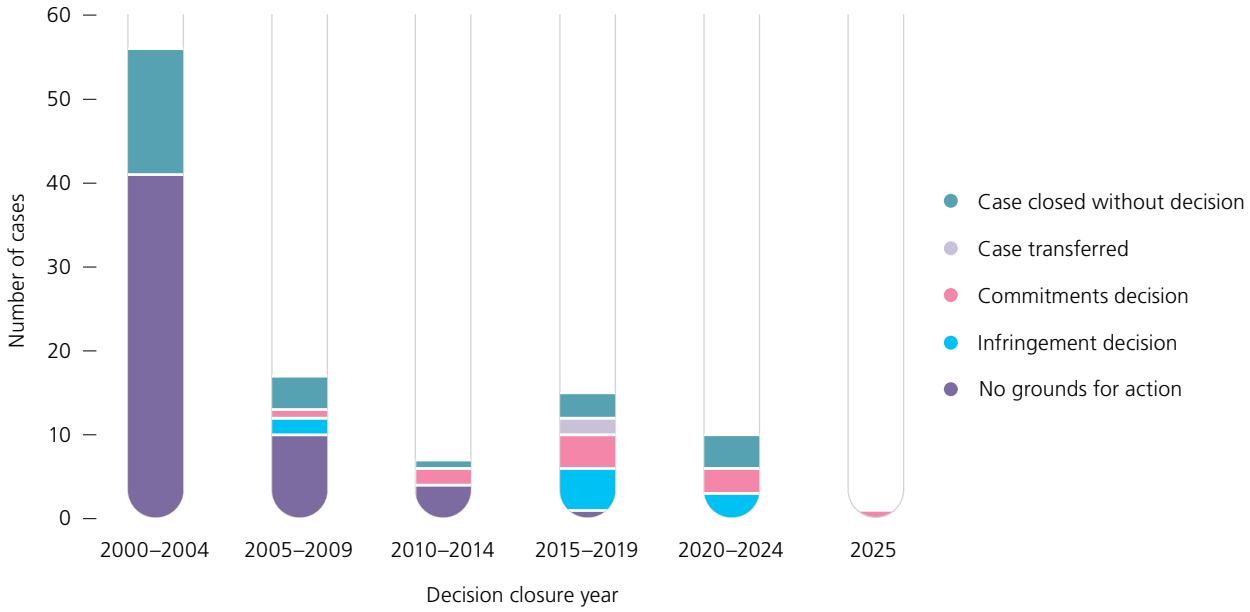
As noted, case transfers refer to allocations of jurisdiction between regulators which occurred in two instances (from Ofgem to the CMA and from the FCA to the European Commission).

Case outcomes over time

Earlier outcomes were dominated by "no grounds for action" decisions, which accounted for 73% of outcomes in 2000–2004 and 59% in 2005–2009. Their share fell considerably in subsequent periods, with none recorded from 2020 onwards.

By contrast, infringement decisions have become more prominent in recent periods, accounting for 33% and 30% of outcomes in 2015–2019 and 2020–2024 respectively. By comparison, only two were recorded across 2000–2014 (both in the 2005–2009 period).

Commitments decisions also account for a larger share of outcomes in more recent periods, rising from 6% in 2005–2009 to 27% in 2015–2019 and 30% in 2020–2024.



The shift away from "no grounds for action" decisions towards infringement findings and commitments is consistent with more selective case prioritisation and greater flexibility in addressing competition concerns, including through informal engagement and investigation before any decision to formally launch a CA98 investigation (if any). Infringement and commitments decisions together accounted for approximately 60% of outcomes in both 2015–2019 and 2020–2024, indicating that this changed balance has been sustained.

It is too early to measure any impact of the CMA's 4Ps framework – pace, predictability, proportionality and process – on sector regulator investigation outcomes, particularly as commitments have been a consistently material outcome of sector regulator investigations over the last decade. However, there is some evidence of its potential influence beyond the dataset in this report.

For instance, the FCA's resolution of its commodity futures trading investigation in September 2026 – which post-dates the research cut-off date and is therefore not recorded as an outcome in the data in this edition – echoes the CMA's housebuilders investigation.

The FCA accepted information-sharing restrictions and compliance measures, together with a commitment to make a £1 million ex gratia payment to the Crisis and Resilience Fund. The CMA accepted commitments combining behavioural measures with a £100 million contribution to affordable housing programmes, which the CMA defended by reference to the need for pace and the Government's growth agenda. The joint FCA-PSR prioritisation statement regarding centralised access fee pricing for certain payments is another example. In January 2026, the FCA and PSR released a joint statement confirming that, subject to certain safeguards and conditions, they would not prioritise CA98 investigations regarding pricing for commercial variable recurring payments. The CMA concurred, emphasising the need to ensure businesses are not deterred from collaborating in ways which could be beneficial for consumers.

A word on interim measures

Concurrent regulators are known to have considered interim measures in a number of cases, but ultimately rejected them.

Based on information publicly available, interim measures were considered in approximately 9% of concluded investigations across all sector regulators.

Ofwat, Ofcom and the ORR all considered interim measures, with Ofcom taking the lion's share at 70% of all concluded cases in which interim measures were considered. In the vast majority of these cases, it was the complainant(s) who triggered consideration of the issue by applying to the regulator for interim measures when submitting the complaint.

Interim measures were consistently refused by the relevant sector regulator: no application was ever successful. In one case, the regulator (the ORR) was actually minded to impose them and issued a notice to that effect. But based on assurances which it then received from the party under investigation (London Underground Group), it found it was not necessary to do so. It is striking that this is the application which was the closest to succeeding, yet the ORR ultimately found no grounds for action.

The level of detail regarding the regulator's reasoning varies. Where this is explained, reasons have ranged from the possibility of commercial resolution to insufficient evidence of serious and irreparable damage to the applicant (for pre-2014 cases, see further below) or of harm to the public interest in the absence of urgent action.

This illustrates the high bar for success, a point which the CMA and Government have been trying to address for some time. As noted above, in 2014 the threshold for interim measures was lowered from a requirement for "serious and irreparable damage" to "significant damage". More recently, there has been a perception that full merits appeals of interim measures decisions have served business well by deterring the CMA's use of them. With changes introduced by the DMCCA, the standard of appeal has been changed from full merits to a judicial review standard – with the aim of encouraging their greater use by the regulators.

A comparative analysis of interim measures across public and private enforcement is set out in Part C of this report.



Grounds of investigations



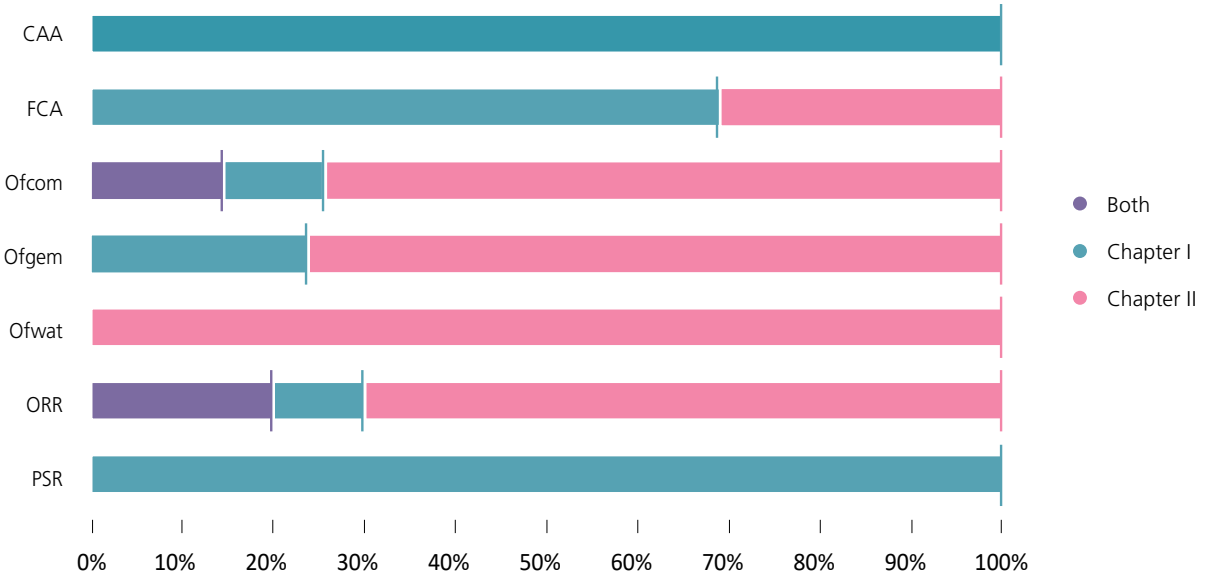
Unlike the CMA, where around 65% of investigations involved Chapter I conduct only, the majority of investigations by sector regulators were based on alleged Chapter II conduct, though there is some variation across sectors.

Ofwat (100%), Ofgem (76%) and Ofcom (75%) recorded the highest proportions of Chapter II only cases (excluding hybrid cases considering both Chapter I and II). In contrast, the FCA recorded most of its cases (nine out of 13) under Chapter I.

Only a small number of investigations involved both Chapter I and Chapter II. The only such case which resulted in an infringement decision (the CAA's only case) was ultimately based solely on Chapter I.

It has therefore been categorised as such in the chart below in line with the Methodology. The CAA initially opened the investigation on both grounds but then deprioritised the Chapter II aspects.

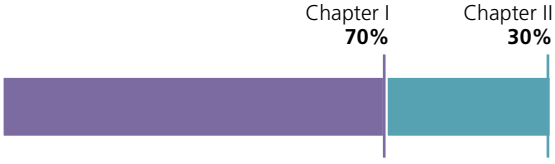
One of the (two) hybrid cases initiated by the ORR was resolved with commitments. Although its Chapter I investigation was deprioritised, the commitments were stated to address both Chapter I and Chapter II concerns. Note that the FCA's investigations into LSEG have been recorded as two separate investigations in line with the FCA's approach, notwithstanding that the proposed commitments consulted on would address both Chapter I and Chapter II concerns. Similarly, the four new investigations opened in relation to PayPal's digital wallet are opened as separate investigations based on each of Chapter I and Chapter II, obscuring the fact that the FCA will in fact be considering both types of infringement as part of the same overall matter investigation.



The characteristics of the different sectors partly explain regulators' different enforcement focus. Utilities such as water, rail, energy and communications are typically liberalised ex-state monopolies with large incumbents and networks to which access is critical to competition. They are therefore more prone to abuse of dominance/ Chapter II type issues. By contrast, financial markets generally have a much wider and more dispersed pool of participants, are more dynamic but also rely on extensive information exchange between participants. These features make them more susceptible to information sharing and other Chapter I type issues.

Infringement decisions by Chapter type

Of the 10 infringement decisions, seven involved Chapter I and three involved Chapter II. Interestingly, while Chapter II generally dominates the sector regulators' caseload, the balance is inverted for infringement decisions, which are predominantly based on Chapter I.



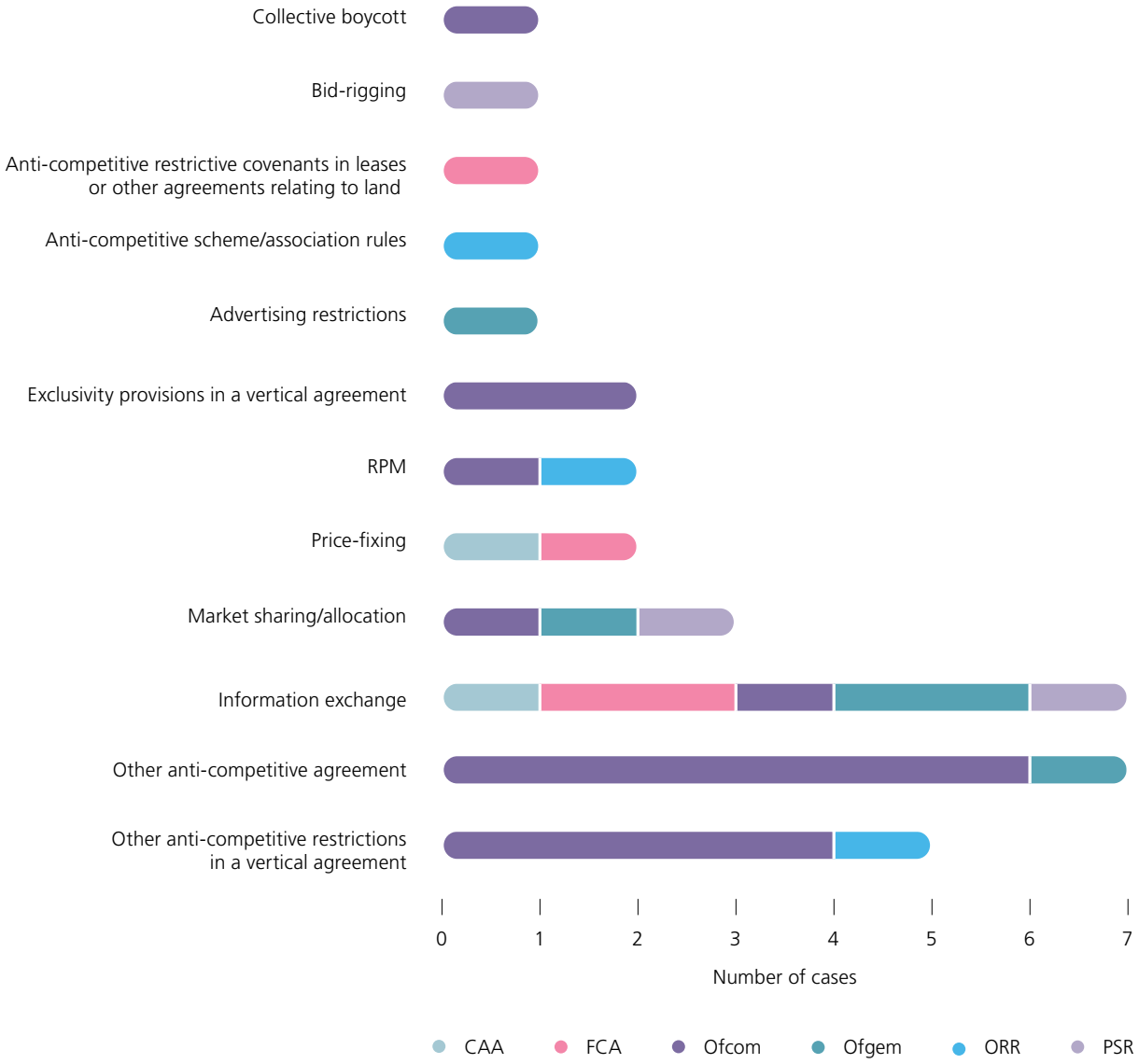
Chapter I infringements investigated

Looking more specifically at the subtypes of Chapter I infringements investigated, information exchange was the most common, featuring in seven investigations across five regulators. The data shows that other alleged Chapter I infringement subtypes were varied and generally low in volume across regulators.

"Other anti-competitive agreements", i.e. which fall outside of the other subtypes identified, featured in seven investigations. Separately, other anti-competitive restrictions in a vertical agreement featured in five investigations.

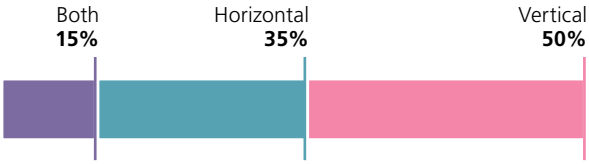
In fact, these two "other" categories feature heavily in Ofcom's caseload. Joint selling and foreclosure concerns are recurring theories of harm for alleged "other anti-competitive agreements". This stands to reason given joint selling is commonly encountered in broadcasting which is within Ofcom's remit. Excluding these two categories, exclusivity provisions were the most common alleged subtype in Ofcom's investigations.

Information exchange was the most common specifically identified alleged subtype for the FCA and Ofgem, featuring in two investigations each.



Horizontal or vertical infringements investigated

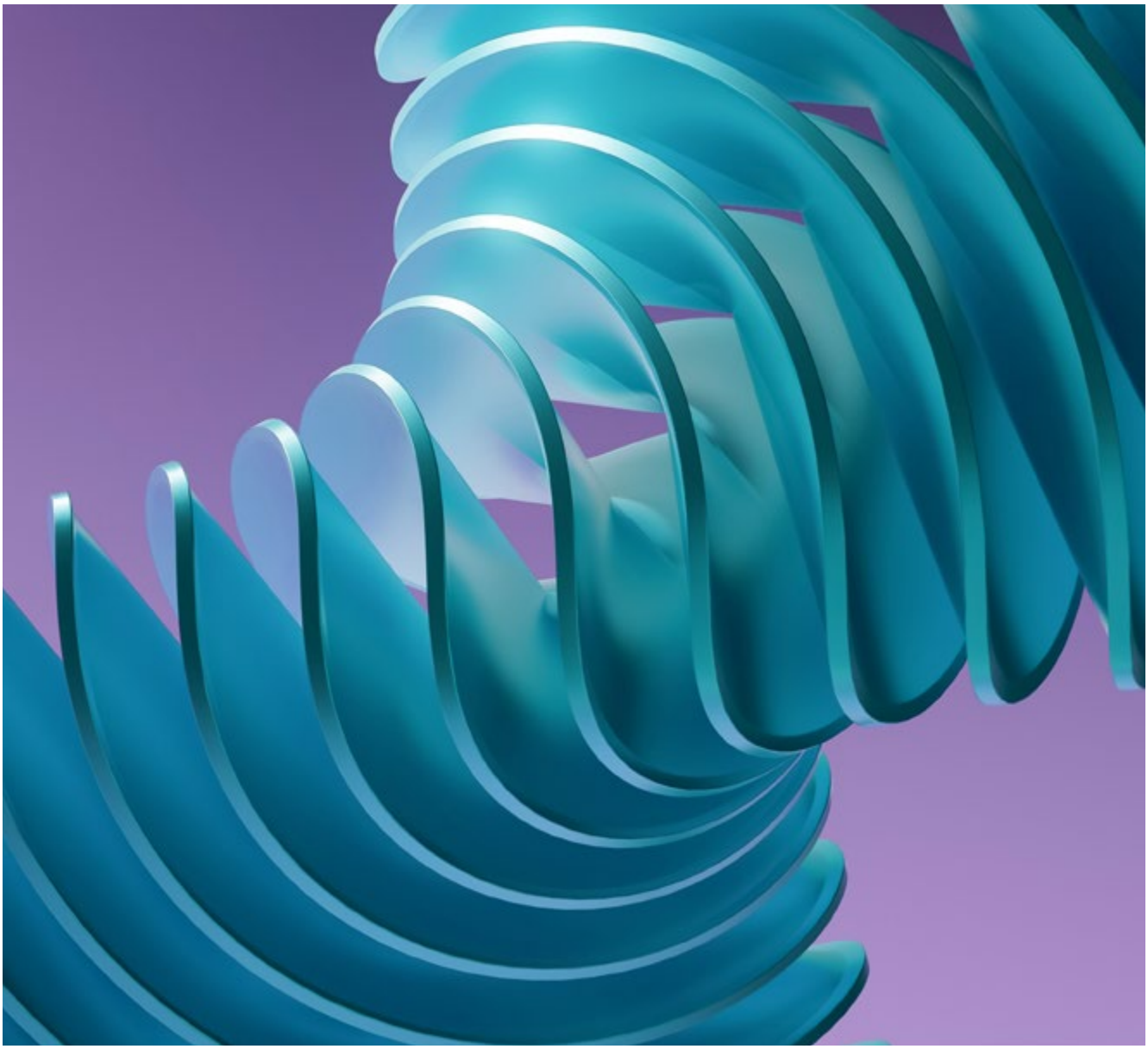
Among Chapter I infringements investigated, there was a preponderance of vertical issues considered, either in isolation or together with horizontal issues (excluding cases where there is insufficient detail concerning the nature of the infringement). This is illustrative of the types of issues commonly encountered in the regulated sectors, such as foreclosure type harms. A majority of cases looking at vertical concerns also considered Chapter II, which follows from the nature of concerns considered.



Leniency cases

Leniency is only available in certain Chapter I cases. It was applied for (and granted) in five out of the seven infringement decisions involving Chapter I infringements. Three of those are known to have involved Type A leniency, meaning there was no pre-existing investigation and the leniency applications likely triggered the investigations in those cases.





Chapter II infringements investigated

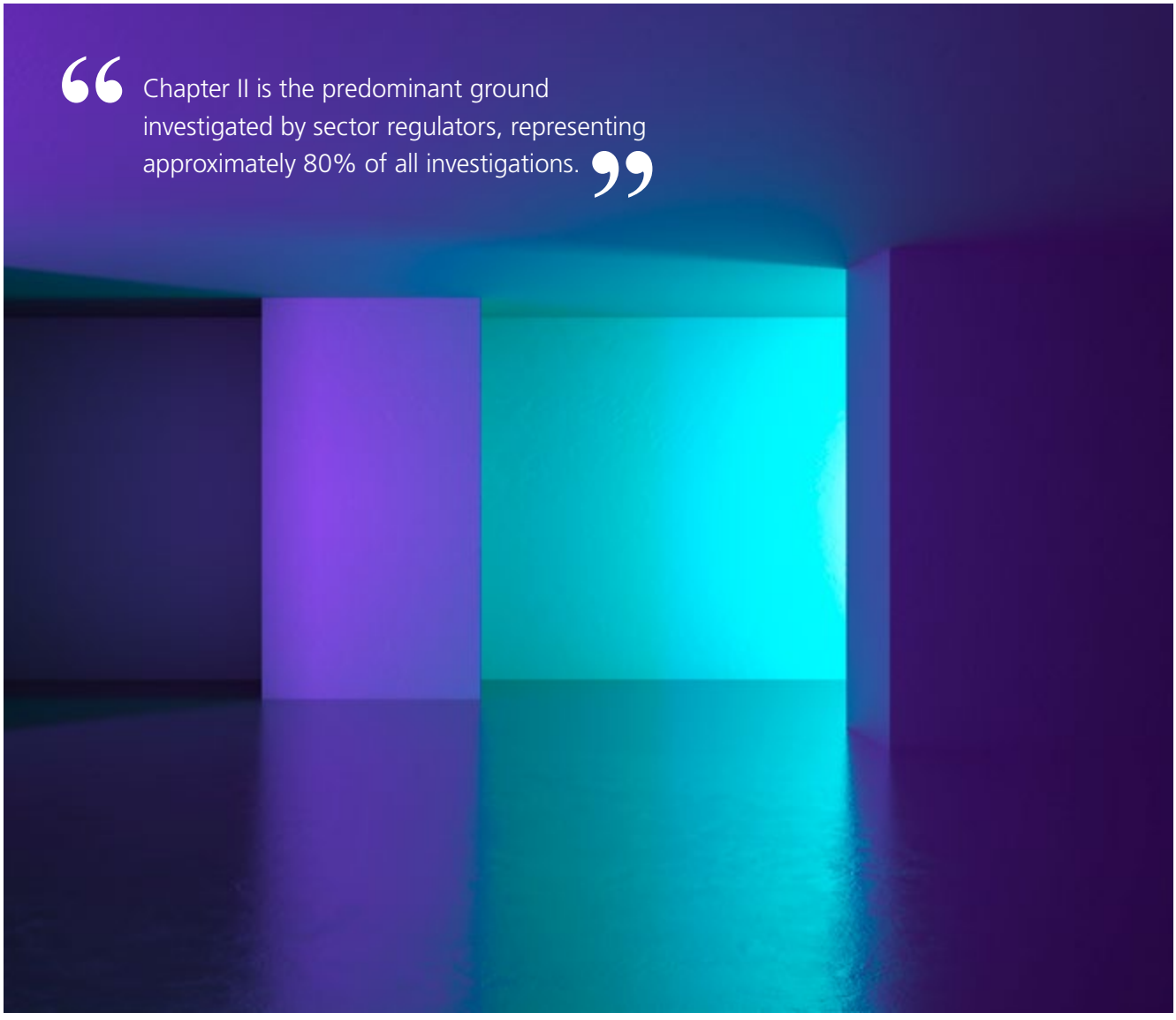
As noted, overall Chapter II is the predominant ground investigated by sector regulators, representing approximately 80% of all investigations (when considered either alone or with Chapter I, and regardless of outcome). This compares to 35% of the CMA's investigations.

In practice, Chapter II investigations may well be more intrusive and disruptive for investigated businesses. They necessarily go deep into a business's operational workings, its model, costs and internal strategy (given the relevance of any strategy to exclude a competitor). It is also well trailed that remedies can effectively (and controversially) require a change in business model.

Chapter II investigations invariably need to deal in detail with the structural and regulatory features of the markets concerned, whereas Chapter I can perhaps more likely be about individual instances of misconduct.

A Chapter I infringement can also be grounded largely on evidence which is external to a business, such as external meeting minutes, potentially subjecting a business' operations to comparatively less scrutiny. These are only general observations, however, as much will depend on the nature of the specific Chapter I or II infringement investigated. And the cost and disruption to a business of the scrutiny in any investigation should in no way be underestimated.

The data on the next page is based on five regulators which have published decisions on, or sufficient information about ongoing investigations into, alleged Chapter II infringements as at the research cut-off date: Ofcom, Ofwat, Ofgem, the FCA and the ORR. The CAA did initiate an investigation on both Chapter I and Chapter II grounds but then narrowed the scope to exclude Chapter II. Accordingly, the CAA was not considered in the data that follows.



Chapter II infringements investigated by regulator



Discrimination (other than self-preferencing) was the most frequently investigated Chapter II infringement subtype, appearing in 33 investigations across four regulators. It includes theories of harm involving both price and non-price discrimination, but excluding pure allegations of "self-preferencing", a more recent concept which has not to date been investigated on a standalone basis by sector regulators (even though in substance these investigations typically did involve some element of preferencing of the investigated party's business). The next most common sub-type is margin squeeze, followed by predation. Refusal to supply/access restrictions was the only infringement type investigated by all five regulators, appearing in 14 investigations.

Ofcom accounted for the majority of investigations across most infringement types, particularly discrimination, margin squeeze and predation. Discrimination was also the most common infringement type investigated by Ofgem and Ofwat. ORR investigated exclusive dealing most frequently, followed by predation and refusal to supply/access. Bundling was investigated exclusively by Ofcom.

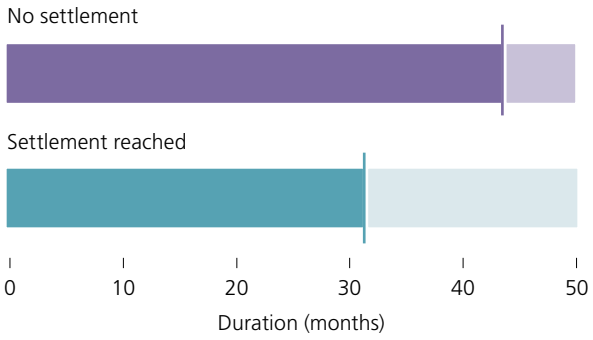
These theories of harm, particularly the preponderance of discrimination, margin squeeze/predation and refusal to supply, are consistent with the types of issues faced by concurrent regulators in their sectors, typically combining incumbent networks with the introduction of competition, often downstream.

Settlements in infringement decisions

Settlements were pursued in four of the 10 infringement decisions, which is lower than the CMA's average of 56%. All of them were Chapter I cases and none of them involved hybrid settlement procedures (despite one case involving five parties (the PSR decision)). By contrast, nearly 30% of the CMA's Chapter I settled investigations involved hybrid settlements.



Infringement decisions which were settled were resolved on average 12 months quicker than contested cases, reflecting significant potential resource savings for both parties and the regulators.





Key takeaways for businesses



The high proportion of cases prompted by third-party complaints is striking. It is not necessarily surprising however given the combination of markets being opened up to competition with new entrants relying on and/or competing directly with the incumbent network businesses. It does highlight the need for businesses to identify and manage competition compliance risk.



The low number of infringement decisions and decline in number of formal investigations does not give the full picture. Many regulators are resorting to softer forms of enforcement as well, such as warning or advisory letters, or informal information gathering. This is not recorded in the data.



The concurrent regulators tend to look at competition-related issues holistically, alongside their sector regulatory powers and with an "outcomes-focused" mindset. This is seen in the trend of regulators increasingly resorting to regulatory means of resolving competition-related issues.



The CMA's recent 10-year review of the concurrency model resulted in recommendations to "dial-up" cooperation and further improve the workings of the concurrency system, including investment in the pipeline of cases. The CMA has already shared best practice with the sector regulators on this, including using data science techniques to screen for bid-rigging. Businesses may therefore anticipate more proactive case identification by sector regulators, including through data they hold from their regulatory activity.



Concurrent competition enforcement therefore seems far from dead. The data and analysis show a much more nuanced picture – a key question however being how well the sector regulators weather the current political storm and structural and organisational challenges some of them are facing.



Businesses must also recognise that exposure extends beyond public enforcement. Private competition claims, including collective proceedings, have become more prominent in the regulated sectors, and regulatory investigations and market reviews can inform standalone claims even where no infringement has been found.

Part C:
Private enforcement of competition law before the Competition Appeal Tribunal

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Overview of our private enforcement data analysis

This third report is the first time we have added private enforcement to our quantitative analysis of UK competition enforcement cases i.e. claims for damages and/or other relief brought by individuals and/or businesses who believe they have suffered harm as a result of a breach of competition law.

It comes at an opportune time: private enforcement has grown dramatically since the expansion of the jurisdiction of the Competition Appeal Tribunal (**CAT**) in 2015 (discussed further below) and the role of private enforcement alongside public enforcement is under increasing scrutiny.

At the time of writing, the Government is actively considering significant changes to the opt-out collective action regime (that allows competition damages claims to be brought on behalf of very large classes of claimants) and a senior judge recently described the CAT as "bulging at the seams" in terms of case workload.



Unlike public enforcement, which is primarily focused on punishment and deterrence, private enforcement of competition law is predominantly about seeking compensation (and/or injunctive relief in certain cases, as a means of bringing allegedly harmful conduct to an end). It is not affected by prosecutorial discretion or resource constraints. If a case is brought before the CAT, the CAT has to take it (at least as far as a strike-out application, unless it is withdrawn); it cannot refuse to do so on policy grounds. This makes private enforcement an attractive route for complainants at times of policy uncertainty or other regulatory policy priorities (see Part A).

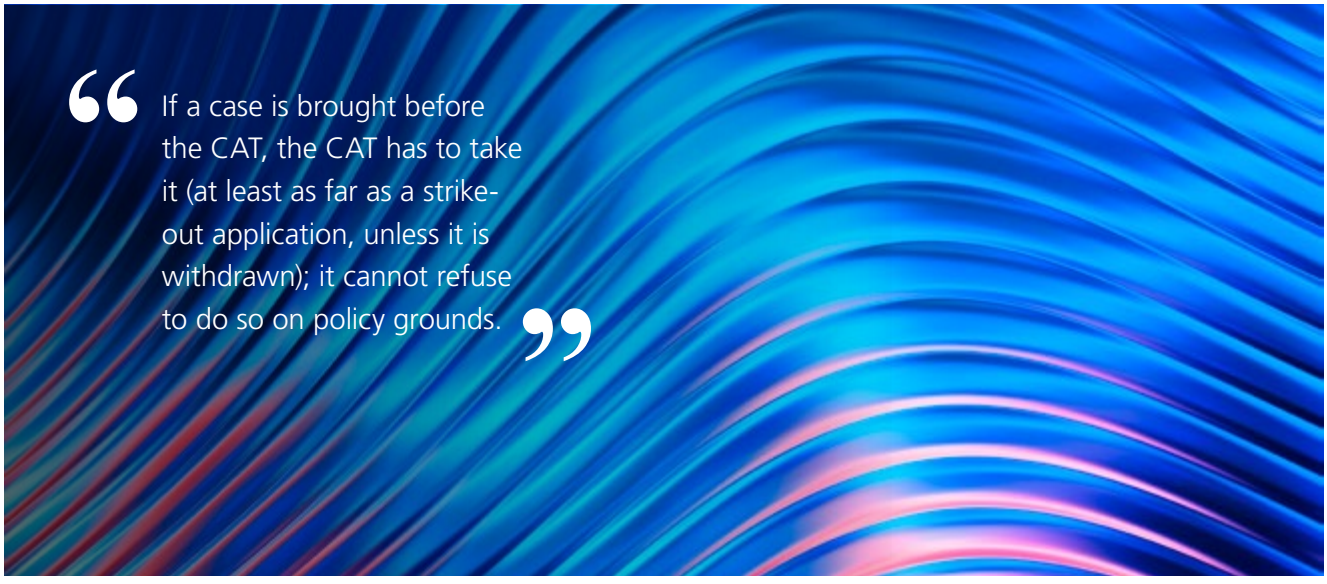
Private enforcement claims for damages (and/or other relief) can be brought by individual claimants (referred to as "individual" claims in this report) or by a class representative acting on behalf of a class of claimants (referred to as "collective" claims in this report). Our analysis covers all individual and collective claims registered at the CAT between 1 October 2015 and 31 May 2026. This reflects the fact that 1 October 2015 was when the CAT's jurisdiction was significantly expanded to include "standalone" claims (i.e. claims not based on an underlying infringement decision by the CMA or (pre-Brexit) the European Commission) as well as follow-on claims; and "opt-out" collective claims on behalf of consumers and/or businesses (discussed further below). It was also expanded to allow businesses, as well as individuals, to bring opt-in collective actions; and to allow the CAT to grant injunctions. In some cases, a claim may have been initiated in the High Court and subsequently transferred to the CAT, but our focus is solely on proceedings once they are before the CAT, which is now firmly established as the primary specialist forum for competition litigation in the UK.

It is not uncommon for a breach of competition law to give rise to multiple claims for damages. In some cases this can include both individual claims and collective claims, as illustrated most notably by the damages claims stemming from the European Commission's decisions in respect of *Trucks and Interchange Fees*. In order to avoid this distorting the analysis, we have grouped related claims and counted them as a single "case" for the purposes of the statistics presented in this report. This is explained in more detail in the Methodology on pages 112–113, which also outlines a number of other methodological choices.

This gives us a body of 100 "cases" that we have analysed in depth – 50 individual cases, 40 collective cases, and 10 hybrid cases (that involve both individual and collective claims in respect of the same infringing conduct).

Our focus is substantive more than procedural, with the emphasis on the additional exposure risk for companies facing allegations of breaching competition law. We consider in detail the types of infringements that feature most prominently in private enforcement, as well as the sectors that have seen the most private enforcement activity over the review period. We have also analysed the types of relief sought, success rates, duration of proceedings, and certain features particular to collective claims, such as certification outcomes. Combining this analysis with the analysis of public enforcement covered in Parts A and B, we are also able to draw some interesting comparisons between private and public enforcement. We make multiple cuts of the data, including drilling down into – for example – individual vs collective claims, standalone vs follow-on claims, and trends over time.

To our knowledge this is the first time anyone has carried out this analysis on a comprehensive forensic basis, allowing us to offer evidence-based insights into key trends shaping the development of private enforcement.



Trends over time: the growth in private enforcement

Prior to 1 October 2015, the CAT's jurisdiction was limited to hearing follow-on damages claims (i.e. based squarely on an underlying infringement decision of either the CMA or (in the pre-Brexit era) the European Commission). The consumer organisation Which? could bring claims on behalf of a class of individual claimants but only on an "opt-in" basis (i.e. members of the class were required to actively opt in to be included in the claim, rather than being included automatically if they fell within the defined scope of the class).

The Consumer Rights Act 2015 expanded the CAT's jurisdiction to hear "standalone" claims (i.e. not based on a prior regulatory infringement decision) and, importantly, to hear claims brought by a class representative on an "opt-out" basis, allowing actions to be brought on behalf of very large numbers of claimants (automatically including anyone resident in the UK, unless they expressly opt out). It also gave the CAT the ability to grant injunctions and extended the collective regime to encompass claims brought on behalf of a class of business claimants.

"The Consumer Rights Act 2015 expanded the CAT's jurisdiction to hear "standalone" claims and claims brought by a class representative on an "opt-out" basis."

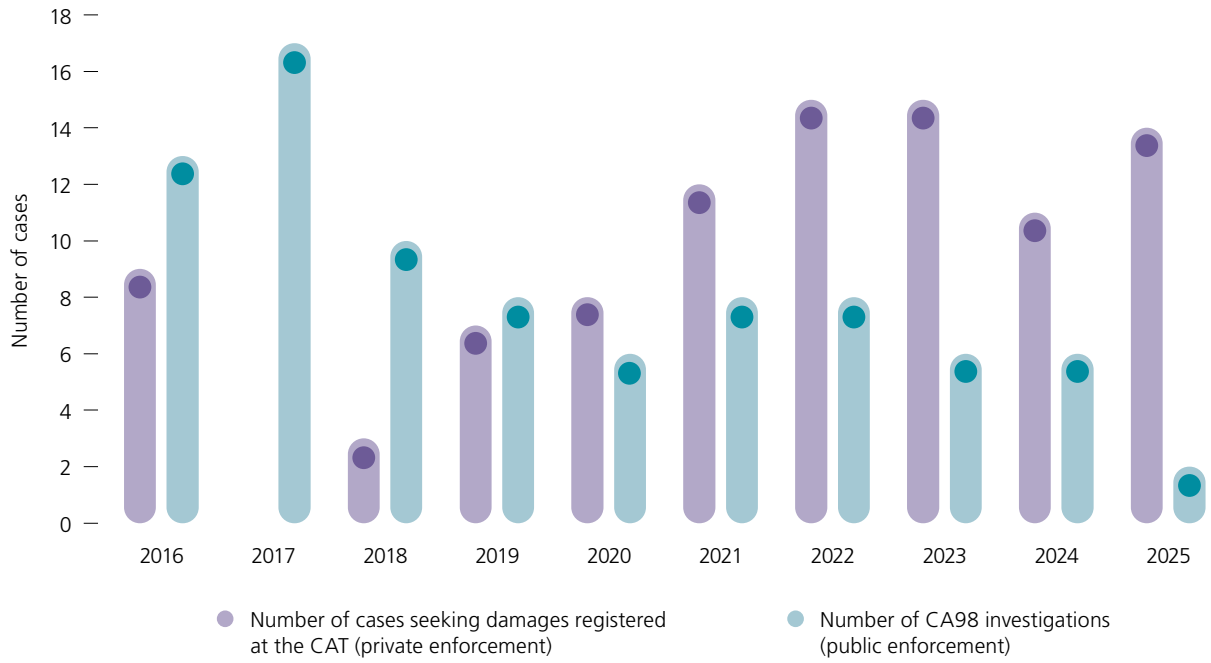


Increasing prominence of private enforcement vs public enforcement

There has been exponential growth in the number of cases registered at the CAT over the review period (on the basis of full-year data), which is all the more notable when compared to the corresponding decline in public enforcement by the CMA and concurrent sector regulators.

There is a clear trend of private enforcement becoming increasingly prominent relative to public enforcement over time, with particularly marked growth of private enforcement since 2021.

Public and private enforcement over time



Note: *Only full-year data is included. Public enforcement refers to CMA and concurrent regulator data combined.*



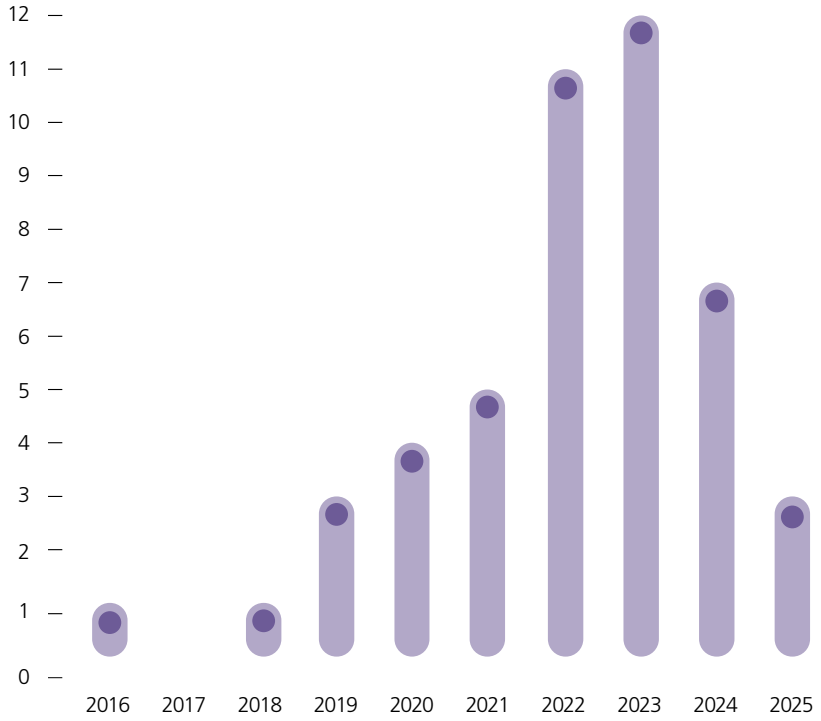
Collective claims driving much of the increase

The growth of private enforcement has been driven in particular by a significant increase in the number of collective claims since the jurisdiction of the CAT was extended in 2015 to include opt-out claims. The next chart shows the number of cases involving collective claims registered at the CAT over the review period (on the basis of full-year data and including groups of related claims involving both individual and collective claims). The initial rate of growth in 2015-2020 was relatively slow – certainly slower than many commentators and indeed the Government had anticipated. However, the landmark Supreme Court judgment in *Merricks v Mastercard* in December 2020 turbo-charged the opt-out collective actions regime by significantly lowering the bar for certification (a key gateway stage at which the CAT determines whether the claim may proceed to substantive trial). Since that judgment, a wave of cases has been certified and the number of new collective cases has grown considerably.

There have been some indications of a slight downturn in the number of new collective cases more recently. There could be a number of reasons for this, including some dampening of litigation funders' appetites to back such claims, in circumstances where many already have significant financial exposure to the regime and have yet to make a return, alongside a sharp focus on the need to maximise the level of distribution to class members, and concerns about the duration of proceedings. However, the tail-off is less marked than the chart showing collective claims registered by year might at first sight suggest, because a number of claims filed more recently have been grouped with related claims already registered at the CAT (and so are not counted as separate cases for the purposes of our analysis). There are also signs of a renewed uptick in 2026: when looking solely at the number of new collective claims (irrespective of whether linked with an existing case), eight new collective claims have already been registered this year as at October 2026.

It remains to be seen whether the growth in collective claims will be curtailed by legislative reforms being actively considered by the Government at the time of writing, including in particular a proposal to raise the certification threshold by requiring the CAT to consider the "absolute suitability" of a claim to proceed as a collective claim rather than merely the "relative suitability" of bringing the claim on a collective vs individual basis.

Collective cases registered at the CAT over time (by year of first registration for related claims)



The recent tail-off is less marked than this chart suggests – and at the time of writing eight new collective claims have already been filed in 2026.

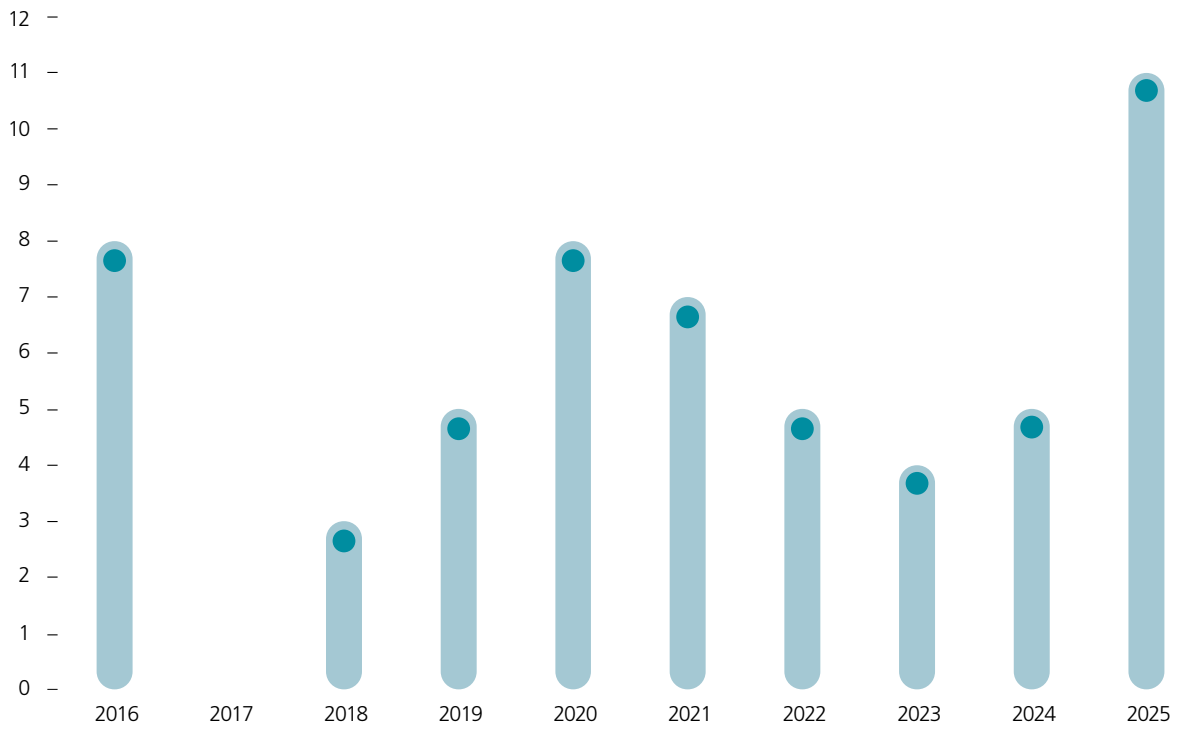
Note: *Only full-year data is included. Case counts shown here include groups of related claims involving both individual and collective claims.*

Individual claims also increasing – but less consistently

Turning to individual claims, here we see greater fluctuation in the number of cases registered each year over the review period, but the data nonetheless provides a good reminder that not all of the growth in private enforcement relates to collective actions.

Looking ahead, a steady stream of individual claims seems likely to continue irrespective of whether potential legislative reforms, developments in the litigation funding landscape and/or other factors combine to have a dampening effect on collective actions in the future.

Individual cases registered at the CAT over time (by year of first registration for related claims)



Note: *Only full-year data is included. Case counts shown here include groups of related claims involving both individual and collective claims.*

> Not all of the growth in private enforcement relates to collective actions.

Trends over time: the growth in private enforcement:

Key takeaways



29% of private enforcement cases were registered at the CAT in 2016 to 2020 compared to 71% registered in 2021 to 2025 (based on analysis of full-year data only).



Private enforcement overtook public enforcement by the CMA and sector regulators in 2020 and the gap has widened since then.



New case registrations at the CAT peaked at 15 cases in both 2022 and 2023, before falling to 11 in 2024 and rising to 14 in 2025.



Meanwhile, public enforcement by the CMA remained at a lower and relatively stable level, with six to eight cases investigated annually between 2020 and 2024, before falling to two in 2025 (see Part A). Public enforcement by concurrent regulators has generally declined in recent years (apart from the FCA which has maintained consistent investigative activity) (see Part B).



Collective claims have driven much of this growth in private enforcement, but the past may not be a good guide to the future if reforms currently under consideration are implemented.

Cases by CA98 infringement

Looking at the types of competition law infringements that most commonly give rise to private enforcement before the CAT, we see a marked contrast with public enforcement when we compare the split between allegations relating to anti-competitive agreements (Chapter I and – pre-Brexit – Article 101 of the Treaty on the Functioning of the European Union (**TFEU**)) with allegations relating to abuse of dominance (Chapter II and – pre-Brexit – Article 102 TFEU).



Marked contrast between public and private enforcement

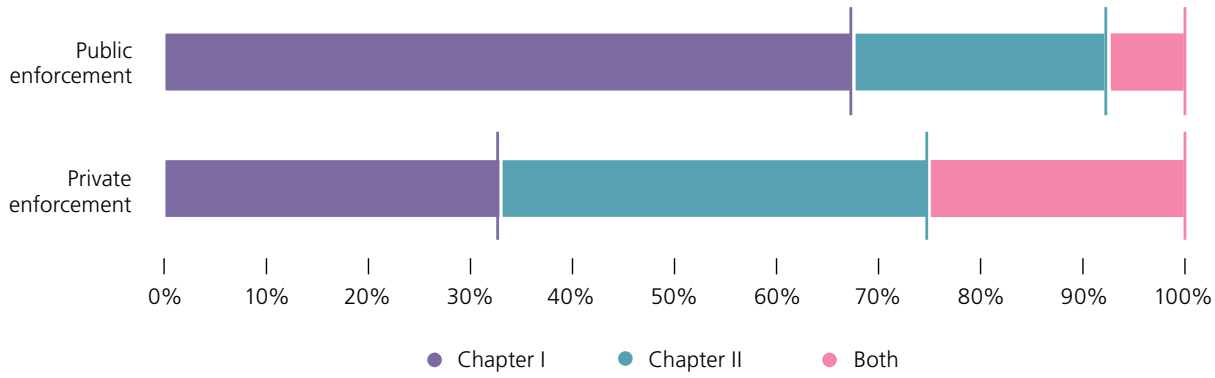
Public enforcement has predominantly been focused on the prohibition on anti-competitive agreements. Over the period 1 October 2015 to 31 May 2026 these types of alleged infringements accounted for 75% of investigations initiated by the CMA and sector regulators (when including investigations targeting alleged breaches of both Chapter I/Article 101 and Chapter II/Article 102), compared to 58% of private enforcement cases. The contrast is greater still when considering cases focused solely on Chapter I/Article 101 infringements: 67% of public enforcement cases vs 33% of private enforcement cases.

The position is reversed when it comes to alleged breaches of the prohibition on abuse of dominance, with the split much more heavily weighted towards private enforcement: 67% of private enforcement cases vs 33% of public enforcement cases when including investigations targeting alleged breaches of both Chapter I/Article 101 and Chapter II/Article 102, and 42% of private enforcement cases vs 25% of public enforcement cases when considering cases focused solely on Chapter II/Article 102 infringements.

This is not surprising. Abuse of dominance cases are prime territory for damages claims (in particular collective claims): they tend to be high value claims seeking compensation from large companies (perceived to be in a position to pay out significant amounts). They are brought by individuals and/or companies that believe they have suffered substantial losses as a result of exclusionary or exploitative conduct. The conduct in question is not secret (unlike, for example, a price-fixing cartel) and the claim is (usually) targeted at just one defendant. The higher number of abuse of dominance claims before the CAT likely also reflects the lower number of infringement decisions by regulators in this area (see Parts A and B), and the perception that injunctive relief to bring ongoing abusive conduct to an end is more likely to be obtained more quickly via an application to the CAT for an interim injunction (see further below).

By contrast, abuse of dominance cases are notoriously hard and time-consuming for the public agencies to bring. The CMA has had success, notably in the pharmaceutical excessive pricing cases, and has achieved settlements, but it stands to reason that cartels are more attractive candidates for public enforcement.

Comparison of public vs private enforcement (percentage of cases by infringement type)



> Public enforcement has predominantly been focused on the prohibition on anti-competitive agreements... The position is reversed when it comes to alleged breaches of the prohibition on abuse of dominance, with the split much more heavily weighted towards private enforcement.

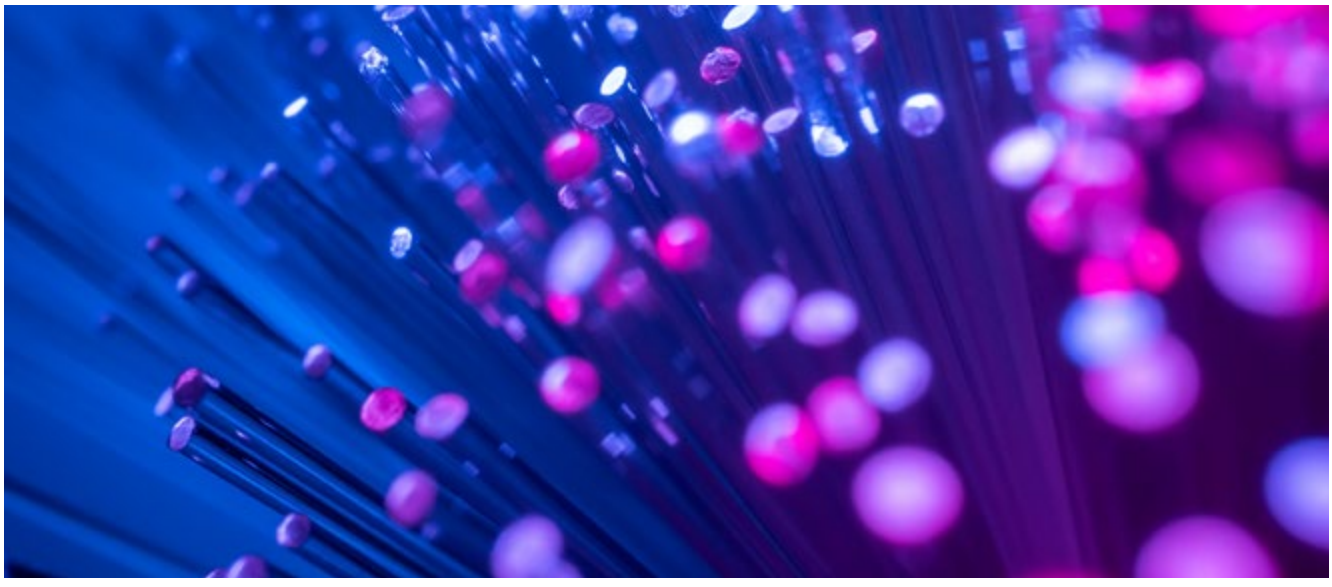
Chapter I cases: sub-types of infringement

Breaking the data down further into sub-types of infringement alleged reveals additional important insights into the specific types of anti-competitive conduct that involve the greatest risk of exposure to private enforcement.

For alleged Chapter I infringements we see that private enforcement follows a similar pattern to public enforcement, with price-fixing, market sharing and information exchange dominating at a horizontal level, and resale price maintenance (**RPM**) at a vertical level.

Chapter I infringement sub-types

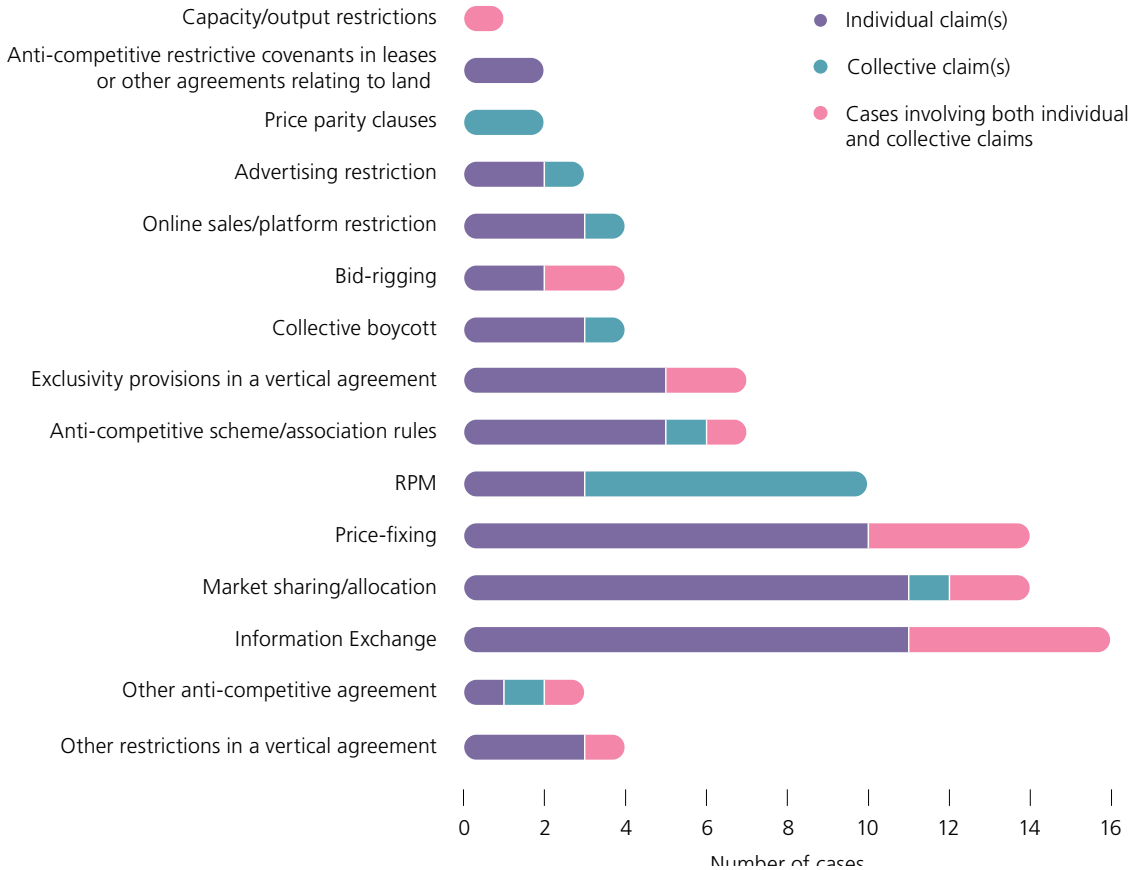




Chapter I cases: sub-types of infringement – individual vs collective claims

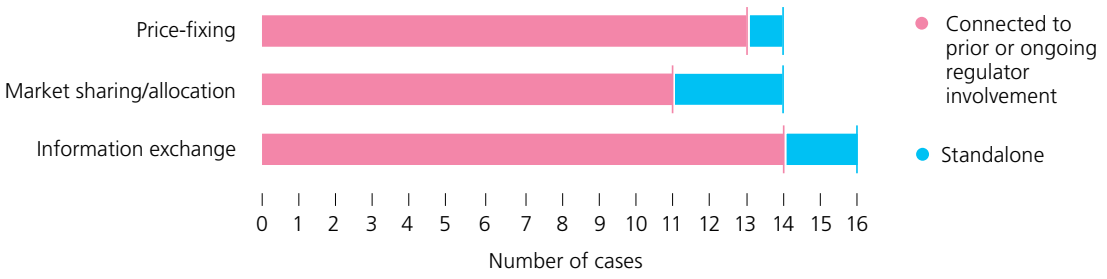
Cutting the data further by individual vs collective claims shines a light on where these claims are coming from. Private enforcement cases alleging one or more of the major Chapter I "horizontal" anti-competitive agreement categories of price fixing, market sharing and information exchange were predominantly brought as individual, rather than collective, claims.

Chapter I infringement sub-types: individual vs collective claims (number of cases)



At first sight, this may seem counter-intuitive. But when digging into the data yet further it becomes clearer what is going on here. These individual claims were brought mainly by large businesses seeking significant sums of damages, in circumstances where they did not need to join together with a large number of other claimants to make the claims viable to bring. Moreover, as illustrated by the three bar charts below, in the vast majority of these cases, the claims were brought in reliance on some form of prior or ongoing regulator involvement (most commonly a European Commission infringement or settlement decision imposing large fines on the companies involved in the infringement) to establish liability. This significantly facilitates bringing a successful claim, allowing the claimants to focus on proving causation and loss.

Number of Chapter I infringement sub-types by basis of claim (largest sub-types only)



Chapter II cases: sub-types of infringement

Turning now to abuse of dominance infringements, the data shows that excessive pricing, refusal to supply/access restrictions and unfair trading terms dominate as sub-types – followed by discrimination, self-preferencing, exclusive dealing, tying, exclusionary membership rules and alleged misuse of regulatory/legal or IP processes.

Chapter II infringement sub-types





Chapter II cases: sub-types of infringement – individual vs collective

The data also demonstrates in the clearest empirical terms that collective claims have driven the high number of private enforcement cases alleging exploitative abuses of dominance (i.e. abuses that directly harm consumers), whereas individual claims have tended to be more focussed on exclusionary abuses (which harm the process of competition):

— Looking at the two most commonly alleged exploitative sub-types of abuse, 14 out of 16 cases alleging excessive pricing and 14 out of 18 cases alleging unfair trading terms involved collective claims (including groups of related cases involving both collective and individual claims). All three cases involving limiting technical development to the disadvantage of consumers were also collective claims, as were six out of seven in the "other exploitative abuse" category.

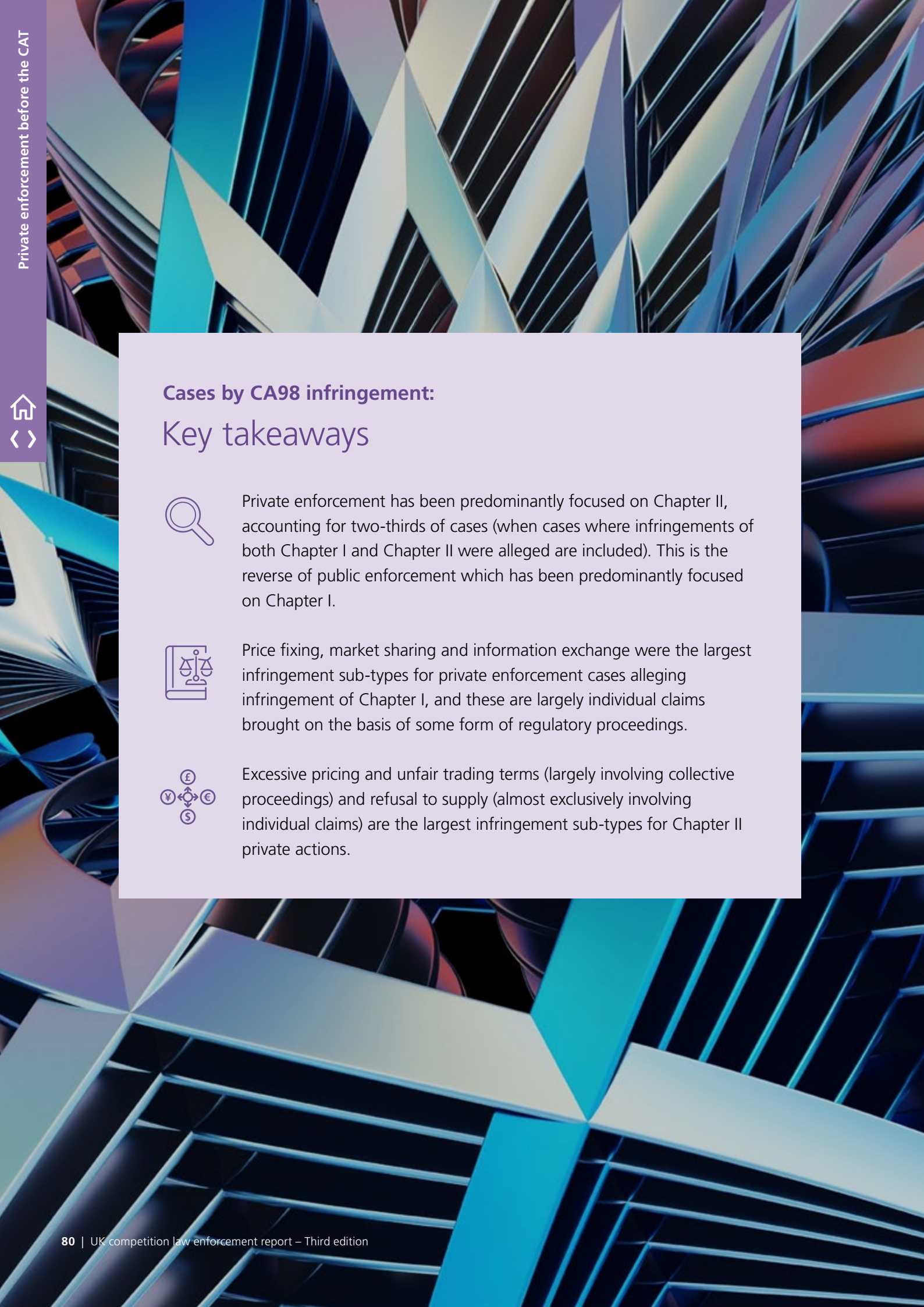
— By contrast, for the most commonly alleged exclusionary sub-type of abuse – refusal to supply/access restrictions – 15 out of 17 cases involved individual claims (again including groups of related cases involving both collective and individual claims). This is to be expected, as in such cases it is typically one competitor company that is being excluded. Individual claims also dominated in cases alleging abuse of dominance by exclusive dealing (seven out of eight cases) and the "other exclusionary abuse" category (six out of seven cases).

Chapter II infringement sub-types: individual vs collective claims



There is one final point on infringement sub-types that draws the Chapter I and Chapter II data together. The alleged infringement sub-types add up to 95 for Chapter I and 120 for Chapter II, i.e. 215 alleged infringements in total across the 100 cases in our data set. This is empirical evidence that an average of two sub-types of infringement are alleged per case.

The statistic is not surprising; complainants will always put their case as high as they can. But it is perhaps not as high as one would expect, suggesting there may be limitations on the number of different ways cases can be put.



Cases by CA98 infringement:

Key takeaways

Private enforcement has been predominantly focused on Chapter II, accounting for two-thirds of cases (when cases where infringements of both Chapter I and Chapter II were alleged are included). This is the reverse of public enforcement which has been predominantly focused on Chapter I.

Price fixing, market sharing and information exchange were the largest infringement sub-types for private enforcement cases alleging infringement of Chapter I, and these are largely individual claims brought on the basis of some form of regulatory proceedings.

Excessive pricing and unfair trading terms (largely involving collective proceedings) and refusal to supply (almost exclusively involving individual claims) are the largest infringement sub-types for Chapter II private actions.

Sector analysis

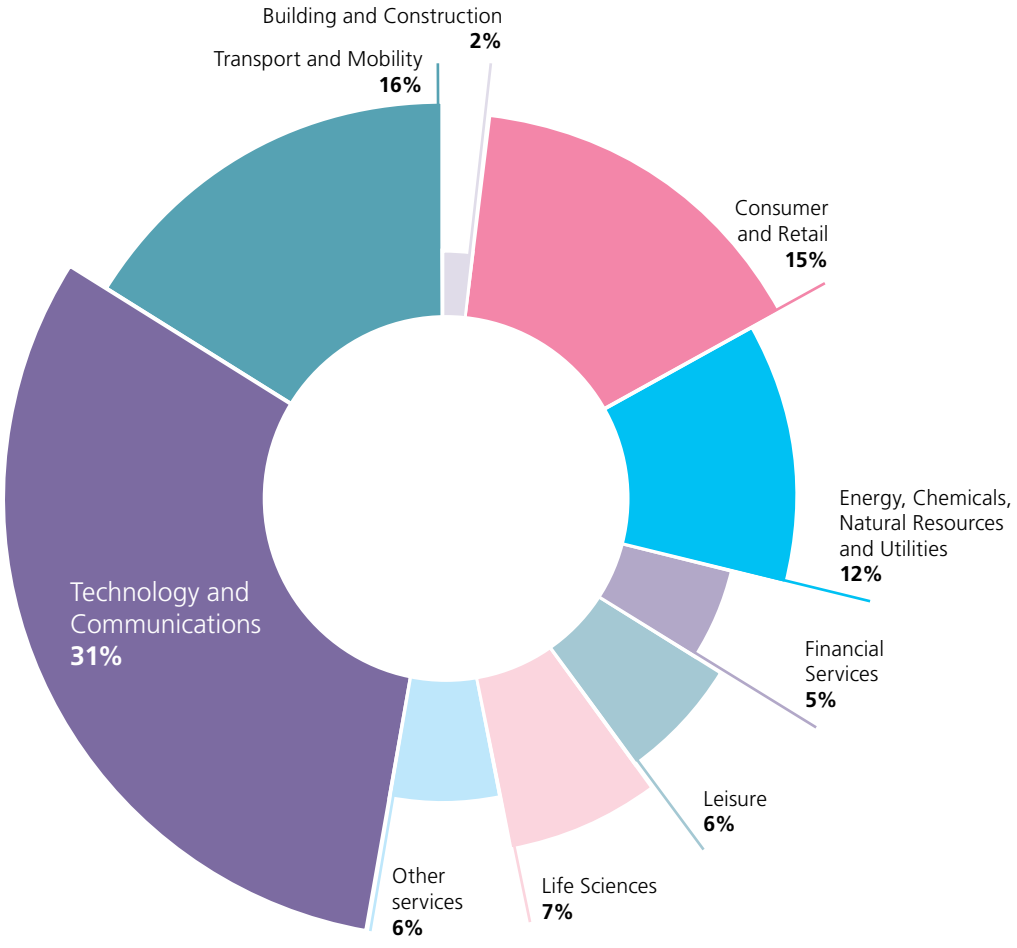
The sectoral breakdowns are similarly informative. We grouped the 100 private enforcement cases across the same nine sector categories used in Part A of this report to identify risk by sector, as well as considering sectoral distribution over time.

Private enforcement risk by sector

Technology and Communications was the sector that accounted for the highest number of private enforcement cases (31%), followed by Transport and Mobility (16%), Consumer and Retail (15%) and Energy, Chemicals, Natural Resources and Utilities (12%).

These four largest sectors accounted for 74% of cases, with the remaining 26% spread across five sectors, notably including Life Sciences at 7%, Leisure at 6% and Financial Services at 5%.

Proportion of private enforcement cases by sector groupings



Sectoral distribution over time

Our data analysis also shows that the sectoral distribution of private enforcement has changed over time.

Technology and Communications has become more prominent in recent years, with 27 of its 31 cases (87%) registered at the CAT from 2021 onwards. This likely reflects the growth of major technology platforms over time. We noted in Part A of this report that the CMA has recently closed a number of CA98 investigations without a decision in this sector, and that we anticipate that we will see greater use by the CMA of its powers to impose conduct requirements (or accept commitments) under the new digital markets regime going forward. However, given that private enforcement is focused on compensation for those affected by past conduct, we anticipate that private enforcement of CA98 is still likely to be the primary route for seeking redress from large technology companies (at least while conduct requirements are in their infancy).

Consumer and Retail shows a similar, although less pronounced, pattern, with 11 of its 15 cases (73%) registered over the same period.

The Energy, Chemicals, Natural Resources and Utilities figures are heavily influenced by a single cluster: six of the sector's 12 cases were registered in 2023, all relating to class actions alleging abuse of dominance by six water companies.



Sectoral analysis: comparing private and public enforcement

The comparison with public enforcement is where we really begin to understand what is happening on a sectoral basis.

The Technology and Communications sector featured to a far greater extent in private than in public enforcement, at 31% of cases versus 15% of cases. We consider that this is likely due to a number of factors: the vast majority of claims in this sector have included abuse of dominance allegations which, as noted above, are time-consuming and difficult for regulators to pursue, and in recent years the CMA has been waiting for its new forward-looking digital regulatory powers to enter into force under the DMCCA rather than prioritising enforcement action under CA98. In addition, complainants and funders also view large technology companies as having deep pockets, making this sector ripe for collective claims.

Similarly, our analysis showed a greater focus on the Transport and Mobility sector for private enforcement, at 16% of cases versus 6% of public enforcement cases. Many of these private enforcement cases involve follow-on claims relying on pre-Brexit European Commission infringement or settlement decisions in the automotive sector (such as *Occupant Safety Systems, Car Glass, Car Carriers, Spark Plugs* and *Automotive Bearings*), which are not reflected in the public enforcement figures as those are concerned solely with enforcement by the CMA.

The number of private enforcement cases in this sector is also boosted by the three *Boundary Fares* cases being treated as three separate cases (see Methodology on page 112).

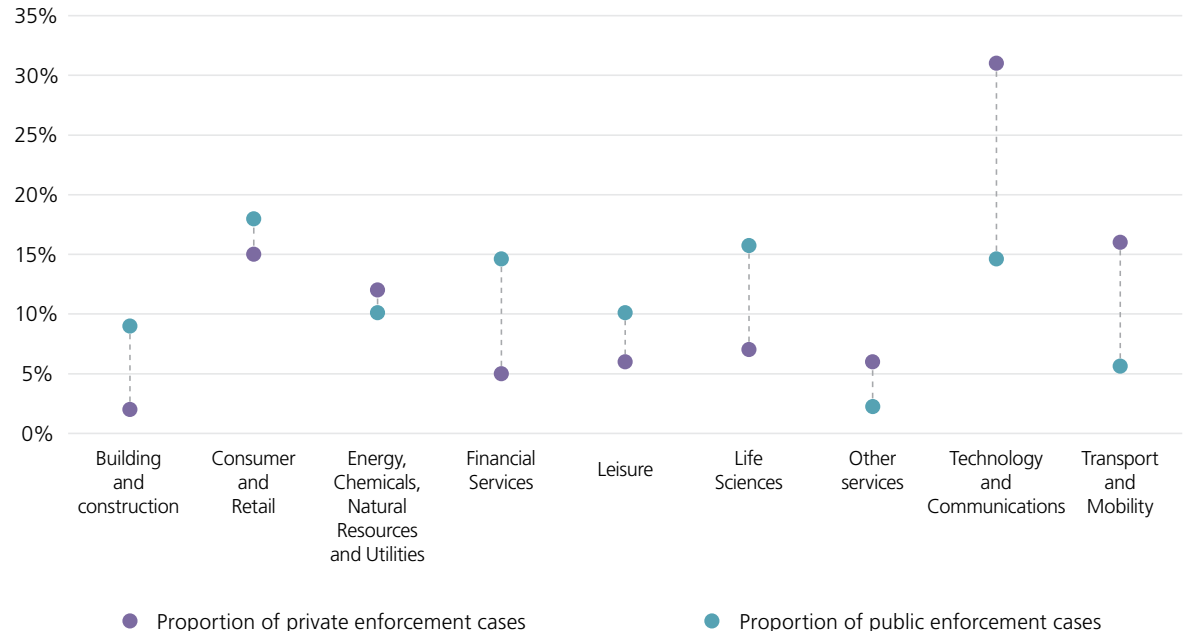
By contrast public enforcement was far stronger in Life Sciences (16% versus 7%), Financial Services (15% versus 5%) and Building and Construction (9% versus 2%). These areas are more ripe for public enforcement:

— The CMA has made clear its focus on good outcomes for consumers. Patients, often vulnerable patients, are a natural focus for an agency in this context, and the Life Sciences sector has unsurprisingly been a key enforcement priority. Similarly, the fact that alleged infringements impact the public purse through the NHS makes enforcement particularly attractive to the CMA when exercising its prosecutorial discretion.

— The Financial Services sector is both consumer-facing and has a sector-specific concurrent regulator devoted to pursuing complaints and opening investigations in this sector (see Part B of this report).

— The Building and Construction sector has consistently been a priority sector for the CMA, with a number of high-profile investigations into cartel conduct, including price fixing, market sharing and bid-rigging, often on a regional basis.

Public and private enforcement: sectoral comparison



Note: *This chart shows the sectoral distribution of private enforcement cases and public enforcement investigations (CMA and concurrent regulators) between 1 October 2015 and 31 May 2026, showing each sector as a proportion of total private or public enforcement activity respectively.*

Sectoral analysis:

Key takeaways



The Technology and Communications sector accounts for nearly a third of private enforcement cases, with a drop down to Transport and Mobility, Energy, Chemicals, Natural Resources and Utilities, and Consumer and Retail, each broadly in the region of 15%. These four sectors accounted for three quarters of private enforcement cases during the review period.



Sectors such as Technology and Communications, where regulatory investigations can be complex, feature much more in private than in public enforcement.



Sectors such as Life Sciences – where the public purse and sometimes vulnerable consumers are affected – see more public than private enforcement.

The types of relief sought in private enforcement

In private enforcement cases, claimants are almost always seeking damages to compensate them for losses that they believe have resulted from an infringement of competition law. However, other non-monetary relief may also be sought in addition to (or very occasionally even instead of) damages, in particular injunctions and declarations. In some cases claimants may also seek interim relief, pending a substantive trial of the claim, for example where refusal to supply is alleged and the claimant asks the CAT to order continuation of supply pending a judgment on the substance of the claim.

> “Damages were sought in almost every case, regardless of whether the alleged infringement concerned Chapter I, Chapter II or both.”



Final relief sought by type of alleged infringement

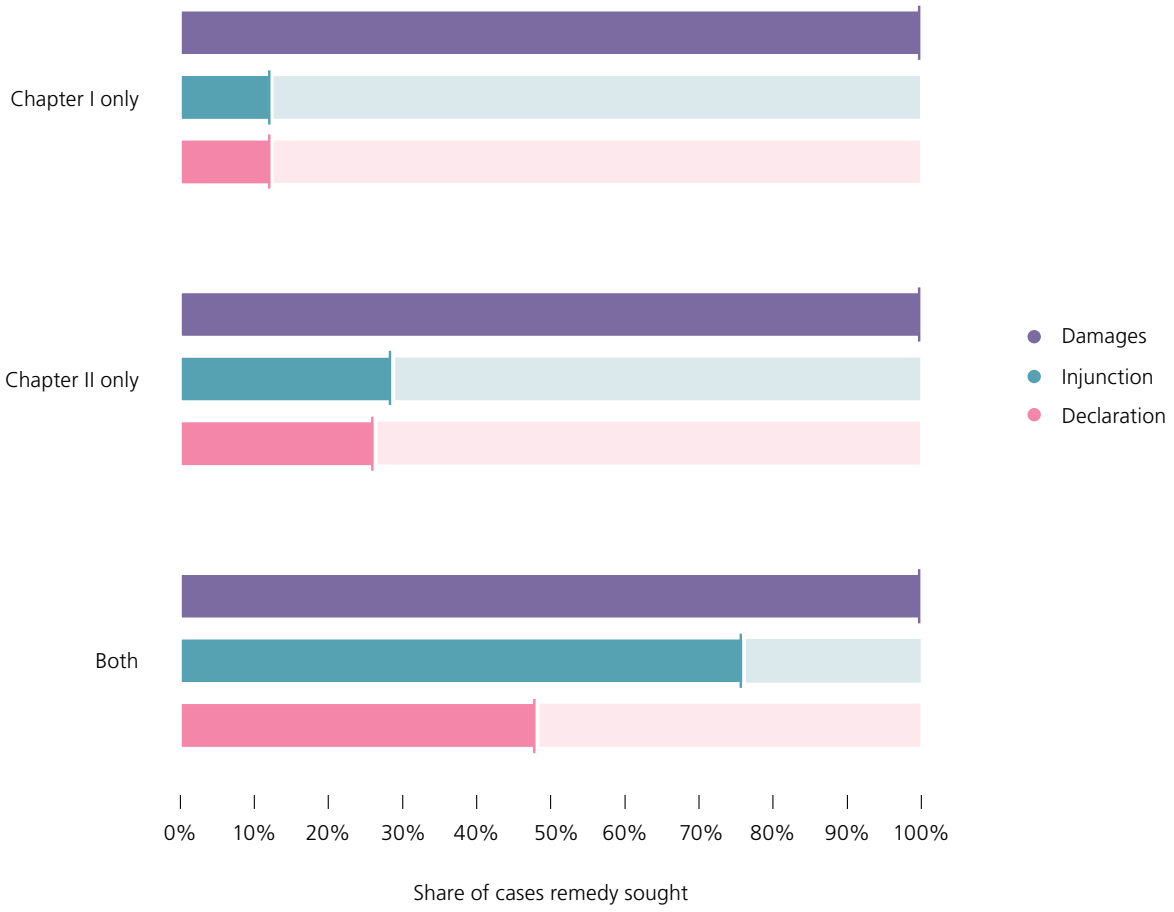
In terms of the final relief sought by claimants in private enforcement cases, our analysis confirms that damages are almost universally sought. Our analysis shows that when treating related claims as a single case, damages were sought in every case, regardless of whether the alleged infringement concerned Chapter I, Chapter II or both – subject to a single exception, which involved a competition counterclaim in a contractual dispute.

There are also examples of claims not seeking damages that are not captured in the chart due to the approach taken to related claims, with *Epic Games v Apple* being a high-profile example of a claim that sought injunctive relief only. However, it is clear that damages feature as a form of relief sought in the vast majority of cases.

Non-monetary relief such as injunctive relief and/or a declaration was also sought in a significant number of cases (usually in addition to damages). This was seen more often in Chapter II cases (29% and 26% respectively) than Chapter I cases (12% of cases for both final injunctions and declarations), when considering cases in which only one of either Chapter I or Chapter II was alleged to be infringed.

Cases where both Chapter I and Chapter II infringements were alleged saw the greatest preponderance of non-monetary relief sought (76% seeking final injunctions and 48% seeking declarations). Such cases account for only 25 of the 100 cases in our dataset so it is important not to overstate any conclusions drawn from this, but one possible explanation is that non-monetary relief is more likely to be sought in cases where claimants also advance a multi-pronged approach to identifying the alleged anti-competitive conduct.

Final relief sought by type of alleged infringement



Non-monetary relief sought by alleged Chapter II infringement sub-types

These statistics become more meaningful when they are broken down by infringement sub-type. The next chart shows the breakdown of type of non-monetary relief sought by sub-type of Chapter II infringement alleged: we have focussed on cases involving allegations of infringement of Chapter II because (as shown in the previous chart) these cases are where we see non-monetary relief most often being sought. We have included in this analysis both cases where only a Chapter II infringement was alleged and cases where both Chapter I and Chapter II infringements were alleged: we expect that in many of the latter type of case the injunctive relief sought was focused primarily on the Chapter II infringement (particularly in refusal to supply cases for example), but the publicly available information was not sufficient to reach definitive conclusions on this.

Our analysis shows that:

— Injunctions were most frequently sought in cases alleging exclusionary association or membership rules (86%), followed by refusal to supply or access restrictions (76%) and exclusive dealing (63%).

— Injunctions were also frequently sought in cases alleging tying and unfair trading terms (50%), and self-preferencing (40%).

The spread of types of alleged infringement in which declarations were sought to a significant extent is greater: exclusive dealing (50%), refusal to supply and access restrictions (47%), discrimination and exclusionary membership rules (each 43%), unfair terms, tying and self-preferencing (each 30 to 40%).

This confirms that final injunctions are most often sought in cases where claimants wish to ensure that the anti-competitive conduct in question is brought to an end and forward-looking changes can be enforced – for example, ensuring continuation of supply/access to essential inputs key to the long-term survival of a business, or changes to association or membership rules that ensure the claimant can participate fairly in the future (in addition to any damages awarded for the harm caused in the past).

Declarations are sought across a broader range of sub-types of infringements, often in conjunction with injunctions. This reflects the fact that a formal declaration that competition law has been infringed can be valuable for claimants in a wide range of circumstances, including as a deterrent against future similar conduct (by the defendant or other companies active in the same market), even if the particular circumstances of the claim mean that the claimant is unsuccessful in establishing causation and loss for an award of damages.

Non-monetary relief sought by alleged Chapter II infringement sub-types



Note: *Only alleged infringement types appearing in at least five cases are included.*

Interim relief outcomes

Interim relief is an important tool in both private and public enforcement. With regulatory and court proceedings sometimes taking multiple years before a final decision is reached, interim remedies enable the position of an affected party to be preserved, so that any final outcome reached is not rendered superfluous.

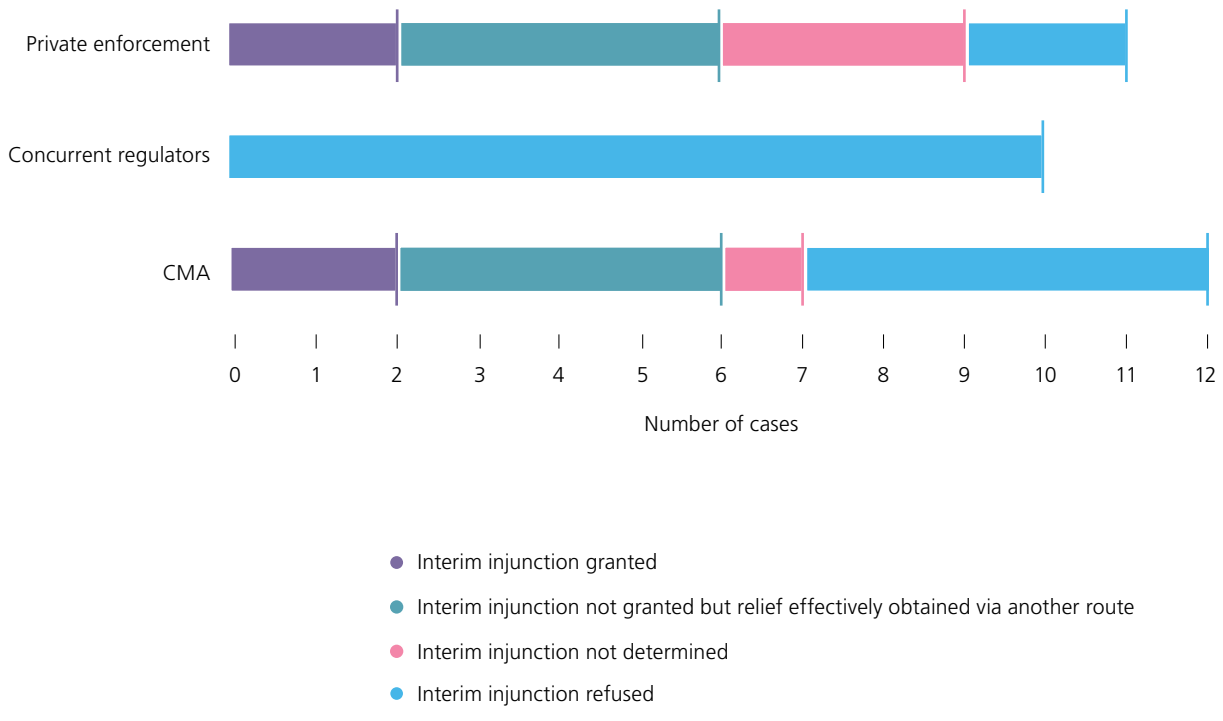
In private actions, interim relief can be imposed by the High Court or the CAT, applying the *American Cyanamid* principles: whether there is a serious issue to be tried; the adequacy of damages to the applicant; the adequacy of damages to the respondent; and considering the balance of convenience. Whilst the CMA and the concurrent regulators can consider interim measures on their own initiative, in the private sphere, interim injunctions follow an application to the court.

As explained in Parts A and B, the CMA and the concurrent regulators have the power to issue interim measures for the purpose of preventing significant damage to a particular person (or category of person) or protecting the public interest. Such a decision can be appealed to the CAT, and the appeal standard was raised from full merits to judicial review following the entry into force of the DMCCA. Going forward, this is likely to strengthen the regulator's ability to impose and withstand appeals of such decisions.

Drawing together all private and public cases where interim relief was considered, a clear picture emerges. Even where interim relief was not ultimately granted, in many private actions and CMA investigations its potential application brought the parties to the table – to agree undertakings in private actions or commitments in CMA investigations (see Part A). This means that in over half of CMA and private actions where interim relief was sought or considered, some form of interim relief was effectively obtained. That is significantly higher than the headline numbers of cases with a formal grant of interim injunction or interim measure decision.

In the case of enforcement by the concurrent regulators, as explained in Part B, interim measures were refused in all instances. However, all of those cases resulted in no grounds for action/case closure decisions, suggesting these cases were weaker on the substance. In addition, the vast majority of those cases were opened over 20 years ago, and all of them over 10 years ago. It is therefore difficult to predict what approach would be taken to new cases concerning interim relief.

Interim injunction outcomes by enforcement route



A few additional points are worth noting:

— In terms of case type, across private and public enforcement, interim relief was primarily considered for Chapter II cases. For private actions, this was predominantly refusal to supply cases, but for public enforcement cases the type of infringement was much more mixed. For the CMA and the concurrent regulators, cases primarily covered refusal to supply/access restrictions, margin squeeze, predation, unfair trading terms, "other exclusionary abuse", and other forms of discrimination. This suggests that the CMA has been a forum for less traditional allegations of abuse.

— In a handful of cases, interim relief was considered for Chapter I cases, in the context of exclusive dealing and advertising restrictions, anti-competitive scheme/association rules, joint selling and anti-competitive restrictions in a vertical agreement (other than exclusivity).

Interim relief is not always a 'one-shot' possibility. For example, in two CMA cases, the CMA considered interim measures at multiple stages in the process. In the Atlantic Joint Business Agreement case, a third-party application was initially rejected, but interim measures were then granted when the CMA failed to accept commitments. In a case involving the market for property searches, the OFT rejected a third-party application for interim measures, as a price increase at the centre of the complaint had been withdrawn (so relief had effectively been obtained voluntarily). A later request for interim measures was rejected, shortly after which the OFT published a no grounds for action decision.



The types of relief sought in private enforcement:

Key takeaways



Damages were sought in almost every case, across both Chapter I and Chapter II alleged infringements.



Final injunctions were sought to a greater extent in Chapter II (including hybrid) cases.



Within Chapter II they were particularly sought in respect of access restrictions, exclusionary membership rules and exclusive dealing, reflecting the impact of those practices on competitors' business models.



While interim relief was only granted in two out of 11 cases in which it was applied for, when added to the four cases in which undertakings were given it can be seen that some form of interim solution was effectively reached in over half of the cases. This is similar to the CMA public enforcement position where half of the 12 cases in which interim measures were considered resulted in a grant or commitments.

Types of claimant

Individual claims can be brought by any "person" who alleges that they have suffered loss or damage as a result of an infringement of competition law. This includes an individual person, a business or a government body. In contrast, collective claims must be brought by a suitable class representative (either an individual or a special purpose vehicle set up for the purpose of bringing the claim) acting on behalf of a defined class of claimants, who may be consumers or businesses (or sometimes a mixture of both).

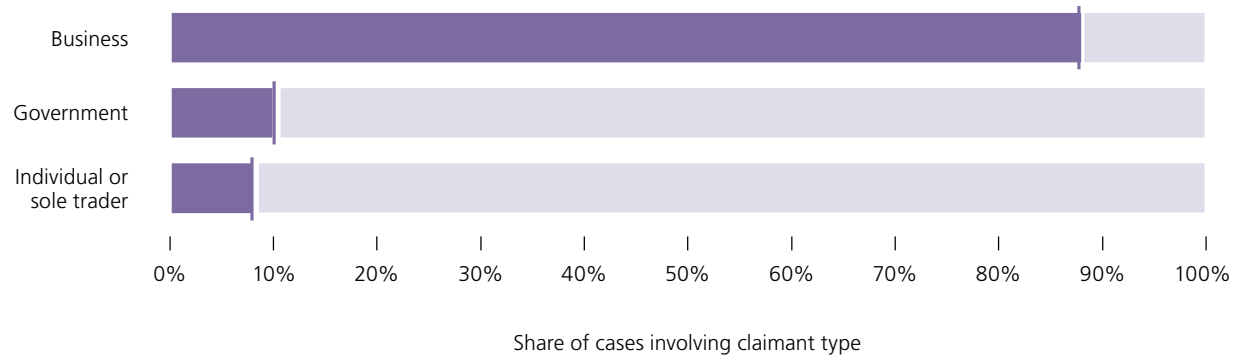
Claimant types: cases involving individual claims

Businesses were by far the most common claimant type in cases involving individual claims (either solely or – in cases involving groups of related claims – alongside collective claims), appearing in 88% of cases. Individuals and government bodies appeared as claimants much less often, at 8% and 10% respectively.

These figures do not add up to 100% due to a small number of cases involving individual claims where there was more than one type of claimant (for example, where a claim was brought by an individual as well as by businesses owned by that individual, or where in a group of related claims treated as a single case there were claims on behalf of both businesses and government bodies).

These statistics reflect the practical difficulties for individuals seeking to bring claims before the CAT. Bringing a claim is expensive and time-consuming, and businesses are likely to be in a much better position to pursue an individual claim, and also more likely to have suffered sufficiently large losses to merit incurring the costs associated with doing so.

Claimant types – individual claims



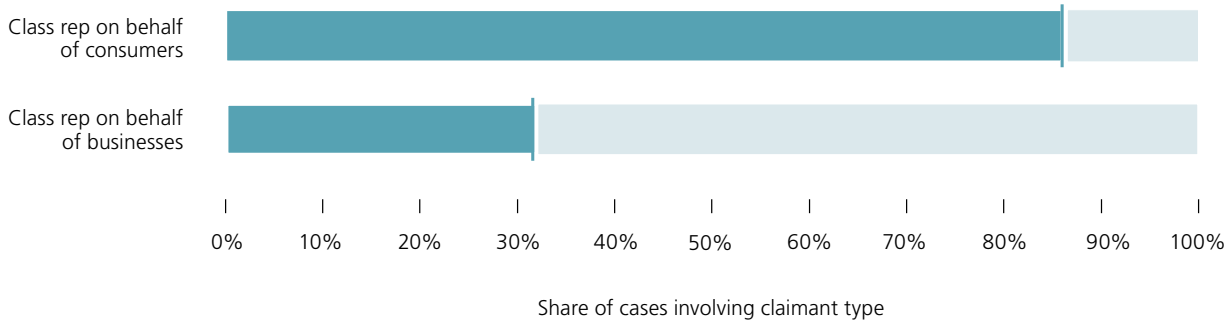
Claimant types: cases involving collective claims

In cases involving collective claims the position is reversed: class representatives have acted on behalf of individual consumers much more frequently than on behalf of businesses (86% versus 32%). Again, these figures do not add up to 100%. This is because there are collective cases where a class representative has brought a claim on behalf of both consumers and businesses, as well as cases involving groups of related claims where we see different class representatives acting at different levels of the supply chain.

The split between cases seeking redress on behalf of consumers versus businesses is in line with the policy considerations that lie at the heart of the competition collective actions regime. This regime is intended to facilitate compensation for those affected by competition law infringements in circumstances where it would not otherwise be viable for them to bring a claim. Whilst the Consumer Rights Act 2015 expanded the scope of the collective claims regime to include claims brought on behalf of businesses, it is primarily intended to benefit consumers and small and medium-sized businesses, rather than larger businesses who are arguably more likely to be well-placed to bring individual claims themselves.

The question of whether the competition collective actions regime – in particular opt-out claims – should be used to bring claims on behalf of larger businesses has recently come to the fore once more following the Supreme Court judgment in *Evans v Barclays* (December 2025). In that case the court held that where a claimant class is made up primarily of large businesses, this is more likely to point in favour of the claim being certified on an opt-in basis rather than opt-out. It remains to be seen what impact this judgment may have on the proportion of collective claims being brought by class representatives on behalf of businesses (especially when combined with the greater likelihood of securing litigation funding for an opt-out claim compared to an opt-in claim), but recent attempts to decertify existing opt-out claims have largely been refused by the CAT.

Claimant types – collective claims



> Class representatives have acted on behalf of individual consumers much more frequently than on behalf of businesses.

Types of claimant

Key takeaways



Businesses are the main claimants in individual claims.



Consumers are the main claimants in collective claims.



The growing view is that large businesses can bring individual or opt-in claims and should not need to avail themselves of the opt-out regime.

Basis of claim – follow-on vs standalone

Where a regulator has reached an infringement finding, a claim for damages will often naturally "follow on" from that decision. However, private enforcement of competition law can also involve entirely "standalone" claims that are brought *de novo*, without any reference to a regulatory infringement decision.

Alternatively a claim may make reference to a related regulatory investigation that has not resulted in a formal infringement decision (whether because it is still ongoing or because it was closed with commitments), or seek to combine both follow-on and standalone elements, for example by relying on an underlying infringement decision but pleading an extended duration or geographic scope.

Analysing the data by claim basis reveals a number of interesting insights, in particular when cutting the data further by individual vs collective claims and then again by type of infringement alleged. When undertaking this analysis, we have defined the four types of claim basis as follows:

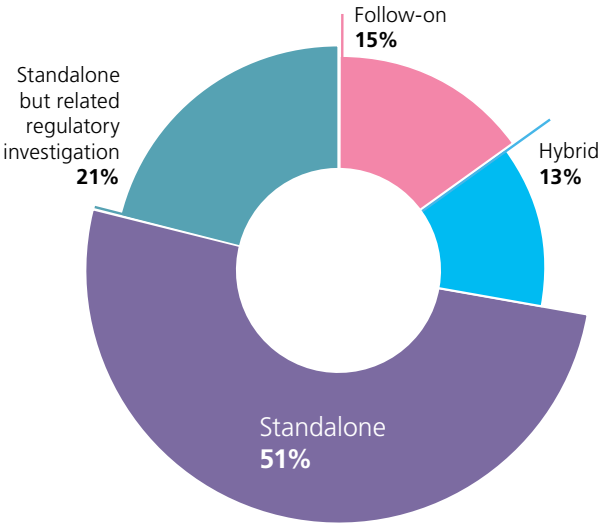
- **Follow-on:** based on a CMA or concurrent sector regulator infringement decision that stands as proof of liability (subject to "hybrid" cases below), leaving the claimant to prove causation and loss. In certain circumstances, follow-on claims before the CAT may alternatively rely on a European Commission infringement decision as proof of liability, subject to complex Brexit-related rules based on when the underlying investigation was initiated and when the infringement decision was issued (see Methodology on page 112).
- **Standalone:** brought *de novo*, without reference to an infringement or settlement decision or a related regulatory investigation.
- **Standalone but related regulatory investigation:** a standalone claim which includes reference to a related regulatory investigation which has not resulted in a formal infringement decision (whether because it is still ongoing or because it was closed with commitments) or to a decision or ongoing investigation by a regulator whose decisions do not bind the CAT as proof of infringement (e.g. a foreign competition authority).
- **Hybrid:** a claim based on a CMA or (pre-Brexit) European Commission infringement or settlement decision but extending beyond it in some way, for example by pleading an extended duration or geographic scope.

Proportion of cases by claim basis (follow-on/standalone etc)

More than half – 51% – of the cases were brought on a purely standalone basis, i.e. without relying on any underlying infringement decision or related investigation by a regulator (ongoing or concluded).

The preponderance of purely standalone claims was not expected at the time of expansion of the regime. It was generally thought that follow-on claims would predominate due to the obviation of the need to prove liability. However, only 15% of cases were brought on a purely follow-on basis during the review period, with 21% connected to a related regulatory investigation and 13% being hybrid cases.

Proportion of cases by claim basis (follow-on/standalone etc)

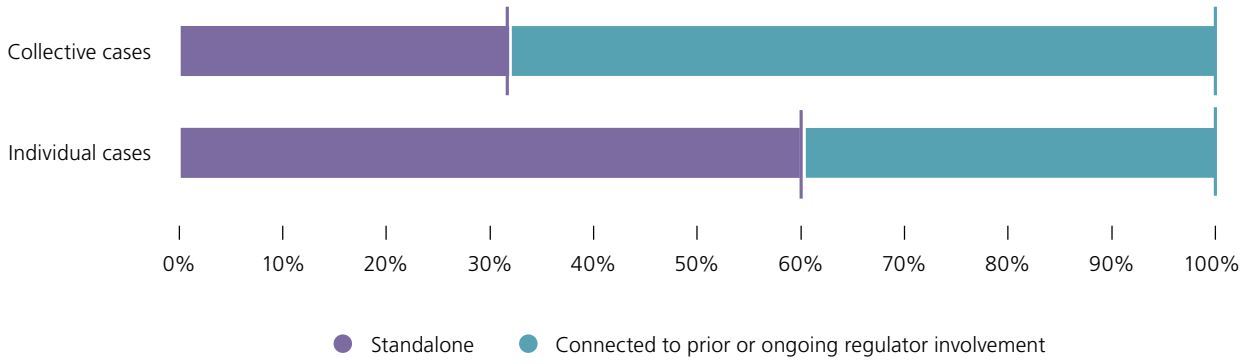


Proportion of cases by claim basis: individual vs collective

We next cut the data by collective and individual claims. Here we have simplified the claim basis to standalone or connected to a prior/ongoing infringement case (i.e. combining follow-on, hybrid and standalone but related regulatory investigation). What we see is that collective claims were far more likely to be connected to regulatory proceedings at 68% versus 32% for standalone cases.

For individual claims, the position is reversed: 60% were standalone and 40% regulatory-connected. The explanation likely lies largely in the market for funding competition collective claims, and the greater likelihood that funders will be persuaded to invest where there is a prior infringement finding or settlement or ongoing regulatory proceedings.

Type of case by claim basis (standalone, follow-on etc)



Note: *Individual cases include those involving individual proceedings only and those involving both individual and collective proceedings. The same approach applies to collective cases.*

Proportion of cases by claim basis: type of infringement

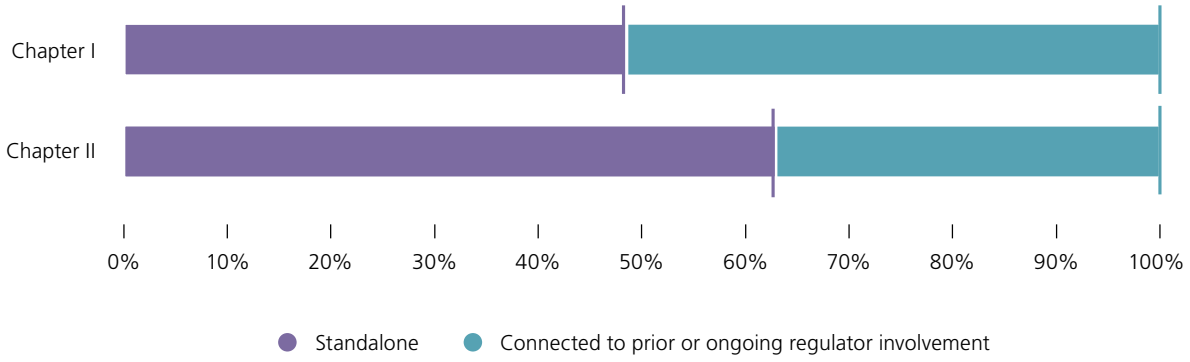
As a third data-cut in this section, we analysed claim basis by type of infringement. What we see here is that:

— Cases involving Chapter I or Article 101 infringements were relatively evenly divided, with 52% connected to prior or ongoing regulator involvement, compared with 48% brought on a standalone basis.

— Cases involving Chapter II or Article 102 infringements were predominantly standalone, with 63% brought on a standalone basis, compared with 37% connected to prior or ongoing regulator involvement.

The difference stands to reason: for Chapter I infringements it is harder to spot the infringement, as agreements are usually concealed. Evidence is therefore harder to uncover at the time of pleading the case (i.e. prior to disclosure), making such claims more difficult for individual claimants to bring, as well as arguably more risky for funders in respect of collective claims. By contrast, potential Chapter II infringements are easier to spot, and defendants tend to be perceived to have deep pockets. It may often also be less complicated and therefore less risky to bring a standalone case against one defendant (i.e. for abuse of a single dominant position) than against multiple defendants (i.e. for a restrictive agreement). Finally, the lower level of public enforcement in respect of Chapter II infringements also means that there are fewer cases in which regulator involvement can form the basis for private enforcement.

Claim basis by type of alleged infringement





Basis of claim – follow-on vs standalone:

Key takeaways



More than half of claims were brought on a standalone basis.



The majority of individual claims were standalone.



Chapter II claims in particular were predominantly standalone.



In our view this reflects the relative difficulty of proving liability for cartels, which tend to be secret, as against abusive conduct which is likely to be visible.

Outcomes and permission to appeal

Our analysis of outcomes and permission to appeal is informative of the typical trajectory of cases. We present our data analysis numerically, considering here only the 42 cases which had reached a final outcome as at 31 May 2026.

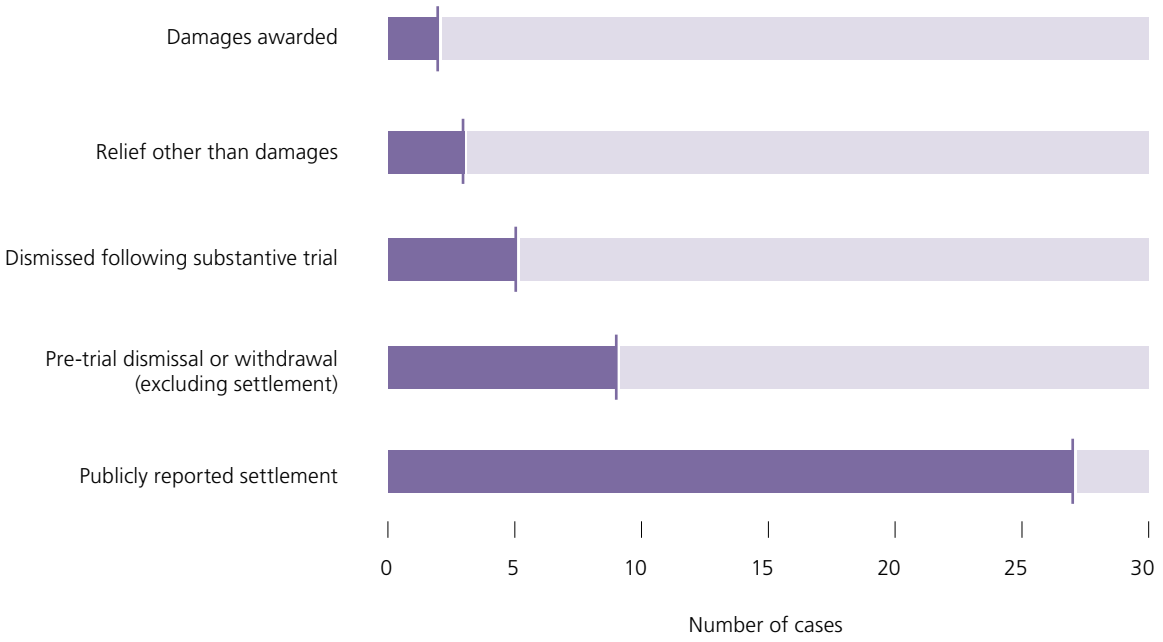
Outcomes in completed cases

The most common outcome in completed cases was settlement (27), with then a very substantial drop down to other outcomes – being pre-trial dismissal or withdrawal (excluding settlement) (nine) and dismissal following substantive trial (including any appeal) (five). Less common outcomes included relief other than damages (three) and damages awarded (two).

The message is clear: most cases settle. Of those that don't, so far only a small number have made it all the way to substantive trial, and of those an even smaller fraction have ultimately resulted in an award of damages.

However, this should not be interpreted as meaning that the risk of being required to pay damages is low. Settlements are indicative of an expectation that damages were likely to be awarded at trial in those cases, and irrespective of the amount of damages the cost of being involved in lengthy proceedings can be huge (both in monetary terms and management time).

Final outcomes in completed cases by number

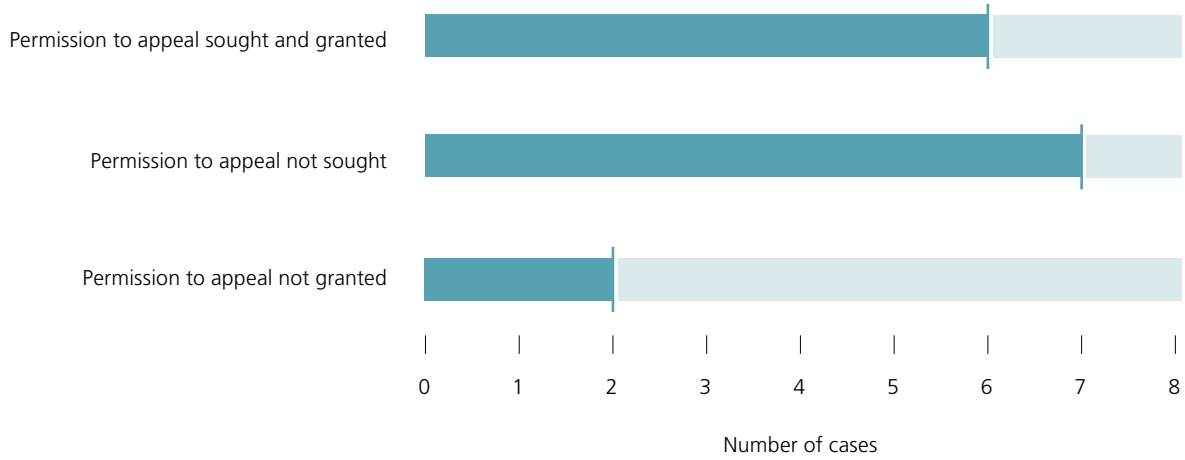


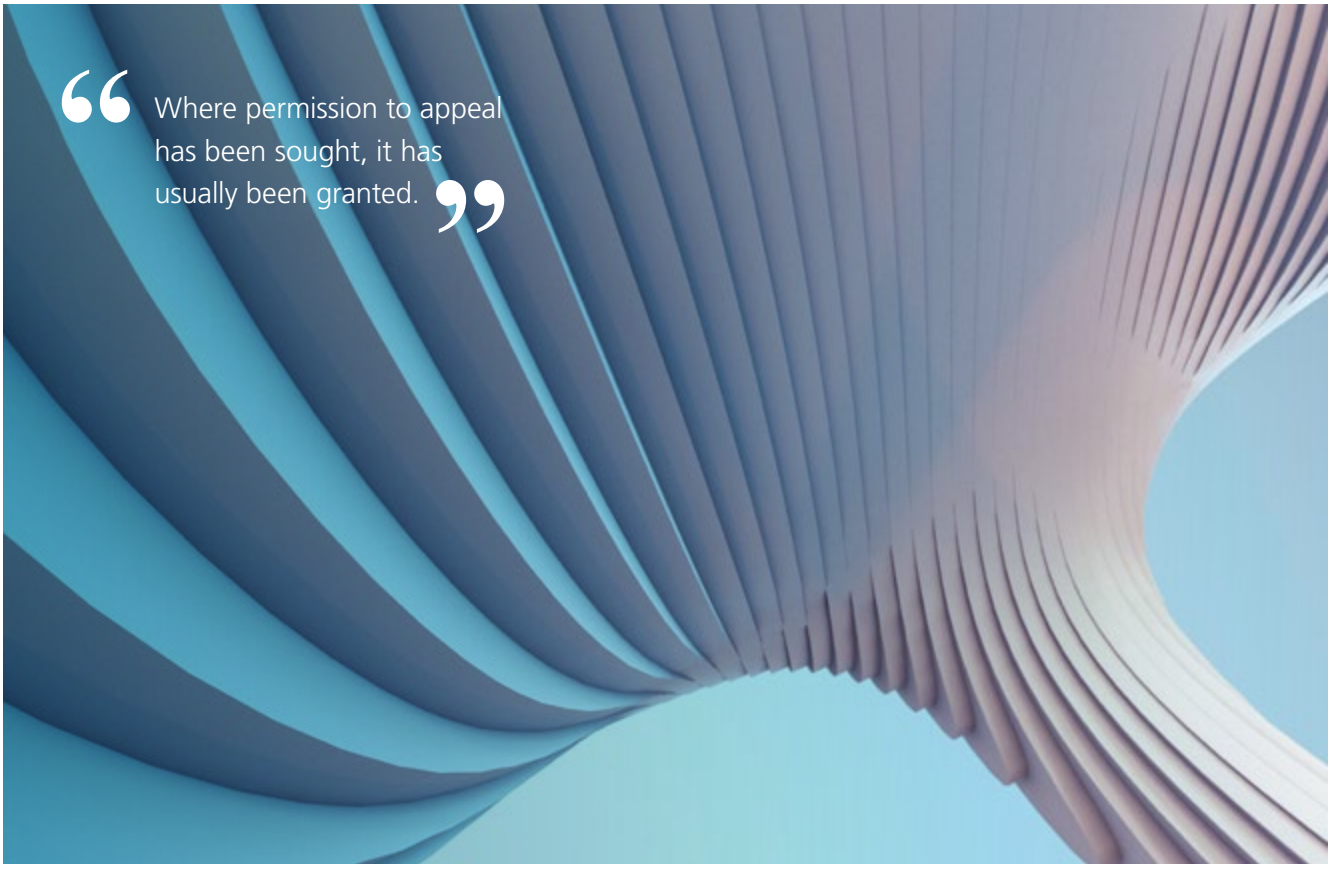
Appeals of substantive decisions on liability and/or quantum

A substantive decision of the CAT on liability and/or quantum can be appealed to the Court of Appeal (and further to the Supreme Court). As at 31 May 2026 there have only been 15 cases where such a decision has been reached, and permission to appeal was only sought in just over half of those. However, where permission to appeal has been sought, it has usually been granted (75% of cases).

So far no appeal against a substantive decision on liability and/or quantum has been successful. Of the six cases in which permission to appeal has been sought and granted, the appeal was dismissed in three of them, and remains ongoing in the other three cases.

Permission to appeal against liability and quantum





Outcomes and permission to appeal:

Key takeaways



Most cases settle.



Where they don't, only a small number have led to a damages award.



But settlement is indicative of some perceived exposure, so businesses should not take undue comfort from the limited numbers of damages awards.



Permission to appeal has only been sought in just over half of the cases in which a decision has been reached. It was granted in 75% of those cases.

Duration of proceedings before the CAT

Private enforcement proceedings before the CAT can be extremely lengthy, and there are some high-profile examples of cases lasting many years – most notably *Trucks* and *Interchange Fees*. However, duration can vary considerably, including when comparing individual and collective cases.

Duration of proceedings before the CAT for closed cases

The duration of proceedings varied considerably across the 42 cases which had concluded by 31 May 2026 (our cut-off date), ranging between one month and 85 months:

- Half the proceedings lasted less than 12 months, accounting for 21 of the 42 cases.
- Of the remaining cases, eight lasted 12 to under 24 months, and 13 lasted 24 months or more.

Duration of proceedings before the CAT for closed cases

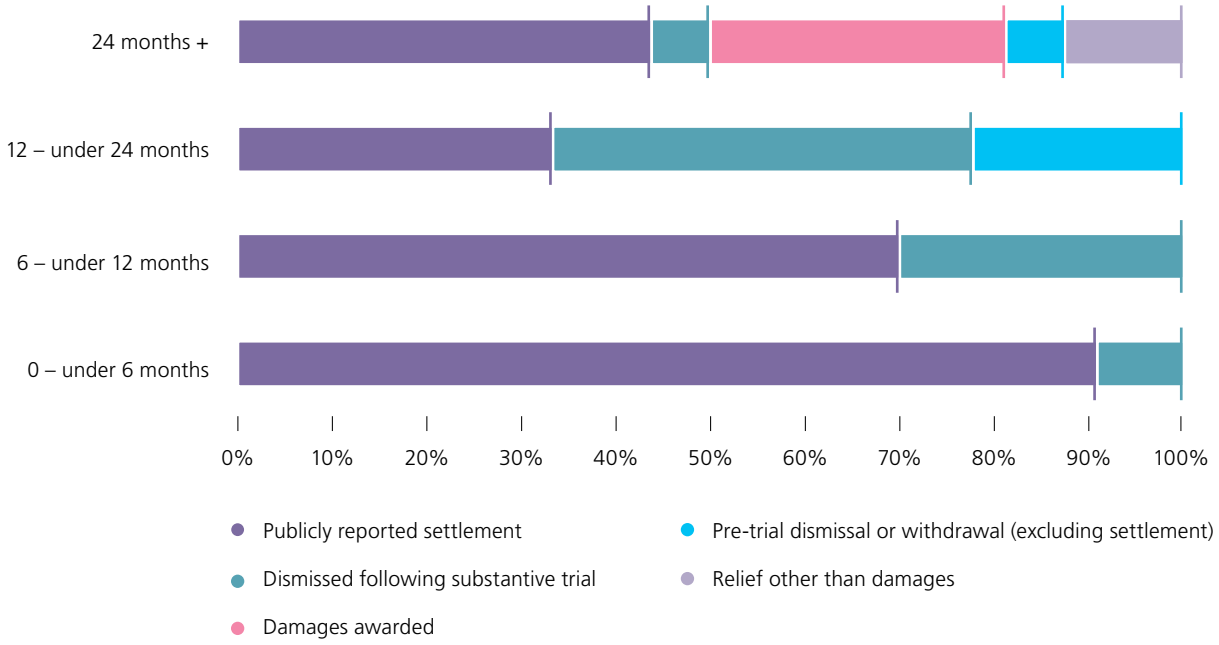




Where a case was transferred to the CAT after being filed initially in the High Court (24 of the 100 cases) we have only considered the length of the proceedings before the CAT (such that the average length of proceedings in absolute terms, including time before the High Court, would be longer).

When the data is cut by case outcome, the meaning of these statistics becomes clearer. The cases with a duration of under six months were almost all settled, with only one pre-trial dismissal. For cases with a six to 12 months duration the proportion of pre-trial dismissals compared to settlements grows to three out of 10. For cases in the 12 to 24 months category there was a greater range of outcomes from settlement to pre-trial dismissal to relief other than damages, and for cases in the 24+ month category the range of outcomes was wider still, including the two cases where damages were awarded. At a high level, the longer the duration, the greater the variability in outcome, and the shorter (less than 12 months) cases tend to be short because they settled (with the remainder involving pre-trial dismissal or withdrawal).

Distribution of recorded outcomes by duration of closed CAT proceedings

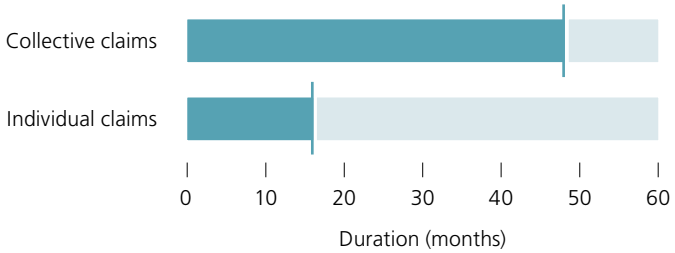


Note: *Percentages reflect recorded outcomes within each duration band. Cases involving separate claims may be counted under more than one outcome category.*

Average duration of proceedings before the CAT: individual vs collective cases

Analysing the duration data by individual vs collective cases, it can be seen that collective cases, as one would expect, last considerably longer than individual cases – but the full extent of the difference (four years on average versus 16 months on average) may not have been appreciated.

Average duration of proceedings before the CAT: individual vs collective cases



Just one case involving both individual and collective claims concluded within the timeframe, with proceedings lasting 72 months.

Duration of proceedings before the CAT:

Key takeaways



The duration of proceedings for closed cases varies considerably overall.



Collective claims have lasted three times as long as individual claims, reflecting their greater complexity.



The cases with a duration of less than 12 months tend to have such a short duration because they settle. It is the longer cases, particularly those with a duration greater than 24 months, which show the greatest variability in outcome.

Collective actions: certification, opt-in vs opt-out, and carriage disputes

We conclude by considering some key data points on the competition collective actions regime, since this has been the engine room of private enforcement before the CAT, with some of the largest and highest profile cases over the data period. Our separate class action report (published 8 October 2026 and available on the CMS website) contains a detailed analysis of class actions more generally, including competition class actions, in Europe including the UK.

When the competition collective actions regime was introduced, the so-called 'deterrent effect' was considered to be a key policy reason in favour of the regime. 10 years into the regime, Lord Justice Green, a prominent judge in the Court of Appeal of England & Wales, recently observed that appeals from regulatory decisions, for which the CAT was originally set up, now comprise only a very small fraction of the CAT's caseload. In Green LJ's view, the rise of collective actions reflects a sidelining of the CMA as the principal forum for enforcement of competition law infringements, shifting from a regulatory regime to one where a market largely determines the claims. We consider in more detail below how these observations translate into the data.

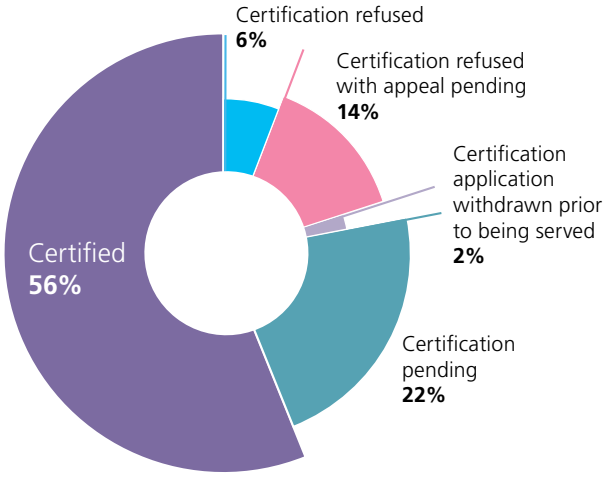
The volume of collective proceedings is certainly consistent with collective proceedings being a major aspect of competition law enforcement. On our methodology, there were 50 collective cases in the period we examined (including cases that involved both individual and collective claims). Moreover, as explained in the Methodology on pages 112 and 113, we consider certain collective actions as a single data point, meaning the absolute number of collective claims is higher, with no sign of slow down. When the regime was introduced, it was assumed that an average of 2.2 collective claims would be filed each year (see the Department for Business, Innovation and Skills paper, Private actions in competition law: a consultation on options for reform, Final impact assessment, January 2013, paragraph 195). The data shows that such claims have been far more prevalent than this.

Importantly, unlike public enforcement, the cases – and therefore the sectors facing the greatest enforcement risks – are not necessarily reflective of wider competition law risk. A class representative's budget to bring a collective claim will usually exceed £20m, and the regime is designed effectively to mean that cases must be funded by third-party funders. Collective claims are therefore market-driven, with the size of an overall claim, enforceability of any damages award and managing liability for adverse costs all being greater factors in determining which collective claims will be brought, rather than necessarily the nature of the alleged infringement.

> "The volume of collective proceedings is consistent with collective proceedings being a major aspect of competition law enforcement."

Most claims get certified: our analysis shows that was the case for 28 out of the 38 cases where a decision had been reached as at 31 May 2026 (i.e. 74%). This is consistent with the perception that the threshold for certification is relatively low, following the Supreme Court judgment in *Merricks v Mastercard*, as discussed above.

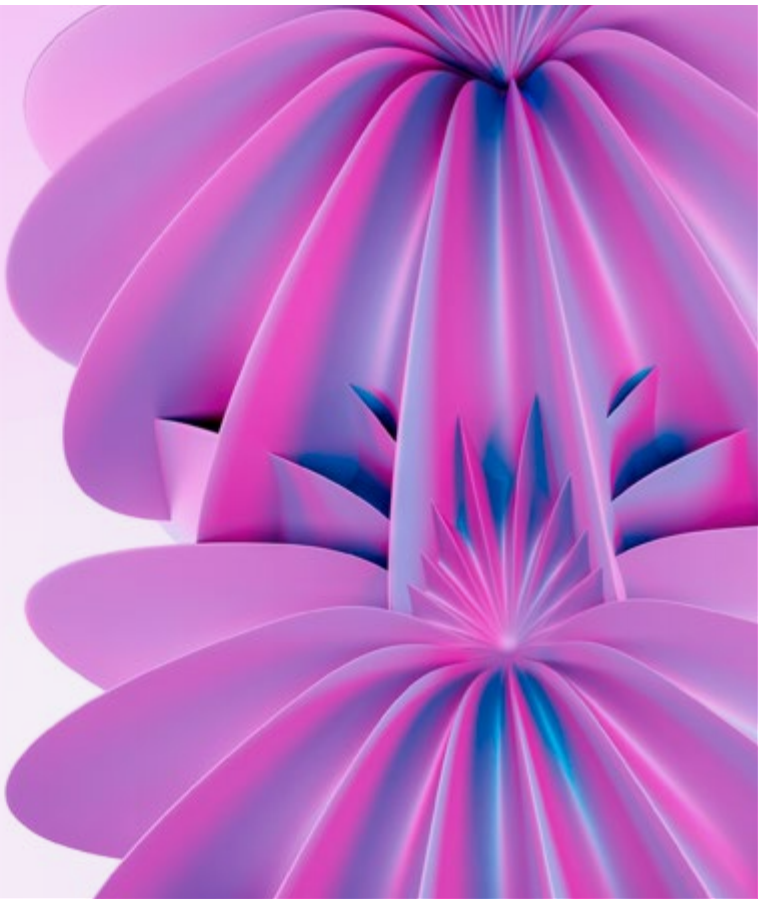
Certification outcomes



Of the 10 cases where certification was refused, appeals are pending in seven. In addition, there are a number of claims where certification was initially refused, but the class representative has been given an opportunity to rectify issues, whether by the CAT itself, or on remittal following a successful appeal. The CAT therefore is exercising its gatekeeper function, but the current test focusses on satisfying the criteria for certification but not the merits of the claim. The high certification rate is therefore not informative as to the prevalence of anti-competitive conduct in particular sectors or across the economy. Indeed, in two of the three collective actions within the dataset for which the CAT has handed down a substantive judgment after trial, the defendants have succeeded (and a further case resulted in a "drop hands" settlement after trial, effectively also a win for the defendants).

As noted above, the Government is currently considering reform of the collective regime, including potentially raising the bar for certification and introducing a merits assessment in the context of considering suitability for a claim to proceed as collective proceedings.

"Most claims get certified: our analysis shows that was the case for 28 out of the 38 cases where a decision had been reached as at 31 May 2026 (i.e. 74%)."



Opt-in vs opt-out

The vast majority (94%) of collective actions are brought on an opt-out basis. This is notable given that the CAT Guide to Proceedings 2015 states that there is a general preference for proceedings to be opt-in where practical. However, it is consistent with the reality, as noted above, that collective actions are in a large part market-driven due to the funding structure which underlies them. Opt-out collective actions are generally far larger as they capture alleged losses for the entire class of affected persons, rather than only those who opt-in. Opt-out actions also avoid the administrative burden of building a claimant group at the outset of proceedings.

In the recent judgment in *Evans v Barclays*, the Supreme Court upheld the CAT's decision at first instance, essentially that the case was inherently weak and should be certified on an opt-in basis only. Although it noted (contrary to the CAT Guide to Proceedings) that the starting point should be one of neutrality on the question of opt-in versus opt-out, the judgment establishes that where the class comprises large sophisticated entities it may be challenging to argue that it would not be practicable to bring opt-out proceedings.

Importantly, in the context of opt-in versus opt-out, the Supreme Court noted the need to strike a balance between assisting claimants to obtain redress and protecting defendants from oppressive litigation.

So far, there have been a limited number of opt-in proceedings brought. In all instances, there have been parallel opt-out proceedings (as explained in the Methodology on page 113 such cases are therefore recorded as "both" in the "Basis of collective proceedings" chart). Examples include the *Trucks* claim brought by the Road Haulage Association, which the CAT preferred to the equivalent opt-out action at the certification stage; and the *CICC* claims where separate opt-out and opt-in actions in relation to interchange fees are being pursued on behalf of different groups of merchants, based on turnover.

Since the *Evans v Barclays* judgment, some defendants have sought to have cases against them decertified. The Tribunal refused those applications, but it remains to be seen what, if any, impact the Supreme Court ruling will have on the split of opt-outs versus opt-ins in the future.

Basis of collective proceedings: opt-in or opt-out





Carriage disputes

Under the CAT Rules 2015, if there is more than one applicant seeking approval to act as the class representative in respect of the same claims, the CAT must determine which would be the most suitable, as only one certification application can prevail. The process of deciding which applicant should represent the class is referred to as a 'carriage dispute'.

However, although the CAT Rules expressly envisage this scenario, the data shows that in practice such disputes are rare. The vast majority (90%) of collective cases did not involve carriage disputes.

At first glance this might be surprising, as there have been a number of instances where multiple applicants were seeking to represent the same class, but there are a number of likely explanations for this trend.

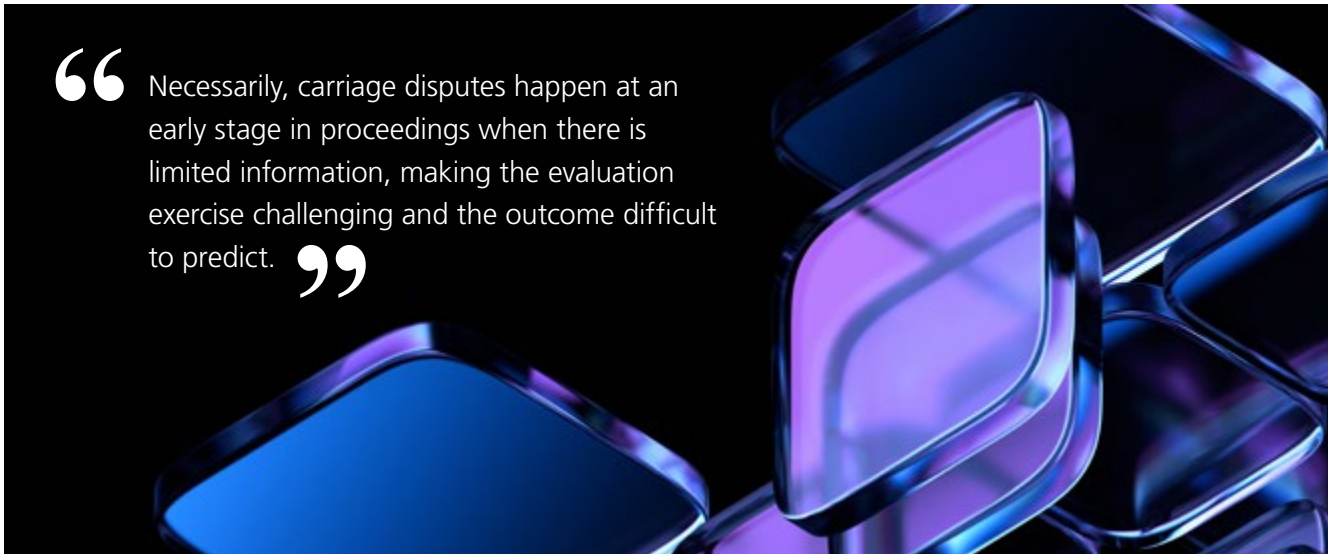
Carriage disputes can create distorted incentives. In seeking to establish themselves as the more/most suitable candidate, prospective class representatives will try to undermine the rival application(s). This risks neither action proceeding; or at best, the preferred action proceeding but having been compromised by 'friendly fire', to the detriment of the class whose interests the proposed class representatives are purporting to represent, and in whose interests they must act. Similarly, defendants have an interest in whichever they perceive to be the weaker action progressing, to maximise their chance of successfully defeating the action at trial.

Perhaps more significantly, the commercial reality of collective claims is likely to be the biggest driver in the very limited number of carriage disputes. Competing class representatives (and their funders) must incur considerable costs and adverse cost risk fighting the carriage dispute but not progressing the case to a resolution. Necessarily, carriage disputes happen at an early stage in proceedings when there is limited information, making the evaluation exercise challenging and the outcome difficult to predict. Collective claims require considerable upfront investment and carriage disputes are a 'zero sum game' meaning potentially high sunk costs for the unsuccessful applicant.

Potential carriage disputes have therefore often been resolved between the prospective class representatives, their lawyers and funders, rather than determined by the CAT, thereby avoiding a formal carriage dispute. In other instances, prospective class representatives and their legal teams appear to have collaborated once becoming aware of each other's prospective actions but before filing the application for a collective proceedings order, meaning only one application is ever brought. Funders will often welcome the opportunity to spread the investment costs and downside risk.

Proportion of collective action cases involving carriage disputes





Collective actions: certification, opt-in vs opt-out, and carriage disputes:

Key takeaways



Collective actions have become one of the principal enforcement mechanisms of UK competition law.



The majority of collective actions are certified, but certification (currently) is not indicative of the strength or otherwise of the underlying claims for anti-competitive conduct.



The test for certification of collective actions has a neutral starting point in respect of opt-in versus opt-out but the commercial reality of the collective action regime means that opt-out actions are far more prevalent.



There will often be multiple class representatives seeking to represent the same class in respect of the same alleged conduct, but prospective class representatives will often collaborate, coalescing around a single action to avoid a carriage dispute, while spreading the cost risk and resource requirement.



Methodology

This section sets out the sources of information used to collate the data, and the approaches taken to classify it, in order to produce the analysis in this report.

Data sources

The data used for Part A of this report was gathered from case information published on the CMA (including the historic OFT) and CAT websites. This includes press releases issued prior to final decisions being published. This case level dataset has not been supplemented by information from other sources or knowledge of cases from within the CMS Antitrust, Competition and Trade team.

The data used for Part B was gathered from a triangulation of the following sources:

— Case information published on the websites (including on the Government archives) of Ofgem, the CAA, Ofwat, the FCA, the PSR, the ORR and Ofcom (and Oftel), as the concurrent sector regulators under the CA98;

— the concurrency reports published by the CMA since 2014; and

— case trackers maintained on Lexis and Practical Law, to supplement and verify the data.

References to the concurrent regulators include their predecessors (e.g. Ofcom includes Oftel), unless otherwise specified.

The data used for Part C was gathered from case information published on the CAT website regarding claims for damages and other non-monetary relief under s. 47A or s. 47B CA98, supplemented in some cases by:

— information obtained from the Solomonic platform for cases transferred from the High Court to the CAT;

— Lexis and Practical Law case trackers, to supplement and verify the data; and/or

— publicly reported information on settlements.

Our analysis includes all claims that were registered at the CAT between 1 October 2015 (when the CAT's jurisdiction was expanded by the Consumer Rights Act 2015) and 31 May 2026. Claims filed in the High Court have been excluded unless transferred to the CAT during that period. The CAT is the primary forum for competition damages claims in the UK, and focussing solely on proceedings before the CAT provides a more reliable dataset. We do not expect excluding claims heard solely in the High Court to have any significant impact on our overall trends analysis.

Classification of the data

Parts A and B: public enforcement

For public enforcement by the CMA and the concurrent sector regulators, we have included investigations that were formally launched and/or otherwise on the public record (with sufficient information about them). That includes two cases (by the ORR and Ofgem) which were stated to be carried out on an informal basis, but for which there are published decisions. It also includes cases recorded by Oftel on the 'Competition Bulletin'. But where an issue was informally resolved without either a formal investigation, published decision or otherwise sufficient detail, it has been excluded. That applies to the cases Ofwat reported to the CMA for the Baseline Concurrency Report 2014 as having been closed without full resolution and, it seems, without formally launching a CA98 investigation. This data has not been supplemented by information from other sources or knowledge of cases from within the CMS Antitrust, Competition and Trade team. Every effort has been made to locate all relevant decisions following the methodology above but if you identify any error or omission, please contact the CMS Antitrust, Competition and Trade team.

The CMA and concurrent sector regulator CA98 investigations analysed encompass ongoing investigations and all case closure, no grounds for action, commitments and infringement decisions identified following the methodology above for the period from March 2000 to 31 May 2026.

Analysing the information contained within these decisions is, in part, a subjective exercise and the following methodology has been used for Parts A and B:

— We have treated decisions exempting Chapter I CA98 conduct under the previous OFT notification regime as "no grounds for action" decisions.

— In terms of case count, we have generally followed the approach taken by the relevant regulator and counted separate investigations where it has done so, even where they are related and/or investigate the same conduct. Where multiple infringement decisions have been published: (i) we have categorised these separately, where the underlying conduct is different (for example, it concerns separate markets or infringement types); (ii) we have combined these where the regulator has issued individual infringement decisions against various parties in the same investigation.

— Judgement has sometimes been required in classifying the earlier decisions as either no grounds for action or case closure decisions, particularly for the early Oftel cases where detail is limited.

— It has not been possible to determine all data points from the published texts of decisions. Therefore, some graphs do not include data for all decisions within a category. Where a detailed decision has been published by the regulator, some assumptions have been made – for example – where a case does not refer to employee interviews, it is assumed that none have taken place, or where an investigation follows a market study, it is assumed that there has been no "Type A" leniency.

— Where a case has commenced off the back of another OFT/CMA or sector regulator investigation, OFT/CMA merger inquiry, or as a result of a tip-off from another UK or international regulator (such as The Department of Health and Social Care or the European Commission), this has been counted as a "regulator tip-off". For sector regulators, this includes market studies or reviews (which are counted as a separate category for the OFT/CMA).

— Cases counted as triggered by a third-party complaint/tip-off include a handful of own-initiative investigations by Ofcom launched in response to representations from market participants.

— We have used the term "dawn raid" to cover all inspections of business premises with or without notice at any point in an investigation. We have not recorded inspections at domestic properties.

— The sector figures in this 2026 edition reflect the updated sector taxonomy adopted in the 2025 edition.

— Judgement has been required in categorising the infringement types, in particular when classifying Chapter II CA98 abuse types as exclusionary and/or exploitative. Our assessment of the type of infringement covers both ongoing and closed cases, and is based on the conduct under investigation rather than the CMA or sector regulator's ultimate finding. Where the scope of the investigation has been narrowed to exclude certain alleged infringements, these have generally not been recorded unless they are analysed as part of the final decision. We have generally categorised infringement types according to substance. For example, margin squeeze cases include certain earlier investigations by Ofcom into "cross-subsidy" which apply the same analysis.

— Some cases cover multiple types of infringing conduct, for example, both market sharing and information exchange, or both exclusionary and exploitative conduct. As a result, the graphs setting out the types of infringement are partially distorted towards investigated conduct that involves multiple types of infringing behaviours.

We have only listed a case as involving information exchange where it is specifically referred to in the decision, not where it is merely inherent in the nature of the infringement (for example, price fixing, bid-rigging and RPM inevitably involve some level of information exchange).

— References to 'hardcore' restrictions are to horizontal cartels involving price fixing, market sharing, bid-rigging or limiting output.

— The duration of cases has been determined based on whole months, rather than specific dates. This will slightly lengthen the stated duration of some investigations. Duration is measured from the start of the formal investigation until the date of the decision. Where the start date of an investigation is not clear, we have used the date on which the first formal request for information is issued, and where that is not available, the date of the complaint which triggered the relevant investigation (which will also lengthen the stated duration of a small number of investigations).

— We have only counted employee interviews where these have been carried out in relation to the investigated parties, rather than third parties.

— In determining the involvement of director and/or senior management in cases, we have considered whether the text of a decision indicates that individuals with relevant job titles have been involved in the investigated activities. This is broader than the OFT/CMA's assessment of "senior management/ director involvement" at Step 3 of its penalty calculations and relies on the OFT/CMA's description of individuals' roles.

— OFT "early resolution" agreements have been counted as settlement.

— We have considered whether a settlement is "hybrid" at the point at which the infringement decision is issued (i.e. where at the point of the decision, at least one party has settled the case with the regulator and at least one party has not entered into a settlement agreement, albeit it may have been granted leniency). Cases where all parties settle, but at different times prior to the issue of an infringement decision, are therefore not recorded as hybrid. Hybrid settlements have not been recorded for Chapter II CA98 cases.

— The grant of leniency is recorded separately to settlements and covers all types of leniency marker. We have also recorded "Type A" leniency separately. In some decisions, it is not clear what marker was granted to the leniency applicant and so we have assumed leniency markers to be "Type A" where they have been granted prior to the opening of the formal investigation and where they have resulted in total immunity from the penalty. One exception to this approach is the FCA's investigation in the asset management sector, where the leniency predates the opening of the formal investigation and total immunity was granted, but the leniency application appears to have been triggered by an own-initiative review by the FCA (as detailed in the report).

— Where a decision has been remitted to the investigating regulator, we have not counted this as a separate investigation (save where the regulator decides on an additional investigation into different conduct or a different period, as Ofcom did following the successful Freeserve appeal, which was counted as two investigations and resulted in two decisions). The length of the investigation is based on the original investigation only (except for Ofcom's three "reinvestigations" following successful appeal to the CAT, where it is based on the reinvestigation only) and does not take into account any subsequent period following remittal. Penalty amounts are based on the remittal decision, i.e. the penalty that is ultimately imposed by the CMA.

— We have considered individual and total penalties both prior to, and post, the application of leniency/ settlement discounts. The OFT/CMA considers proportionality and the statutory cap prior to the application of relevant discounts, but will generally refer to the 'headline' penalty after discounts (i.e. the final amount imposed on all parties to an infringement). For the Tobacco manufacturers investigation, the 'prior' figure is also prior to the application of a further 10% discount to reflect the length of the investigation.

— In cases involving joint and several liability, where the OFT/CMA refers to a penalty as applying to a group of entities, we have treated that grouping as one individual penalty (although multiple entities might have joint and several liability for whole or part of the penalty). This avoids inflating the figures with multiple entries for the same penalty. Where different groups of entities are jointly and severally liable for both their own penalty and another penalty (on a joint and several basis), we refer to the maximum potential liability of that group of entities.

— A CAT appeal is deemed partially successful if the appellant wins (i) on one ground of substantive appeal but not another, (ii) on penalty and on one ground of substantive appeal but not on another, or (iii) on penalty but not on any substantive grounds. Where a remitted case is appealed to the CAT, we have counted that as a separate CAT appeal.

— All percentages are rounded to the nearest digit so totals may not always add up to 100%.

Part C: private enforcement

We have followed a similar approach for analysis of private enforcement cases before the CAT, adapting and supplementing the methodology as follows:

— The same competition law infringement can give rise to multiple claims for damages, as notably illustrated by the very large number of claims connected to the European Commission's Trucks and Interchange Fees decisions. To avoid skewing the trends analysis, we have generally treated such "related claims" (both individual and collective) as one single "case", applying the following rules:

- Rule 1: Claims arising from the same regulatory investigation into the same (alleged) infringing conduct are treated as related claims, whether based on the same infringement or settlement decision, the same regulatory investigation closed with commitments, or the same ongoing regulatory investigation. As an extension of this rule, all claims against Visa or Mastercard relating to interchange fees are treated as a single case.
- Rule 2: Standalone claims alleging breach of Chapter I/Article 101 relating to the same conduct are treated as related claims, even if brought against different defendants, as the defendants are all involved in the same alleged infringement, e.g. a price fixing cartel.
- Rule 3: Standalone claims alleging breach of Chapter II/Article 102 are treated as related claims only if they relate to the same conduct and the same defendant. Claims relating to the same or similar conduct against different defendants are not treated as a single case as they involve distinct alleged abuses of dominance: for example, the Water and Boundary Fares collective proceedings are treated as six and three separate cases respectively.
- Rule 4: Claims and counterclaims in the same dispute are treated as related claims.

— We consider that these rules provide a better foundation for meaningful analysis than the CAT's own classification of "related cases" on its website (based on joint case management). Applying these rules, we have analysed 100 cases:

- 50 cases involving solely individual claims under s.47A CA98
- 40 cases involving solely collective claims under s.47B CA98
- 10 involving both individual and collective claims.

— Types and sub-types of infringement have been analysed as in Parts A and B: by substance, based on the conduct alleged (whether or not established), and including all allegations where several are made. As with Part A, information exchange is recorded only where specifically referred to in the claim form summary or other claim-related documents, not where it is merely inherent in the alleged infringement (for example, price fixing, bid-rigging and RPM inevitably involve some level of information exchange).

— Analysis of relief sought focusses on damages, injunctions and declarations as the main types of relief sought; interest and costs are not recorded separately as these are sought as standard. For groups of related claims treated as a single case, all forms of relief sought across the group have been recorded.

— When categorising the type of claimant, for s.47A claims we have used "individual" in the sense of an individual litigant in person or a sole trader. "Business" refers to a claim brought by a company, and "Government" refers to a claim brought by a government department or public authority. For s.47B claims, we have considered whether the class representative acts on behalf of consumers or businesses. A claim brought on behalf of a class including both consumers and businesses is included in both categories, as is a group of related claims involving class representatives acting separately for consumers and for businesses. If government/public sector bodies are included within the class in an opt-out claim, this is not captured separately (but instead recorded as a class representative acting on behalf of businesses), to avoid suggesting that the public sector is more litigious/active in private enforcement than it actually is.

— We consider four different types of claim basis:

- Follow-on: based on a CMA or concurrent sector regulator infringement decision that stands as proof of liability (subject to "hybrid" cases below), leaving the claimant to prove causation and loss. In certain circumstances, follow-on claims before the CAT may alternatively rely on a European Commission infringement decision, but this is limited to decisions issued by the European Commission prior to the end of the Brexit transition period (31 December 2020) or in respect of an investigation commenced prior to that date over which the European Commission retained jurisdiction. Decisions arising from those investigations can also be relied upon as proof of liability (subject to complex rules regarding scope of binding findings).

- Standalone: brought de novo, without reference to an infringement or settlement decision or a related regulatory investigation.
- Standalone but related regulatory investigation: a standalone claim which includes reference to a related regulatory investigation which has not resulted in a formal infringement decision (whether because it is still ongoing or because it was closed with commitments) or to a decision or ongoing investigation by a regulator whose decisions do not bind the CAT as proof of infringement (e.g. a foreign competition authority).
- Hybrid: a claim based on a CMA or (pre-Brexit) European Commission infringement or settlement decision but extending beyond it in some way, for example by pleading an extended duration or geographic scope.

— Where useful to do so, we have compared pure standalone claims with claims connected to prior or ongoing regulator involvement (i.e. combining claims recorded as "follow-on", "standalone but related regulatory investigation" or "hybrid").

— Outcomes are analysed only for cases completed (including any appeals) by 31 May 2026 (42 cases of the 100 analysed). In cases involving a group of related claims, if there have been different outcomes across the various related claims – for example, a damages award in one claim and a settlement in another – we have recorded all of these outcomes, rather than recording a single outcome (as an exception to the general rule of treating a group of related claims as a single "case" as outlined above), so that significant outcomes are not missed. However, if any one of the related claims in a group was still ongoing at 31 May 2026, the whole "case" is treated as ongoing and excluded from the analysis of outcomes in completed cases.

— A claim is treated as settled where there is an order or notice stating that it has been withdrawn or stayed because the parties have agreed terms, or withdrawn or dismissed by consent with no order as to costs (even without express mention of settlement).

— Permission to appeal and appeal outcomes are considered only for appeals against a final substantive CAT judgment on liability or quantum. Appeals against certification decisions or judgments on preliminary issues such as pass-on or relevant market definition are excluded. As in Parts A and B, an appeal is deemed successful only if it succeeded against the substantive judgment in its entirety.

— Duration of proceedings is calculated by reference to proceedings before the CAT and any appeals against CAT decisions. For claims transferred to the CAT from the High Court, the date of registration at the CAT is used as the start date of proceedings. For groups of related claims, the start date of proceedings is the earliest date of registration at the CAT across the group and the end date is the latest outcome across the group. As in Parts A and B, duration is calculated in whole months.

— For collective claims, the question of opt-in vs opt-out has been determined on the basis on which certification was sought (rather than the basis on which it was granted). For groups of related claims treated as a single case, "both" is recorded if at least one of the related claims was opt-in and one was opt-out (e.g. Trucks).

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