

**CMA response to Scottish Government’s second consultation on district heating, February 2018**

**Introduction and summary**

The Competition and Markets Authority (CMA) is an independent non-ministerial UK government department, and the UK’s primary consumer and competition authority. We work to promote competition for the benefit of consumers, both within and outside the UK. Our aim is to make markets work well for consumers, businesses and the economy by promoting competition. Competitive markets and an effective competition policy can play a major role in delivering productivity and growth in the UK economy.

The CMA has responsibility for:

* investigating mergers which could restrict competition
* conducting market studies and investigations in markets where there may be competition and consumer problems
* investigating where there may be breaches of UK or EU prohibitions against anti-competitive agreements and abuses of dominant positions
* bringing criminal proceedings against individuals who commit the cartel offence
* enforcing consumer protection legislation to tackle practices and market conditions that make it difficult for consumers to exercise choice.

The CMA provides this submission to the Scottish Government’s second Consultation on Local Heat & Energy Efficiency Strategies, and Regulation of District and Communal Heating. We would be happy to discuss any of the material in this paper.

We previously submitted a response to the Scottish Government’s first consultation on this issue in April 2017, drawing upon relevant work that the CMA had carried out and a number of consumer complaints relating to district heating. Some of these issues related to the length of contracts, complicated pricing formulae, transparency of information and unfair pricing. In our response, we made a number of recommendations to the Scottish Government in considering their policy further:

* How to ensure that prospective consumers, including those who choose to switch to district heating, those forcibly connected to district heating networks, and individuals who move into a property that is connected to district heating, have timely access to clear and accurate information on the pricing and service standards of district heating providers, as well as of alternative sources of energy including grid energy.
* Whether there is scope for consumers, individually or collectively, to switch between different district heating providers. As noted in paragraph 15, there may be greater scope for competition in some parts of the district heating value chain than in others.
* How to ensure that consumers receive clear, accurate and intelligible pricing and billing information.
* How to ensure that district heating customers, especially those where switching is not technically or practically feasible, are able to get a good deal in terms of the price they pay and the service they receive, whilst also seeking to minimise the cost of capital for district heating infrastructure providers.
* How to ensure that there is an adequate system of consumer redress for the event that consumers face problems with their provider that cannot be satisfactorily resolved between the consumer and their provider. This is especially important in the context of consumers who are unable to switch.
* Whether it is possible to align the incentives of developers or local authorities who choose district heating suppliers with the interests of the end consumer. The timely provision of accurate information may form part of the answer to this.
* Ensuring that competition works as effectively as possible to deliver good outcomes for consumers and taxpayers, when designing both the regulatory scheme and through public procurement.

Since our first response the CMA has launched (in December 2017) a market study into domestic heat networks to review how well the market works and if consumers are getting a good deal.[[1]](#footnote-1),[[2]](#footnote-2) The focus of the study is on the provision of heat networks to domestic consumers. This includes domestic residents of large commercial housing developments and blocks of flats. The scope of the study is UK-wide.

We are examining three key themes, drawing both on the concerns that have been expressed by other institutions, and those that have been addressed directly to the CMA. These themes are:

*(a)* **Transparency of information**, both prior to moving into a property and during residency;

* 1. *(b)* Concerns regarding the **monopoly supply of heat,** the inability of customers to switch and the potential misalignment of the incentives of the builders, operators and customers of heat networks; and
  2. *(c)* **Outcomes for heat network customers**, including prices, service quality and reliability.

We are currently engaging with stakeholders across the UK and examining a range of evidence, including survey evidence, data on prices and costs, the operation of the supply chain, contracts and outcomes for customers.

Market studies can lead to a range of outcomes including a ‘clean bill of health’, making recommendations to government, encouraging businesses to self-regulate, taking consumer or competition enforcement action, making a market investigation reference or accepting undertakings in lieu of a reference. A market study may last up to 12 months, but we are required to decide within six months whether to make a market investigation reference.[[3]](#footnote-3)

We recognise the importance of engaging with both the Scottish Government and other stakeholders in Scotland, particularly given that the second consultation identifies a number of potential concerns regarding heat networks as well as options for remedial action.

As our stakeholder engagement, research and analysis is ongoing, we are not in a position to provide any detailed analysis of the Scottish Government’s proposals beyond that provided in our first response. However, we will continue to engage closely with the Scottish Government as it develops its policy on district heating.

1. Competition and Markets Authority (2017) Heat Networks Market Study launch <https://www.gov.uk/cma-cases/heat-networks-market-study> [↑](#footnote-ref-1)
2. Market studies are conducted under the Enterprise Act 2002. [↑](#footnote-ref-2)
3. Market investigation references are more detailed examinations into whether there are competition issues in a market. The CMA may make such a reference where the findings of a market study give rise to reasonable grounds for suspecting that a feature or combination of features of a market or markets in the UK prevents, restricts or distorts competition, and a market investigation appears to be an appropriate and proportionate response. [↑](#footnote-ref-3)