We highlight some key themes in the UK and set out the main developments currently anticipated over the course of the year.

**More investigations, more decisions, more penalties:** The CMA has already indicated it will pursue both straightforward cases and those that ‘extend the competition frontiers’. Small businesses are likely to come increasingly under scrutiny.

**Greater use of information gathering powers:** The CMA will have greater powers to require information from businesses in mergers and markets cases and, in Competition Act cases, from individuals. We expect a greater use of intelligence gathering powers and information sharing between different regulators and enforcement bodies.

**Merger control:** At minimum there will be a period of adjustment to the new regime. Businesses may be concerned about the potential impact of more routine ‘hold separate’ Orders, even though merger notification remains voluntary in principle, and new powers to require reversal of integration already undertaken backed by sanctions, as well as the likely greater demands in terms of information needed for merger filings.

**Focus on the regulated sectors:** There is a strong emphasis on improving coordination and consistency in competition enforcement in regulated sectors with pressure from all sides of the political spectrum to see intervention in certain key areas of the UK economy such as energy and financial services.

**Private actions:** Legislative changes proposed at EU and UK level are designed to make access to redress for competition law breaches easier for individuals and are expected to lead to an increase in private litigation, as well as an increase in the amounts defendants will be liable to pay in damages.
## Briefing Note

### Competition Law: Trends and Developments in 2014

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<tr>
<td><strong>General Developments</strong></td>
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| By 1 April 2014       | Entry into force of UK’s new competition law regime  | • The Competition and Markets Authority (CMA) will become fully operational on 1 April  
  • In addition to the principal guidance published in January on mergers, market studies and investigations, administrative penalties and transparency and disclosure, we expect shortly finalised guidance on all outstanding issues, including Competition Act procedures, cartel offence, concurrency and consumer powers  
  • Confirmation of key secondary legislation on level of new penalties; the new cartel offence; concurrency and merger fees  
  • CMA finalising Annual Plan and Prioritisation Principles.                                                                                                                                  |
| Course of 2014        | UK criminal cartels                                 | • Further developments in ongoing cartel investigations with further charges likely to be brought against individuals during 2014.                                                                                                                                                                                                                     |
| Late 2014             | EU institutional changes                            | • New European Competition Commissioner to replace Joaquin Almunia as the term of the current European Commission ends in May. It remains to be seen whether this will have any impact on future work priorities of the European Commission.                                                                                                                   |
| Late 2014             | Private actions                                     | • UK Consumer Rights Bill expected to become law  
  • EU proposed Directive currently expected to be adopted by May 2014, after which the UK (and other EU member states) will have two years in which to align national laws with the Directive  
  • Supreme Court ruling on time limits for bringing appeals (Morgan Crucible) and numerous High Court proceedings to develop case law on issues such as the “passing on” defence and the assessment of damages (Cooper Tire and National Grid). |
| No date yet           | UK market studies and investigations                | • Potential appeals in Aggregates inquiry following the CC’s final report in January  
  • Final decisions awaited this year on Private Health, Private Motor Insurance and possibly Payday Lending  
  • Possible market investigations into the provision of ICT services to the public sector, SME Banking and residential property management services  
  • Possible CMA market study into undergraduate higher education in England  
  • Possible market study into features crossing several markets, e.g. aspects of internet sales or “add-ons” included in sales of other goods or services.                                                                                                                                 |
| No date yet           | UK merger control                                  | • Judgments and revised decisions awaited on, e.g. the scope of “carrying on business in the UK” (Akzo Metlac), “material influence” (Ryanair) and “enterprise” (Eurotunnel)  
  • Impact of new UK merger control procedures including use of hold separate orders which may lead to higher number of notified mergers and continued investigation of non-notified completed mergers.                                                                 |
| No date yet           | EU merger control                                  | • Possible further consultation on review of transactions involving minority shareholdings  
  • Bedding down of new procedures that are designed to alleviate the burden of notification but that may in fact have the contrary effect.                                                                                                                                                                                                       |
| By 1 May 2014         | EU Technology Transfer Block Exemption              | • Revised Regulation and Guidance to be published.                                                                                                                                                                                                                                                                                                                                                     |
| No date yet           | EU commitment decisions                            | • Anticipated resolution of European Commission’s proceedings against Google  
  • Commitments possible in Commission’s Samsung and Motorola cases on the use of standard essential patents.                                                                                                                                                                                                                                                           |
| EU: abuse of dominance|                                                      | • Judgment on rebates expected from the General Court in the Intel case.                                                                                                                                                                                                                                                                                        |

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# Briefing Note

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| No date yet                 | Distribution agreements                                   | • Online sales, dual pricing (online and bricks & mortar) and RPM under the spotlight  
• MFN clauses still under scrutiny.                                                                                  |
|                             | General cartel enforcement                                | • Continuing focus on anti-competitive information exchanges and scrutiny of “price signalling”.                                                                                                                       |
| Financial Services          |                                                            |                                                                                                                                                                                                                       |
| Mid-2014                    | Payment services in the EU                                 | • Possible developments on the European Commission’s proposals to further regulate the provision of payment services within the EU  
• Court of Justice judgment expected in MasterCard appeal.                                                               |
| Late 2014 – Spring 2015     | Creation of new UK Payment Systems Regulator              | New regime for payment systems with intrusive powers to  
• issue directions to participants and set standards  
• change system rules  
• require access to payment systems  
• vary agreements relating to payment systems  
• require ownership interests to be divested.                                                                                 |
| During 2014                 | Preparation for concurrency for FCA and the new PSR       | • Significant stepping up of competition resource and capability within the FCA  
• More market studies expected following announcement of full market study in relation to annuities in February.                                                                                                       |
| No date yet                 | Benchmarking investigations                                | • Decisions awaiting on ongoing LIBOR/Euribor (separate to settlement), ISDAfix, Forex and Platts investigations.                                                                                                      |
| Energy                      |                                                            |                                                                                                                                                                                                                       |
| March 2014                  | Joint Energy Market Review                                 | • First report on state of competition in energy markets expected in March 2014, a possible template for joint working between CMA and sector regulators?  
• Potential for this to lead to a full CMA market investigation reference.                                                                                                        |
| Life Sciences and Healthcare|                                                            |                                                                                                                                                                                                                       |
| No date yet                 | “Pay for delay” cases rumble on                           | • There may be developments in relation to appeal of the Lundbeck decision (note following the Johnson & Johnson/Novartis decision that Johnson & Johnson have publicly stated they will not appeal and they have been in contact with Dutch healthcare providers to discuss the matter  
(which seems to indicate the potential for private settlement))  
• Ongoing proceedings in the OFT’s case against GSK and others relating to Seroxat. A statement of objections was issued in April 2013 and a final decision is expected in October 2014  
• The Commission has indicated a “best estimate” of June 2014 with regard to the timing of a final decision in its investigation of Servier, KRKA and Teva in relation to perindopril. Separately, the NHS is seeking damages from Servier, though the trial will not take place until the determination of all EU proceedings, which could be several years if Servier were to appeal an infringement decision. |
| Second half of 2014         | Follow on damages actions                                 | • Possible developments in the follow-on damages actions against Reckitt Benckiser being brought by UK health authorities and Teva and Sandoz in relation to Gaviscon.                                           |
| By 2 April 2014             | Deadline for final report on Private Healthcare            | • The CC is currently consulting on its provisional decision on remedies. The provisional remedies include divestiture of nine private hospitals. |

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<td>Mid-2014</td>
<td>Mergers in the Healthcare sector</td>
<td>• Guidance from Monitor expected on dealing with merger plans, including revised guidance on significant transactions.</td>
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<td>Food and retail</td>
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<td>Early 2014</td>
<td>Choice and innovation in the food sector</td>
<td>• European Commission expected to publish a report on its study to examine choice and innovation in the food sector. It remains to be seen whether this report will lead to further European Commission initiatives, but enforcement activities have been recently suggested.</td>
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<td>State aid</td>
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<td>Mid to late 2014</td>
<td>State aid reform</td>
<td>European Commission coming to the end of its State aid modernisation programme. We expect:</td>
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<td>• Finalised guidelines on R&amp;D&amp;I aid; aid for environmental protection (and energy); and rescue and restructuring aid</td>
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<td>• Revised General Block Exemption Regulation</td>
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<td>• Notice on the notion of State aid</td>
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<td>• Methodological Guidance on the evaluation of aid schemes.</td>
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As at February 2014.

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This note does not constitute legal advice. Specific legal advice should be taken before acting on any of the topics covered.