

Competition

investigations

The CMA has new powers:
make sure your business is prepared

Bristows

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Introduction

The Digital Markets, Competition and Consumers Act came into force on 1 January 2025, introducing the most significant changes to UK competition law in 20 years. The Act **strengthens the CMA's competition investigation and enforcement powers**:

- The CMA can now impose **higher fines** for failing to comply with information requests or for providing false or misleading information.
- Firms are subject to a new duty to **preserve evidence** where it is known or suspected that an investigation is likely to be carried out.
- The CMA can now require companies to produce **documents or information held overseas**, where accessible from the UK.
- The CMA can now use its 'seize and sift' seizure powers in **inspections at domestic premises**, which it expects to increase in the future.

The CMA has carried out around 80 Competition Act investigations in the last 10 years, leading to millions of pounds of fines and the disqualification of numerous directors. At the wider European level, the European Commission remains active in enforcing the EU competition rules. It has issued around 40 cartel decisions and 24 abuse of dominance decisions in the last 10 years, covering a wide range of sectors including technology, pharmaceuticals and consumer retail.

Competition investigations can result in significant fines and requirements to change company conduct. Most infringement decisions are now followed by private damages actions in the courts. It is more important than ever to have an **effective competition compliance programme** in place – and to be prepared for any competition investigation that might affect your business.

Learn more about our expertise

We provide support across the board, from tailored compliance systems to competition law risk advice for commercial strategies and agreements.

[Click here to learn more](#)

Key contacts

Please get in touch if you would like to discuss these issues in more detail.

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Checklist

Actions to take in the event of a competition investigation

Authorities have two main routes to obtain information: **RFIs** and **physical inspections** ('dawn raids'). A hybrid 'paper raid' is also possible, involving rapid response times and a request from the authority to make documents available at the company premises within a few working days.

Preparation for dawn raids



- Employees (including reception staff) should be made familiar with practical steps to take in event of a dawn raid. At the very least they should be encouraged to remember the **'three I's'**:
 - **Immediately Inform In-house counsel** (or other designated person) with information about the investigation (provide a copy of the mandate governing the inspection).
- **Ensure that** new employees are briefed on competition law compliance in training when they join the business, and that the training is regularly refreshed.

Document preservation



- Take immediate steps to pause routine document destruction – inform IT and other relevant personnel.
- Additional action should be taken to preserve relevant documents. 'Documents' is construed widely – it typically includes all written and digital records (emails, texts, cloud-based documents, voicemail messages, etc).
 - **Remember** that investigations may relate to ongoing conduct, so new documents may also be within scope.
- Communicate **document retention policy** to affected employees.

Document collection and review



- Given authorities' focus on locating electronic information, the company's **IT team** will typically play an important role in the collection process.
- Consider **privacy issues** – employees' documents may contain sensitive personal data.
- Assess need for an **e-discovery platform provider** to assist with speedy review.
- Factor in time required to consider **confidentiality and privilege issues**.
 - **Note** that EU legal privilege does not apply to communications between a company and its in-house lawyers or patent/trade mark attorneys.

Initial case assessment



- It is important to conduct an **early assessment** of the strength of the authority's case – this will affect the decision on whether to settle or fight. Early and targeted responses can sometimes prevent things being taken further by the authority.
- Conduct **interviews** with relevant business people early in the process (may need to involve HR in this process). Consider **privilege** of output and **risks of conflicts of interest** in the management group.

Bristows' expertise in handling competition investigations

Bristows' Competition team is known for its expertise in the technology and life sciences sectors and beyond. The team includes dual-qualified EU/UK lawyers, enabling us to advise across the full scope of EU and UK competition law. We have extensive experience of acting in investigations against both the CMA and the European Commission. A few examples of our work in this area are discussed below.



CMA dawn raid and 4-year investigation (closed with no fine)

We successfully defended a UK pharmaceutical company in a four-year CMA investigation, securing case closure without the imposition of a fine or other penalty. The case involved serious allegations of market-sharing and information-sharing. Other cases started at the same time in the same market led to fines of millions of pounds.

Bristows was involved from the initial dawn raid up to the final oral hearing. We were able to deploy our specialist sector knowledge to significant effect, providing credible alternative explanations for the issues the CMA was initially inclined to treat as evidence of collusion.

This was one of the first cases in which the CMA ran director disqualification proceedings alongside the main investigation. We assisted the company and its directors with all proceedings, avoiding the risk of significant reputational harm to the directors (one of whom has since gone on to have a successful career in the charities sector). We also devised a strategy for a possible appeal (had the CMA issued an infringement decision).

The case closure in this investigation contrasts with other CMA investigations in the pharma sector in recent years – the majority have resulted in infringement decisions and director disqualifications.



CMA RPM investigation (no fine imposed)

We successfully represented an industry-leading online retail platform in relation to a CMA investigation of resale price maintenance (**RPM**). While the investigation resulted in an infringement decision and substantial fines on other parties, we were able to ensure that our client avoided fines and being publicly named.

Bristows became involved after the initial round of responses to information requests. It quickly became clear that our client's previous advisors had allowed it to make potentially misleading statements and incomplete disclosure to the CMA. We were able to implement, at speed, a significant and in-depth e-discovery and interview process that allowed us not just to correct the error but to convince the CMA that it had been made in good faith and should not attract penalties or other enforcement action.



EU Commission RPM investigation (closed by settlement)

We represented a large consumer electronics company in an EU Commission investigation into RPM. The case involved a significant e-discovery exercise; conducting interviews with the company's sales teams in several countries; preparing detailed written submissions to the Commission; and multiple meetings with the Commission's case team in Brussels.

The investigation concluded with the first settlement of a non-cartel infringement of Article 101, in the first Commission RPM investigation in 15 years. By cooperating with the Commission and providing evidence with significant added value, we were able to secure a 40% discount on the financial penalty.

Following the investigation, we worked with the company to overhaul its European distribution agreements to ensure compliance with EU competition rules, and gave competition compliance training to the company's sales teams across Europe.



EU Commission investigation (secured early case closure)

We assisted a global interactive entertainment company with responding to a formal Request for Information (**RFI**) from the EU Commission. The RFI stemmed from allegations that the company's discount policy constituted resale price maintenance.

We embarked on an intensive exercise to get to the bottom of the factual issues in a short time frame. This enabled the client to respond fully to a detailed RFI from the Commission. We also prepared a supplemental paper to contextualise the issues raised in the RFI. Our swift and strategic response helped to ensure that the Commission closed its enquiries less than six months after sending the initial RFI.

Key contacts



Sophie Lawrance

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Sophie specialises in EU and UK competition law, investigations and litigation. She has a particular interest in working with businesses in technology and pharmaceutical sectors, and in relation to the competition issues that arise in connection with standardised technology.



Stephen Smith

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Dual-qualified in England and Belgium, Stephen spends time in both our London and Brussels offices. He provides clients with pragmatic, commercial advice and has a broad EU and UK competition law practice covering M&A transactions, advisory and investigations, including cartels.



Robert Vidal

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Robert specialises in UK and EU competition law. He has significant advisory, contentious and merger control experience, having acted in numerous cases against both the CMA and the European Commission. His practice has a particular focus on supporting IP-rich clients in the technology and life sciences sectors.



Sean-Paul Brankin

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Sean-Paul is an Of Counsel in the Competition team based in Brussels. He is dual English and Belgian qualified and has over 25 years' experience as both a competition law advisor and an enforcer. His practice covers complex advisory work, merger control and competition litigation.

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"[Bristows' Competition team] has grappled with some of our most complex products, over an extensive time period, in order to represent us in complex competition cases. They have also been required to work hand in glove with other law firms, which they have done efficiently and effectively."

Legal 500 2025

"The law firm is highly knowledgeable, efficient and respectable. Bristows is able to handle complex matters with a dynamic team across legal disciplines."

Chambers and Partners 2025

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