

13th August 2015

Gill Kiy
Competition Framework Team
Department of Business, Innovation and Skills
Third floor, 1 Victoria Street
London SW1H 0ET

Dear Gill Kiy

Government's Strategic Steer for the Competition and Markets Authority

ACS (the Association of Convenience Stores) wishes to respond to the consultation on the government's steer for the CMA. We would also like to be included in further consultation and discussions on the role of the CMA and its ongoing priorities.

ACS represents 33,500 shops throughout the UK, trading in high streets, neighbourhoods, villages and on petrol forecourts. The convenience store sector employs 386,000 staff, and is a key investor in communities: in the second quarter of 2015 alone, convenience stores invested £177m in their stores and surrounding areas. The convenience store sector is growing in line with demand for local, convenient shopping, making the range of products and services offered by convenience stores ever more relevant to people's daily lives.

ACS supports the overall steer being given to the CMA, and would raise two issues for consideration:

Self-regulation

In a number of policy areas, government challenges the industry to self-regulate to address policy concerns without requiring regulatory intervention. ACS supports this approach where appropriate, but in some cases self-regulation places the business taking part at competition risk. For example, recent local initiatives to ban the sale of high strength lager and cider have raised serious legal issues for retailers considering participating in these schemes. Colluding with other retailers to stop the sale of certain products puts retailers at risk of action from producers of those products under competition law, while choosing not to take part in those schemes can put retailers at odds with local authorities and police forces who may then use the licensing system to place pressure on those businesses. This example, which illustrates some of the difficulties of self-regulation from a competition perspective, shows how self-regulation can burden retailers with unreasonable risk. Often local authorities and other agencies are unaware of these risks, are sceptical that these legitimate concerns are being used as tactical barriers to businesses taking part in self-regulation, or at very least fail to give proper consideration to the competition implications of such initiatives.

We would recommend that the government builds on its steer to the CMA with specific guidance on handling self-regulation. The CMA should be encouraged to issue clear advice to businesses, government departments, local authorities and other agencies to establish a clear framework for all parties to operate within. The CMA has produced useful guidance relating to the example above on high strength alcohol, but this was reactive to industry concerns and was presented to all stakeholders once their views were already established. Clear guidance on the principles of self-regulation, and pro-active marketing of this guidance to all stakeholders would be a valuable activity for the CMA to undertake.

Diversity & Choice

The steer makes reference to promoting diversity and choice as a key objective of the CMA. We would agree with this principle, and urge the CMA to consider what diversity and choice actually mean. For example, in the retail sector, diversity and choice extends beyond a variety of businesses and brands; it also includes the variety of large and small businesses, niche consumer offers, different business models, and inclusive as well as exclusive supply chains and routes to market. Markets which do not feature genuine diversity and choice across these criteria should be of concern to the CMA.

We would welcome the definition of diversity and choice being developed and discussed further by the CMA.

Yours sincerely

A handwritten signature in grey ink, appearing to read 'James Lowman', with a long horizontal flourish extending to the right.

James Lowman
Chief Executive

Annex to Government's Strategic Steer for the Competition and Markets Authority:

1. Summary to consultation questions:

Question 1: Yes.

Question 2: Yes, self-regulation.

Question 3: Yes.

Question 4: No.

We do not need this reply to be acknowledged.