FLINT

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Collective Proceedings in the UK

Growth, Deterrence & Redress

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Foreword

For more than four decades I have advised both companies facing antitrust enforcement and those harmed by infringements of competition law. I have advised regulators and provided input into countless consultations. That has taught me two things that must be held together: the need for strong defence rights and a proportionate legal system, and the power of competition law, when enforced rigorously and fairly, to make markets work better and economies grow stronger.

Private enforcement of competition law is not a sideshow. It is an essential complement to public enforcement that helps markets work for businesses, consumers, and the economy at large.

This study from Flint Global is valuable because it looks beyond headlines to the economic substance of the UK's collective proceedings regime. It shows how aggregating many small losses into a single, viable action makes redress possible where it would not be otherwise. It also shows that by deterring anti-competitive behaviour, the regime helps to promote growth by making markets more competitive – as the Government itself recognised when it introduced the regime back in 2015.

That has direct benefits for small UK businesses, consumers and public sector bodies, who may lack the resources to seek redress on their own despite being harmed by anti-competitive behaviour. The report also demonstrates that the wider gains to the UK economy – from sharper incentives to compete, invest and innovate – are material and persistent. Through robust modelling, the report demonstrates that the benefits attributable to the regime are measured in billions of pounds each year.

As founder of Law for Change, I see every day how the availability of legal funding and a workable legal route can transform access to justice for people and communities who would otherwise be shut out. That is precisely the promise of collective proceedings in competition cases: they allow dispersed, low-value harms to be addressed at scale, returning money to those who were overcharged and reminding companies of the consequences of breaking the law. With competition authorities facing resource constraints, which means they must focus on the highest-impact or precedent-setting matters, a sound private enforcement channel extends the reach of the system at lower cost to the taxpayer. Having established the parameters, regulators often step back and let private enforcement step up. The result is more deterrence and a more competitive economy.

Much commentary about the regime's "costs" misses this point. Compensation paid to victims is not a cost to the economy – it is a transfer from infringers to those harmed. There are legal and court costs required to run cases, and those must be managed carefully. Moreover, even those contribute to one of the most successful parts of the UK economy: the UK's legal sector is an engine of economic growth, contributing £42.6bn to the economy in 2024 alone. Indeed, as Sarah Sackman KC MP, Minister of State for Courts and Legal Services, noted: "*Legal services don't just support growth – they enable it. They underpin trade, give confidence to investors, and provide the legal infrastructure that the UK market relies on.*"[1]

This report takes a balanced approach, recognising those costs while showing that, set against the benefits of better-functioning markets and stronger deterrence, the overall balance is strongly positive and those costs are better seen as an investment in a functioning redress system. That finding is consistent with both economic theory and the practical experience of jurisdictions that have long used collective redress to underpin market integrity, such as the US, Australia and Canada.

It is also important to keep a sense of proportion about where the UK regime sits in its development. Collective actions at scale are still relatively new here. Only five years have passed since the first opt-out collective proceedings order was granted, and the caseload to final judgment remains limited – a predictable feature of any maturing system. It would be premature to draw sweeping conclusions about the regime's effectiveness without giving adequate time for the regime to bed in. In addition, the Supreme

[1] The benefits of an open and competitive legal economy. Lessons from and for the UK. Report for the Ministry of Justice.

Court's *PACCAR* ruling has increased uncertainty within the regime, leading to a decrease in the number of filings in recent years. That should concern anyone who values competitive markets and access to justice for businesses and consumers.

What follows from this analysis is not a call for complacency. Indeed, the report acknowledges that legal costs have exceeded initial Government projections, while proceedings have also taken significantly longer compared to other jurisdictions.

Instead, the report calls for steady, evidence-based improvement to make the regime more efficient. Above all, the system needs to be nurtured. If we allow the system to be curtailed, we risk entrenching under-enforcement which would enable anti-competitive behaviour and dull the very competitive pressures that drive growth, productivity and innovation.

This report shows how a well-functioning collective proceedings regime can be a force for public good: it restores funds to those harmed; it supports smaller businesses – the lifeblood of the UK economy – to compete on a level playing field; and it strengthens the economic cycle of innovation and productivity that underpins growth. The right response is to preserve and refine the regime so that, together with public enforcement, it delivers the outcomes Parliament intended and our economy needs.

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1. Executive summary

Key points:

- The collective proceedings regime drives productivity growth, innovation, and economic growth by making UK markets more competitive. It helps to deter anti-competitive behaviour and provides redress for UK businesses, consumers, and public sector bodies, all at a lower cost to taxpayers compared to public enforcement.
- Our analysis suggests the net benefits of an effective, functioning collective proceedings regime are substantial, ranging from £3.5bn to £10.5bn per year.
- Much of the criticism directed at the regime rests on a misunderstanding of "costs". Payments of compensation are transfers from companies which have broken competition law to those harmed – UK consumers, SMEs, and public bodies – not a net cost to the economy.
- Ultimately, the collective proceedings regime is still in its early days. While there is scope to improve the efficiency and speed of the regime, it would be premature to draw sweeping conclusions about the regime's effectiveness without giving adequate time for the regime to fully develop.

The UK's opt-out collective proceedings regime allows legal actions to be brought in the Competition Appeal Tribunal (CAT) on behalf of a group of businesses or consumers who have been harmed by a breach of competition law.

The rationale for the regime is simple: **by enabling redress at scale and deterring anti-competitive behaviour, the regime makes UK markets more competitive**. Stronger competition lowers prices, improves quality and accelerates innovation e.g. the adoption of new technologies and creation of new products. **This in turn raises productivity and supports investment, both of which are central to growth.**

Indeed, one of the principal aims for introducing the opt-out collective proceedings regime was to **increase growth** "*by empowering small businesses to tackle anti-competitive behaviour that is stifling their business*".[2]

The opt-out collective proceedings regime was introduced in 2015 to close an enforcement and redress gap. Competition authorities have limited resources, which means they cannot investigate every instance of anti-competitive conduct. Even when competition authorities do act, fines do not compensate those who suffered loss. Furthermore, many harms are dispersed across large numbers of businesses and consumers, each with an individually small claim that would not be economic to bring alone.

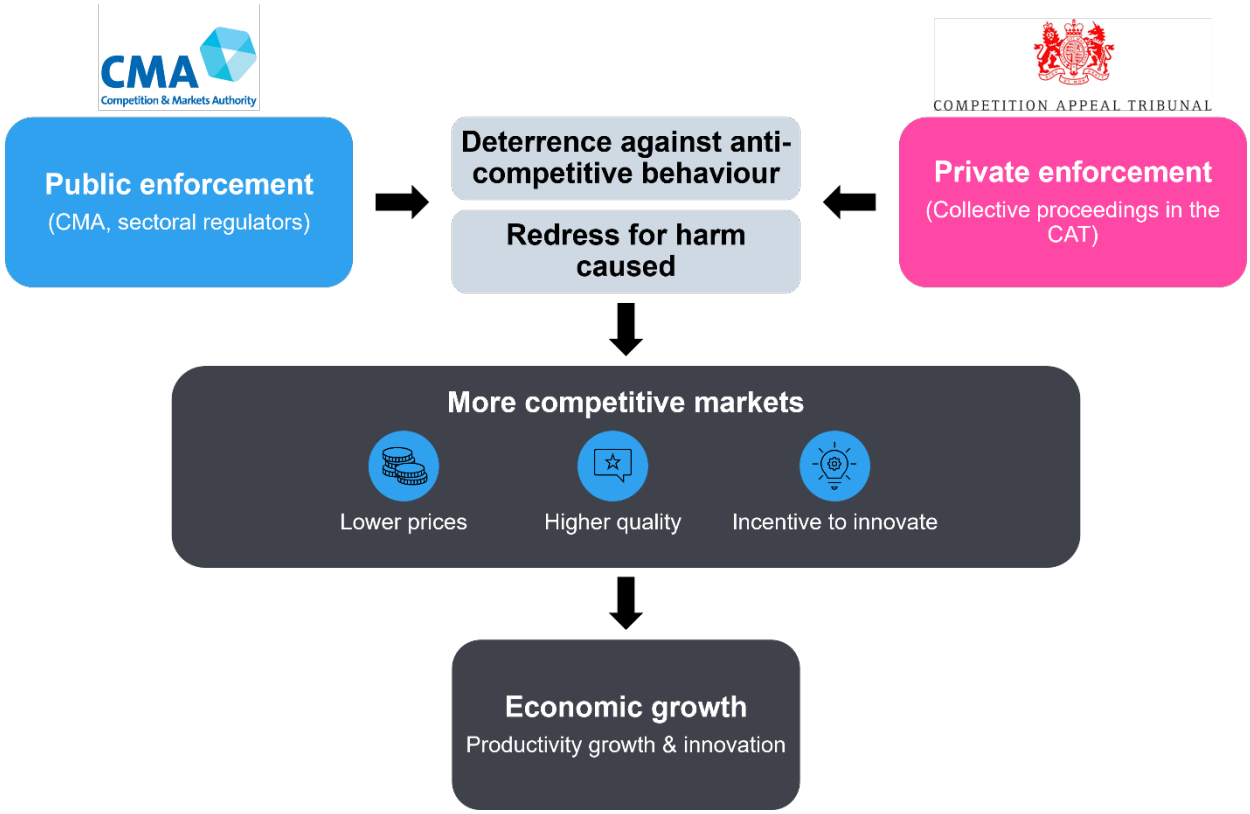
Opt-out collective proceedings seek to solve that problem by aggregating claims and providing a practical route to compensation for harms that might otherwise remain unremedied. In doing so, the regime has the potential to **help smaller UK businesses, charities and public sector bodies as well as consumers**. These groups are often the least able to shoulder the costs of individual action when they are harmed by anti-competitive behaviour.

To illustrate this point, out of the 28 claims certified by the CAT to proceed to trial up to 2025, 15 (54%) are on behalf of a business class or a mixed business/consumer class.[3] Based on claims filed up to 2025,

[2] Department for Business, Innovation & Skills (2013), Private actions in competition law: A consultation on options for reform – government response, page 3
[3] Hausfeld & Co. LLP response to DBT call for evidence

the average damages per class member for cases where the class is composed primarily of businesses is c.£140,000 – a significant amount in redress for small UK businesses.[4]

Private enforcement through the collective proceedings regime complements public enforcement by the Competition and Markets Authority (CMA) and sectoral regulators. The regime helps to enforce competition law at lower cost to the taxpayer by harnessing private capital, private information and specialist legal and economic expertise. Together, public and private enforcement ensure that infringing competition law carries consequences, which encourages stronger corporate compliance and increases deterrence. **This in turn drives growth by making markets more competitive and dynamic.**



Critics often present headline estimates of the "costs" of the regime that conflate two very different things: real resource costs such as legal fees, and claim values which reflect compensation payments by defendants.

However, **compensation payments for harm caused are not a net cost to the economy; they are transfers from companies which have broken competition law to those who have been harmed**, including SMEs, consumers, and public bodies. Treating transfers as economic costs is a category error which does not contribute to an informed debate on the merits of the regime. Moreover, claim values are pleaded figures, not adjudicated harm – many cases remain uncertified, and of the cases that are certified, some will fail while others will see damages or settlements awarded that may be much lower than the initial claim value.

The correct question – which this report seeks to address – is whether the regime's resource costs are proportionate when set against its benefits.

Critics also often overlook the important safeguards built into the UK regime, which sets it apart from other jurisdictions. In the UK, strict certification by the CAT helps to filter out non-rigorous cases; damages are compensatory rather than exemplary; and the loser-pays principle discourages speculative

[4] Linklaters (2025), Department for Business & Trade: Opt-out collective actions regime review: Response to call for evidence from Linklaters LLP

claims and ensures that defendants who have not broken the law can recover their costs. Defendants can also appeal the CAT's decisions. These safeguards help to ensure damages compensate for harm caused, rather than imposing extra costs on businesses. Based on costs incurred in cases to date, there is limited evidence to suggest costs are disproportionate relative to claim values. For example, in *Justin Le Patourel v BT Group*, which BT won, BT's costs were c.£26m (c.2% of the initial claim value of £1.3bn), which it is due to largely recover from insurers and litigation funders who backed the claim.[5]

However, it is true that legal costs have exceeded initial Government expectations.[6] Proceedings have also taken significantly longer compared to other jurisdictions. This is unsurprising given the novelty of the regime, as it has only been five years since the first collective proceedings order was granted; early matters inevitably involved procedural novelty and appeals that increased expense and delay. The experience of peer jurisdictions (e.g. Australia and Canada) suggests that many of these frictions may diminish as the regime matures.[7]

To quantify the costs and benefits of the UK regime, we have used the methodology adopted by the Department for Business, Innovation and Skills (BIS) in its initial impact assessment at the time the regime was introduced and updated the figures to reflect recent developments. In that impact assessment, the Government noted that improvements brought by competition would bring a range of longer-term benefits to growth, productivity and innovation, but did not seek to quantify these. To address this gap, we have also considered estimates produced by the European Commission (EC), which found that competition policy interventions will lower economy-wide prices by 0.7 per cent and boost GDP by 1.1 per cent over the long run. We estimate the collective proceedings regime brings **average net benefits of between £3.5bn and £10.5bn a year** once deterrence and dynamic effects are accounted for.

We have derived these estimates using a bottom-up approach. Another recent study employs a top-down approach and finds the regime's economic impact to lie between £12.1bn and £24.2bn per year, with a median estimate of c.£18.1bn annually.[8] The overall message is clear: **the benefits from a well-functioning private competition law enforcement regime considerably outweigh the costs involved.**

Nevertheless, it is right to examine whether there are ways to make the regime more efficient, which should benefit both defendants and claimants. The CAT already has robust powers to manage costs, including cost budgeting and assessment to ensure that parties' recoverable costs are no more than reasonable and proportionate. Reforms such as stricter cost budgeting and improved case management could help to further reduce costs while preserving the benefits of the regime.

Given the regime's potential to drive growth and innovation, as our analysis suggests, the right course is to preserve a balanced system in which public and private enforcement work together, while continuing to improve the efficiency and predictability of procedures. The focus should be on ensuring the regime delivers on its full potential – providing redress for businesses and consumers, ensuring a level playing field for companies operating in the UK, and supporting a more competitive and dynamic UK economy – in the most efficient and proportionate way.

[5] 1381/7/7/21 Justin Le Patourel v BT Group PLC - Order of the Chair (Costs) | 21 May 2025 ; 1381/7/7/21 Justin Le Patourel v BT Group PLC - Reasoned Order (Permission to Appeal and Costs) | 13 Feb 2025; BT escapes liability in £1.3 billion class action in UK Competition Appeal Tribunal… for now

[6] The Government estimated annual costs of £13.9m in its initial impact assessment. See Department for Business, Innovation & Skills (2013), Private actions in competition law: a consultation on options for reform - final impact assessment, page 4.

[7] For example, Australian practitioners report having refined their class action process to achieve resolution – from filing through to settlement – in less than three years on average. See Stephenson Harwood (2025), Realising the benefits of competitive markets: strengthening the Competition Appeal Tribunal, page 12.

[8] Stephenson Harwood (2025), Realising the benefits of competitive markets: strengthening the Competition Appeal Tribunal.

2. Overview of the UK collective proceedings regime

Key points:

- The two principal aims for introducing the opt-out collective proceedings regime were to:
  - **Increase growth**, by empowering small businesses to tackle anti-competitive behaviour that is stifling their business; and
  - **Promote fairness**, by enabling consumers and businesses who have suffered loss due to anti-competitive behaviour to obtain redress.
- Since the regime was introduced in 2015, the majority of cases have been **standalone cases** (where no regulatory investigation has yet been undertaken or concluded). Standalone cases have a greater effect on deterring anti-competitive behaviour.
- The UK regime is distinguished by several **safeguards** which protect against frivolous or unmeritorious cases, including strict certification and cost oversight by the CAT, no treble/exemplary damages, and the loser-pays principle.

Collective proceedings are legal actions brought by a representative on behalf of a group of people, businesses or public bodies who have been affected in a similar way by an event, such as a breach of competition law.

Collective proceedings may be opt-in or opt-out. Opt-in collective proceedings require class members actively to notify the class representative that they wish to join the claim. Opt-out collective proceedings, by contrast, automatically include all UK-domiciled class members within a defined class. Under the UK system, opt-out collective proceedings are limited to claims for breaches of competition law.

In contrast to public enforcement of competition law, which is led by the CMA, the Competition Appeal Tribunal (CAT) sits at the centre of the opt-out collective proceedings framework as the UK's specialist forum for competition disputes. The CAT authorises class representatives to act on behalf of class members. It also certifies claims as eligible for inclusion in collective proceedings by issuing Collective Proceedings Orders (CPOs) and approves proposed settlement agreements before they become binding.

Background: Objectives of the opt-out collective proceedings regime

Prior to 2015, although collective proceedings could be heard by the CAT, only the consumers' association Which? could bring forward competition cases on behalf of others, and only on an opt-in basis. Opt-out collective actions were not a feature of the UK justice system.

The opt-out collective proceedings regime for competition claims was created by the Consumer Rights Act 2015, which amended the Competition Act 1998 to allow opt-out collective proceedings before the CAT.

The Government's intention for introducing the opt-out collective proceedings regime was to make it easier for businesses and consumers to seek redress where they have suffered loss from a breach of competition law,[9] and address an enforcement gap by enabling private enforcement as a complement to public enforcement of competition law.

[9] Department for Business & Trade (2025), Opt-out collective actions regime review: call for evidence; See also Department for Business, Innovation & Skills (2013), Private actions in competition law: A consultation on options for reform – government response

The Government explicitly noted that one of the principal aims of the reforms was to **increase growth** "*by empowering small businesses to tackle anti-competitive behaviour that is stifling their business*".[10] The pro-growth effect of the opt-out collective proceedings regime would come from addressing gaps in the existing system:

- Competition authorities have limited resources, which means they cannot pursue all meritorious cases. Given their emphasis on high-impact cases, their resources are mostly directed at larger cases. For example, the CMA has often had to deprioritise investigations into possible anti-competitive conduct on the grounds of administrative priorities (as we explain further in Section 4). As a result, relying solely on public enforcement means a significant proportion of anti-competitive behaviour may not be caught, while smaller businesses harmed by anti-competitive behaviour are unlikely to receive swift resolution.[11]

- In addition, even when competition authorities act against infringements, they do so through fines rather than awarding damages, which means injured parties cannot gain redress without bringing a private action.[12]

- Prior to the 2015 reforms, although individuals and businesses could pursue redress if they were harmed by anti-competitive behaviour, the Government acknowledged that the process was "costly and complex",[13] and "well beyond the resources of many businesses, particularly SMEs".[14] This is particularly true as competition cases may involve very large aggregate harms divided across many businesses or consumers, each of whom can only claim a small amount. This means it is not cost-effective for any individual to bring a case. The assessment of whether there has been anti-competitive behaviour and analysing the effect of any such behaviour is an expensive process and is also beyond the resources of individual consumers and many businesses.[15] As a result, the Government concluded that most anti-competitive behaviour did not lead to private actions seeking redress.[16]

- Due to the relatively limited public enforcement in the UK compared to other jurisdictions (as we explain below),[17] and lack of private enforcement, the Government considered that there was scope to improve the effectiveness of the existing legal regime to deter anti-competitive behaviour.

- It is well recognised that anti-competitive behaviour harms the economy, as it typically leads to lower output and higher prices, reduced choice for consumers, sub-optimal allocation of resources, reduced innovation, and lower productivity growth.[18] For this reason, 140 countries enforce competition laws.[19]

- By increasing "*the ability of business and consumers to hold to account those who have breached competition law*", the opt-out collective proceedings regime was expected to "*stimulate growth and innovation by tackling anticompetitive behaviour*".[20]

[10] Department for Business, Innovation & Skills (2013), Private actions in competition law: A consultation on options for reform – government response, page 3
[11] Department for Business, Innovation & Skills (2013), Private actions in competition law: a consultation on options for reform - final impact assessment, paragraph 3
[12] Ibid., paragraph 4
[13] Department for Business, Innovation & Skills (2013), Private actions in competition law: a consultation on options for reform - final impact assessment, paragraph 5
[14] Department for Business, Innovation & Skills (2013), Private actions in competition law: A consultation on options for reform – government response, page 3
[15] Ibid., page 14
[16] Department for Business, Innovation & Skills (2013), Private actions in competition law: a consultation on options for reform - final impact assessment, paragraph 6
[17] Ibid., paragraph 21
[18] Ibid., paragraphs 7-10
[19] UNCTAD (2025), Report on the implementation of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, including a brief assessment of 20 years of voluntary peer reviews of competition law and policy
[20] Department for Business, Innovation & Skills (2013), Private actions in competition law: A consultation on options for reform – government response, pages 4 and 7

As the Government noted:

> "***Competition creates growth and is one of the pillars of a vibrant economy.*** *A strong competition regime ensures the most efficient and innovative businesses can thrive, allowing the best to grow and enter new markets, and gives confidence to businesses wanting to set up in the UK. It* ***drives investment*** *in new and better products and pushes prices down and quality up. This is* ***good for growth and good for consumers****."*[21]

The Government estimated in its 2013 impact assessment that the reforms would bring about net benefits of £828m (best estimate, NPV over 10 years), mainly through the deterrence effect and lower prices. However, the impact assessment understated the total likely benefits, as the Government also noted that "*Improvements brought by competition bring a range of longer-term benefits to growth, productivity and innovation, beyond those which can be captured by this analysis*."[22]

In its recent consultation, the Department for Business & Trade (DBT) recognised these objectives and reaffirmed its commitment to consumer protection. It also acknowledged that "*a regime that is proportionate and focused on returns to consumers where they are due is good for growth and investment*".[23]

Evolution of collective proceedings regime since 2015

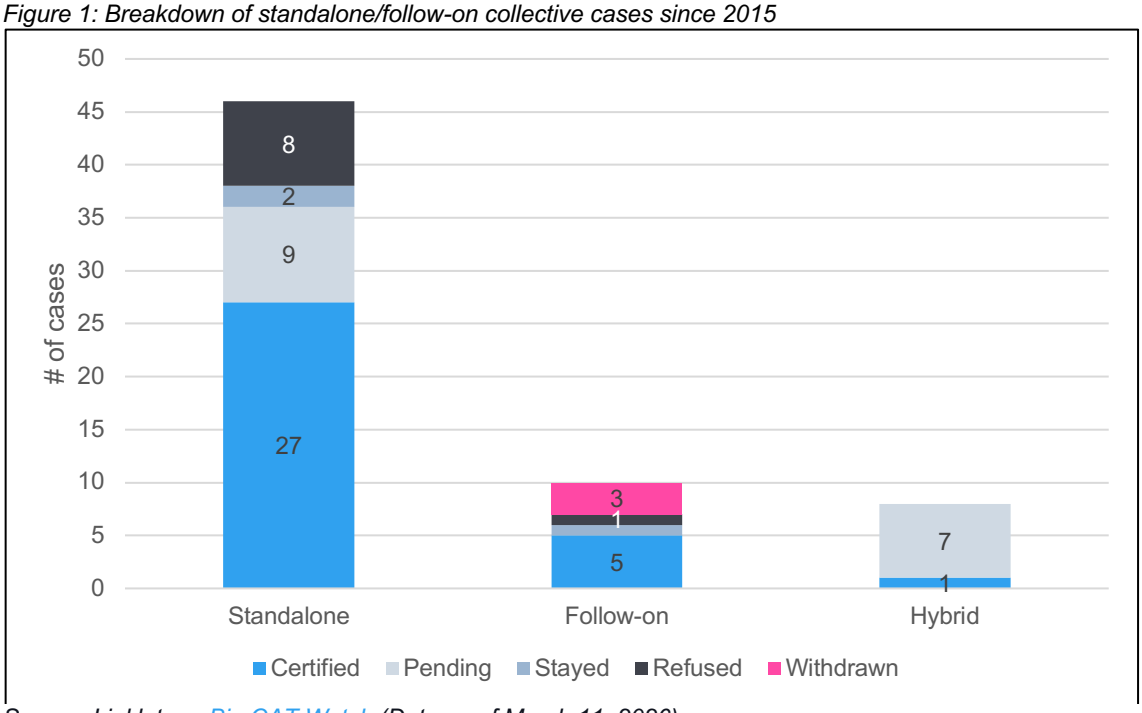
Since 2015, the vast majority (over 90%) of collective proceedings have been opt-out claims. This reflects the practical advantages of the opt-out mechanism in addressing low-value, high-volume consumer claims compared to opt-in proceedings – as recognised by the UK Government when it introduced the regime.[24]

Collective proceedings can take three types: **follow-on**, **standalone**, or **hybrid**. Follow-on cases are brought where the Competition and Markets Authority (CMA) or European Commission (EC)[25] have already investigated anti-competitive behaviour and made an adverse finding. In a follow-on claim, the class representative does not need to prove that the defendant has breached competition law because the infringement decision is binding on the CAT. Standalone cases are brought where no regulatory investigation has yet been undertaken or concluded. Cases can also be hybrid in nature (relying on infringement decisions for part of the claim).

When the regime was introduced, it was expected that the majority of cases would be follow-on cases.[26] However, this turned out not to be the case: as of 2026, 84% of opt-out collective proceedings are standalone cases (Figure 1).

[21] Ibid., page 5
[22] Department for Business, Innovation & Skills (2013), Private actions in competition law: a consultation on options for reform - final impact assessment, page 4
[23] Department for Business & Trade (2025), Opt-out collective actions regime review: call for evidence
[24] Department for Business, Innovation & Skills (2013), Private actions in competition law: a consultation on options for reform - final impact assessment, paragraph 55
[25] For EC investigations formally commenced before 31 December 2020.
[26] Department for Business, Innovation & Skills (2013), Private actions in competition law: a consultation on options for reform - final impact assessment, paragraph 194

Figure 1: Breakdown of standalone/follow-on collective cases since 2015



Source: Linklaters, Big CAT Watch (Data as of March 11, 2026)

This is due to three key factors:

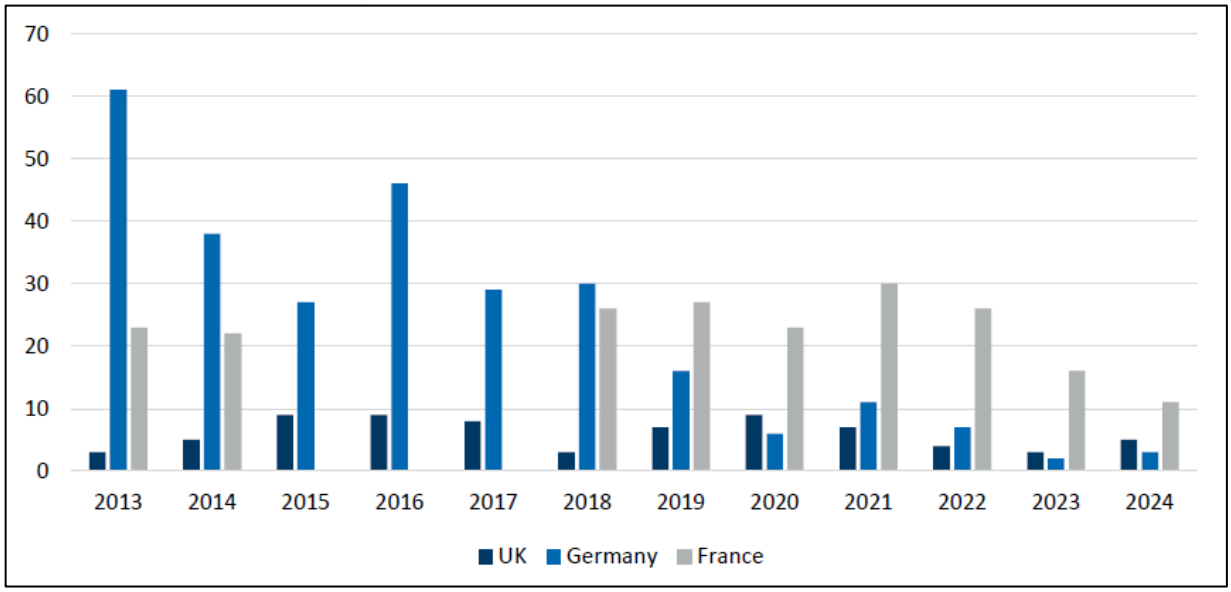
- Under post-Brexit law, EC decisions on breaches of competition law remain binding on UK courts only for investigations formally commenced before 31 December 2020. EC decisions for investigations initiated after that date are not binding on UK courts. This means that even where the EC has found clear infringements affecting UK markets, UK claimants must nevertheless establish liability from first principles in standalone proceedings. For example, in *Which? v. Qualcomm*, Which? relied on the EC's findings that between at least 2011 and 2016 Qualcomm held a dominant position on the global market for the supply of chipsets compliant with certain standards,[27] including the LTE standards.[28]

- As a result, follow-on cases must be based on CMA enforcement decisions. However, these have typically been more limited in volume compared to the EC and some other EU national competition authorities. As Figures 2 and 3 show, the CMA has historically issued far fewer infringement decisions than the French Autorité de la concurrence and Germany's Bundeskartellamt, and the total value of fines imposed in the UK has also been much lower than those of the EC and leading EU national competition authorities. This partly reflects the CMA's willingness to accept settlements or commitments from firms in lieu of issuing formal infringement findings.[29] For example, the CMA accepted binding commitments in recent investigations into Vifor Pharma[30] and housebuilders.[31]

- A number of the current cases before the CAT are classified as standalone (and so fall into the left-hand column in Figure 1) because they do not follow UK decisions, but are actually heavily based on the decisions of other regulators and use factual findings from those regulators. For example, *Ad Tech Collective Action LLP v Alphabet Inc. & Others* is based on a French Autorité de la concurrence decision but is technically standalone as it is not based on a UK decision.[32]

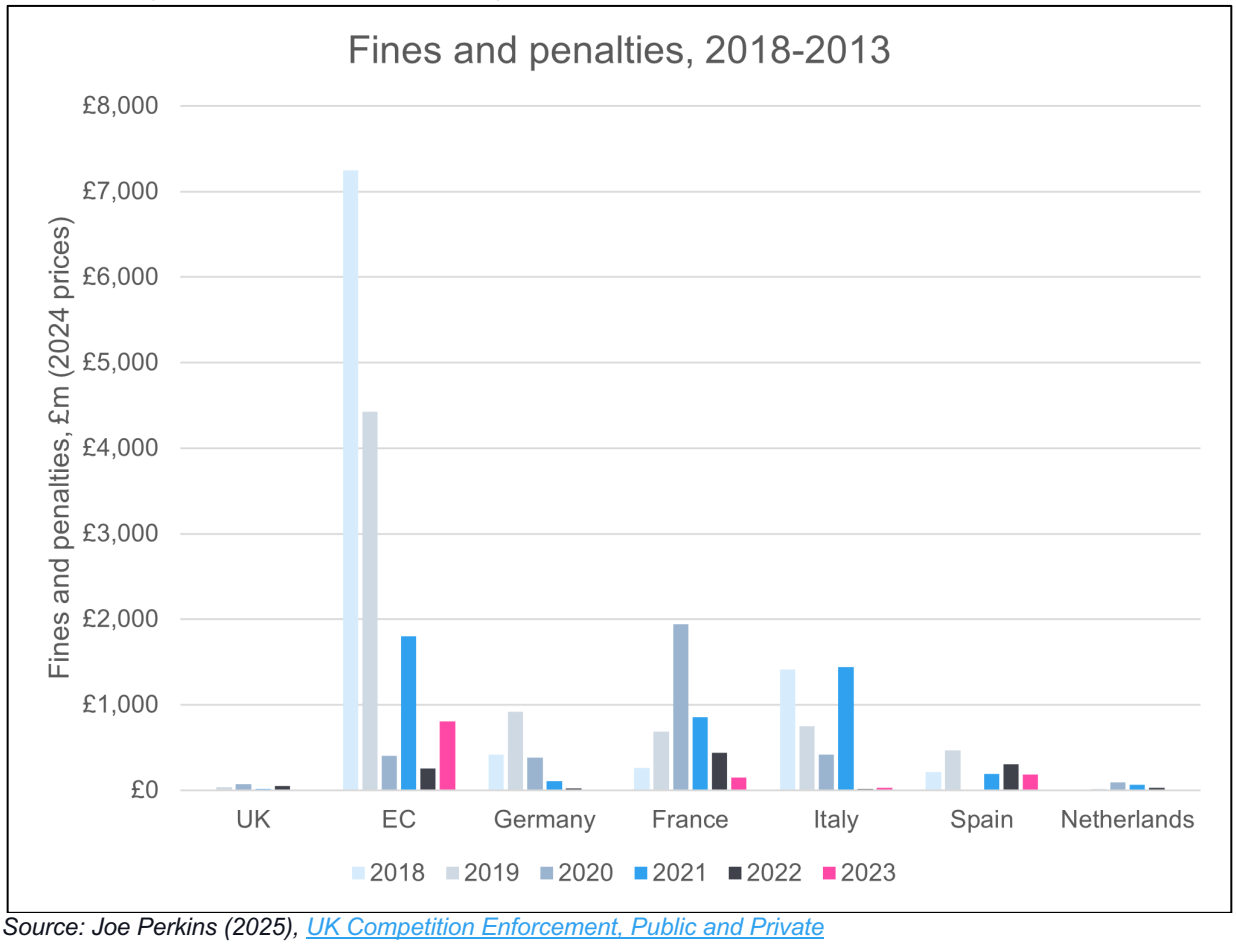
[27] In European Commission case AT.40220 Qualcomm (Exclusivity Payments)
[28] 1382/7/7/21 Consumers' Association v Qualcomm Incorporated - Judgment (Application for a collective proceedings order) | 17 May 2022
[29] Competition enforcement – a view from the CMA - GOV.UK
[30] Investigation into suspected anti-competitive conduct by Vifor Pharma in relation to intravenous iron treatments - GOV.UK
[31] Investigation into suspected anti-competitive conduct by housebuilders - GOV.UK
[32] The Autorité de la concurrence hands out a €220 millions fine to Google for favouring its own services in the online advertising sector | Autorité de la concurrence; 1572/7/7/22; 1582/7/7/23 Ad Tech Collective Action LLP v Alphabet Inc. & Others | Competition Appeal Tribunal

Figure 2: Enforcement decisions by selected national European competition authorities from 2013 to 2024



Source: Joe Perkins (2025), UK Competition Enforcement, Public and Private
Notes: Missing data for France in 2015-2017 indicates that the competition authorities' annual reports did not detail the number of concluded competition enforcement cases.

Figure 3: Fines and penalties issued by selected national European competition authorities and the European Commission from 2018 to 2023 (millions, adjusted to 2024 prices)



Source: Joe Perkins (2025), UK Competition Enforcement, Public and Private

The number and nature of cases in the collective proceedings regime therefore reflect the unique circumstances of the UK's competition enforcement landscape. The growth of standalone cases in particular has two important implications for the benefits of the regime:

- According to the Government, standalone cases have a "straightforward deterrent effect", as each case causes an additional case of infringement to be acted against with the associated publicity, need for behaviour change and direct financial costs.[33] In contrast, it is more difficult to estimate the deterrent effect of follow-on cases, as public enforcement decisions would already have an initial deterrent effect. The Government therefore assumes a **greater deterrent ratio for standalone cases** than follow-on cases.[34]

- Figure 2 and Figure 3 above also demonstrate that the CMA is behind comparator economies in issuing decisions and fines for breaches of competition law. This makes standalone opt-out collective actions an important part of the enforcement landscape, reducing the enforcement gap in the UK vis-à-vis other developed economies at lower cost to the taxpayer.

These factors need to be taken into account when examining the benefits and costs of the regime. Equally important are the safeguards built into the regime, which we turn to next.

Safeguards in the UK collective proceedings regime

Several safeguards play an important role in protecting against frivolous or unmeritorious cases being brought, and therefore prevent unnecessary costs from being imposed on businesses.

These include:

- **Strict certification and cost oversight.** Opt-out collective proceedings cases face stricter oversight than other forms of litigation, in that the CAT must certify claims. Of the 64 claims brought to date, 9 have been refused certification, while 16 are still pending. The CAT must also deal with cases "justly and at proportionate cost", and has powers to ensure costs are proportionate, including through case-management.[35]

- **No treble or exemplary damages.** As the Government said when introducing the regime, "*Businesses accused of anti-competitive behaviour will have several safeguards to make sure that the results are fair for them as well, including making sure that if they lose the case they only pay back what was lost by the consumer or other business and don't face excessive costs.*"[36] By contrast, US federal antitrust law provides for treble damages and fee recovery under Section 4 of the Clayton Act.

- **Loser-pays principle.** One of the traditional features of English law, the loser-pays principle (i.e. the loser pays the costs of the winning party) serves to encourage only bringing meritorious claims. As the Government noted, "*This is one of the most valuable safeguards in encouraging only claims in which the claimant thinks they have a reasonable chance of winning as it places a potential cost on the claimant should they lose.*"[37] By maintaining the traditional loser-pays principle for collective proceedings (subject to the CAT's discretion), the regime effectively discourages speculative claims. Defendants only pay compensation and costs if they are found guilty of anti-competitive conduct. For example, in *Justin Le Patourel v BT Group*, the CAT ordered the Class Representative to pay 85% of

[33] Department for Business, Innovation & Skills (2013), Private actions in competition law: a consultation on options for reform - final impact assessment, paragraph 26
[34] Ibid., paragraph 28
[35] The Competition Appeal Tribunal Rules 2015
[36] New help for consumers and businesses to take action against price fixing - GOV.UK
[37] Department for Business, Innovation & Skills (2013), Private actions in competition law: a consultation on options for reform - final impact assessment, paragraph 200

BT's reasonable costs.[38] This contrasts with the US "American Rule", where each party generally bears its own legal fees absent a statutory or contractual fee-shifting provision. Importantly, defendants also have the right to appeal the CAT's decisions.

These safeguards distinguish the UK collective proceedings regime from some other jurisdictions, such as the US. As the Government has also recognised, "*the US experience is not directly comparable, not least due to differences in cost rules and issues around the level of damages that can be awarded*".[39]

In addition, the vast majority of collective proceedings claims in the UK are funded by third-party litigation funders, who rigorously assess the legal and economic merits, prospects of success and recoverability of claims before committing capital. Because funders' returns are contingent on success, they are unlikely to finance weak or speculative claims. For example, according to Mulheron (2024), "*The acceptance rates of pitched cases is extraordinarily low, and very consistent, amongst litigation funders – only between 3% and 5% of all funding opportunities pitched are accepted.*"[40] This provides a further layer of scrutiny to filter out unmeritorious claims.

[38] The CAT recognised that although BT won the overall case, BT had lost on market definition and dominance, and partially lost on one of the grounds. See 1381/7/7/21 Justin Le Patourel v BT Group PLC - Order of the Chair (Costs) | 21 May 2025 ; 1381/7/7/21 Justin Le Patourel v BT Group PLC - Reasoned Order (Permission to Appeal and Costs) | 13 Feb 2025

[39] Department for Business, Innovation & Skills (2013), Private actions in competition law: a consultation on options for reform - final impact assessment, paragraph 11

[40] Mulheron (2024), A review of litigation funding in England and Wales

3. The costs of the collective proceedings regime

Key points:

- **Compensation payments for redress are not a net cost to the economy.** They reflect transfers from businesses which have broken competition law to UK businesses, consumers, and public sector bodies which have suffered harm.
- **Legal costs have exceeded the Government's initial expectations**, while proceedings have also taken significantly longer compared to other jurisdictions.
- **However, there is limited evidence to suggest costs are disproportionate relative to claim values**, and these costs partly reflect the novelty of the regime. The experience of peer jurisdictions (e.g. Australia and Canada) suggests that many of these frictions may diminish as the regime matures.
- **Nevertheless, it is right to examine whether reforms to the collective proceedings regime can make the process more cost-efficient and proportionate.**

As with any court system, the collective proceedings regime imposes costs on defendants. These include the legal and associated costs of defending a claim and the cost of paying out redress when claims succeed.

However, the loser-pays principle means defendants are able to recover the majority of their costs if they succeed in defeating the claim. In other words, **only defendants who have breached competition law are liable for paying these costs.** As the Government also recognised:

> *"There is a **zero net cost to business** because of the ability for firms to claim back costs if the case against them is unsuccessful"*[41]
>
> *"Any other costs to business would **arise from not being compliant with the Competition Act**"*[42]

Nevertheless, the key question is whether these costs are proportionate and outweighed by the benefits of the collective proceedings regime for promoting growth and providing redress for those who have suffered harm.

[41] Department for Business, Innovation & Skills (2013), Private actions in competition law: a consultation on options for reform - final impact assessment, paragraph 51
[42] Ibid., paragraph 49

There is confusion about the factual position. According to consumer rights group *Which?*, there has been "extensive" and "self-interested lobbying" against opt-out collective actions, which have raised "exaggerated" claims of the regime's perceived costs to businesses and the wider economy.[43] It is therefore important to assess critically the actual magnitude of these costs and put them into perspective.

For reference, the Government's 2013 impact assessment of the opt-out regime projected annual business costs of £30.8 million (including both legal costs and paying redress).[44] In practice, costs have been considerably higher than initially expected: DBT's recent consultation references "hundreds of millions of pounds" spent on legal fees over the regime's first decade.[45]

Others have claimed even higher figures. For example, a report by the European Centre for International Political Economy (ECIPE) claims that the 'cost' of mass litigation for the UK economy could reach close to £18 billion.[46] However, as we explain in Box 1, this figure is based on a flawed methodology and appears to be a considerable exaggeration.

Box 1: Assessing ECIPE's "£18bn" claim

Overview of ECIPE methodology

ECIPE claims "*the cost of mass litigation for the UK economy could reach close to £18 billion*".[47] To arrive at this figure, it applies an estimate of "costs and compensations" of the US tort system as a share of GDP to the UK economy:[48]

- ECIPE relies on a 2024 study by the US Chambers of Commerce Institute for Legal Reform,[49] which found that in 2022 the costs and compensations of the US tort system as a share of GDP was 2.1 percent. ECIPE includes a note of caution that this figure "not only includes the costs of the tort system, but also the compensations".[50]
- ECIPE assumes that in a "High Growth Scenario", the economic impact of mass litigation growth in the UK will be equivalent to 30 percent of the economic effects observed in empirical studies in the US.
- Since UK GDP amounted to £2.8 trillion in 2024, ECIPE estimates the "cost of private enforcement" to be 30% × 2.1% × £2.8tn = **£17.9bn**.

Assessment

The US 2.1% of GDP "tort costs" metric explicitly includes compensation paid to claimants. As we explain below, and as the Government has also recognised,[51] **treating compensation as an "economic cost" to the UK is incorrect – compensation is a transfer to injured consumers and businesses, rather than a 'net cost' to the economy**. The 2024 study which ECIPE relies on does not identify the proportional split between legal costs and compensation.

[43] UK consumer group recommends enhanced CMA powers in opt-out consultation - Global Competition Review
[44] Department for Business, Innovation & Skills (2013), Private actions in competition law: a consultation on options for reform - final impact assessment, paragraph 206
[45] Department for Business & Trade (2025), Opt-out collective actions regime review: call for evidence
[46] ECIPE (2025), The Impact of Increased Mass Litigation in the UK, page 5
[47] Ibid., page 5
[48] Ibid., sections 4.2.2-4.2.3 and Annex 4
[49] McKnight, D. L., & Hinton, P. J. (2024), Tort Costs in America: Third Edition. US Chambers of Commerce Institute for Legal Reform
[50] ECIPE (2025), The Impact of Increased Mass Litigation in the UK, page 44
[51] Department for Business, Innovation & Skills (2013), Private actions in competition law: a consultation on options for reform - final impact assessment, paragraph 51

In addition, the US "tort costs" figure used by ECIPE primarily comprises general and professional liability claims (56%) and automobile claims (41%), with the remainder being medical liability claims (3%). These are not directly comparable to claims for breaches of competition law, which is the exclusive focus of opt-out collective proceedings in the UK.

ECIPE also fails to account for cost-disciplining features of the UK's collective proceedings regime, including CAT scrutiny over costs to ensure costs are reasonable and proportionate. As explained earlier, the UK system does not allow for treble or exemplary damages, unlike in the US; applying tort costs figures from the US to the UK context will therefore inevitably overstate costs.

Finally, no justification is provided for choosing a 30% "High Growth Scenario" figure to transpose US findings into a UK context.

These methodological flaws mean that ECIPE's claim that "the cost of mass litigation for the UK economy could reach close to £18 billion" does not stand up to scrutiny.

Importantly, paying redress (i.e. compensation) reflects transfers from businesses which have broken competition law to UK businesses, consumers, and public sector bodies which have suffered harm, rather than being a net 'cost' to the economy. It is a category error to include compensation as a 'cost' to the economy: any 'cost' to the economy of compensation payments is neutralised by the compensation received by the damaged party.

The Government recognised this point in its impact assessment:

> "*The largest part of costs to business are the payments made by infringers to the consumers or businesses that are victims of their anti-competitive behaviour:* ***this is one of the core intended outcomes of the policy rather than a side-effect cost****. It should also be noted that as* ***a transfer, these benefits are not included as an economic cost or benefit*** *and do not enter into the overall cost-benefit analysis of the options.*"[52]

As explained earlier, the UK system does not allow for exemplary or treble damages – damages are only awarded to make victims 'whole', e.g. if the anti-competitive behaviour had not occurred. This reflects proportionate redress and ensures damages compensate for harm caused, rather than imposing extra costs on offending businesses.

It is therefore misleading to argue that payments for redress or high aggregate claim values imply that the regime is imposing undue costs on businesses. Claim values in particular are pleaded figures, not adjudicated harm – many cases remain uncertified, and of the cases that are certified, some will fail while others will see damages or settlements awarded that may be much lower than the initial claim.

Instead, the key question is whether legal costs and court costs imposed by the regime are disproportionate relative to the benefits.

It is true that legal costs have exceeded the Government's initial estimate of £13.9m per annum. There have been more opt-out claims than the Government expected at the time of introducing the regime, and **proceedings have taken significantly longer compared to other jurisdictions**. The CMA has also noted that the significant growth in opt-out claims has wider implications for the overall balance of

[52] Ibid., paragraph 51

resources across the wider competition enforcement landscape as a whole by increasing demand for specialist legal, economics and other advisors and experts.[53]

However, even those costs contribute to one of the most successful parts of the UK economy: according to the Government, the UK legal sector "is a national asset and an engine of economic growth", contributing £42.6bn to the economy in 2024 alone.[54] The Government has identified legal services as a pioneering and world-leading frontier industry, and a key part of the Professional and Business Services sector – one of the eight growth driving sectors in the Government's industrial strategy.[55] As a recent report for the Ministry of Justice notes, not only do legal services "*generate significant and growing direct economic value from their activities*", they also "*have a growing role to play in the promotion of sustainable growth by helping to promote access to justice*".[56]

It is also important to put these legal cost figures into perspective. Contrary to claims (e.g. by ECIPE) that "*litigation costs in the UK could reach more than half of the claim value*",[57] **there is limited evidence to suggest costs are disproportionate relative to claim values**. While publicly available data on defendants' costs is scarce – to our knowledge, there is only one case where this information is public,[58] – analysis based on this data point and others suggest costs are not disproportionately high:

- In *Justin Le Patourel v BT Group*, BT's costs were £26m and the CAT ordered the Class Representative to pay 85% of BT's reasonable costs,[59] in recognition that although BT won the overall case, BT had lost on market definition and dominance, and partially lost on one of the grounds.[60] These costs are c.2% of the initial claim value of £1.3bn.[61] While the damages sought were eventually moderated down to £589m,[62] the costs still only represent c.4% of this figure.

- In approving the settlement in *Merricks v Mastercard*, the CAT set aside £45.6m for the costs, fees and disbursements paid by the litigation funder.[63] These are claimant costs (Mastercard's costs are not publicly available). Even if one were to assume Mastercard's costs were *double* that of the claimant's, this would be less than 1% of the initial claim value of £14bn.[64] We note that *Merricks* is an example where costs appear high relative to the eventual settlement (£200m), due to the settlement being an extraordinarily low proportion of the original claim value, as the CAT recognised. Indeed, the CAT cautioned that its approach in *Merricks* should not be regarded as a guide for other "more positive" settlements.[65]

- In *Kent v Apple*, the first case to reach a successful conclusion at trial (we note at the time of writing that the defendant has said it will appeal),[66] the claimant's budget was £15.3m.[67] We understand this budget has since been adjusted upwards significantly to accommodate case management issues, but there is no public source specifying the budget increase. Nevertheless, even if one assumes the

[53] CMA response to opt-out collective actions regime review: call for evidence
[54] Industrial Strategy: Professional and Business Services Sector Plan; The UK Government has identified legal services as a pioneering and world-leading frontier industry, and a key part of the Professional and Business Services sector – one of the eight growth driving sectors in the Government's industrial strategy.
[55] Industrial Strategy: Professional and Business Services Sector Plan.
[56] The benefits of an open and competitive legal economy. Lessons from and for the UK. Report for the Ministry of Justice.
[57] We note that this figure was derived using the 'Enforcing Contracts' cost indicator from the World Bank's 2020 Doing Business report. This indicator measures the cost required to enforce a commercial contract through a local first-instance court as a % of claim value. It is based on a standardised case study of a transaction between two businesses (Seller and Buyer), rather than collective proceedings claims. The World Bank is clear that this indicator does not measure costs for cases other than this standardised case study. See Enforcing Contracts FAQ - Doing Business - World Bank Group
[58] *Justin Le Patourel v BT Group*
[59] 1381/7/7/21 Justin Le Patourel v BT Group PLC - Order of the Chair (Costs) | 21 May 2025 ; 1381/7/7/21 Justin Le Patourel v BT Group PLC - Reasoned Order (Permission to Appeal and Costs) | 13 Feb 2025
[60] 1381/7/7/21 Justin Le Patourel v BT Group PLC - Reasoned Order (Permission to Appeal and Costs) | 13 Feb 2025
[61] BT escapes liability in £1.3 billion class action in UK Competition Appeal Tribunal… for now
[62] 1381/7/7/21 Justin Le Patourel v BT Group PLC - Summary of Application | 26 Jan 2021
[63] 1266/7/7/16 Walter Hugh Merricks CBE v Mastercard Incorporated and Others - Judgment (CSAO Application) | 20 May 2025
[64] *Merricks v Mastercard* [2017] CAT 16, at [2].
[65] 1266/7/7/16 Walter Hugh Merricks CBE v Mastercard Incorporated and Others - Judgment (CSAO Application) | 20 May 2025, paragraph 208
[66] UK court loss could cost Apple £1.5bn - BBC News
[67] *Kent v Apple* [2021] CAT 37, at [13].

defendant's budget is *four times* that figure (i.e. £61.2m), this would only be 4% to 11% of the claim value (stated to be £535 million to £1,459 million).[68]

While these legal costs are significant, and there may be scope to make the process of participating in these claims less expensive, we note – as others have also pointed out – that **the current level of costs partly reflects teething problems as the collective proceedings regime is still in its infancy**.[69] Only five years have passed since the first CPO was granted. The novelty of the regime therefore involved significant procedural uncertainties and costly delays, including due to appeals on points of law to higher courts.

The experience of peer jurisdictions (e.g. Australia and Canada) suggests that many of these frictions may diminish as the regime matures. For example, Australian practitioners report having refined their class action process to achieve resolution – from filing through to settlement – in less than three years on average.[70]

Defendant behaviour and strategic litigation can also contribute to higher costs on both sides. Defendants are aware that if the class representative's funds are depleted, it will be effectively impossible for the claim to continue. Deep-pocketed defendants may therefore have incentives to pursue aggressive litigation and cost-escalation tactics.[71] For example, security for costs applications require class representatives and funders to demonstrate adequate resources, increasing costs.[72] Defendants have also tended to appeal CPO decisions twice (first with the CAT, then with the Court of Appeal), while challenges to funding arrangements post-*PACCAR* can lead to months of additional case time and costs.[73]

As explained earlier, **the CAT also has robust powers to manage costs**, including cost budgeting and assessment to ensure that parties' recoverable costs are no more than reasonable and proportionate. Rule 4 of the CAT Rules 2015 requires cases to be dealt with justly and at proportionate cost, and Rule 104 empowers the CAT to make any costs order it thinks fit and to assess costs.[74]

Nevertheless, it is right to examine whether reforms to the collective proceedings regime can make the process more efficient and proportionate. While this lies outside the scope of this report, we note that some commentators have suggested reforms such as stricter cost budgeting and improved case management.[75] Increased use of court-appointed experts and joint expert statements could also help reduce costs. Ultimately, a more efficient regime will benefit both defendants and claimants.

More importantly, any assessment of the costs of the regime should be set against the benefits of the regime for promoting growth and providing redress, which we turn to next.

[68] *Kent v Apple* [2022] CAT 28, at [13].
[69] Stephenson Harwood (2025), Realising the benefits of competitive markets: strengthening the Competition Appeal Tribunal; Submission – Geradin Partners – UK's Department of Business and Trade – 14 October 2025.pdf; Class Representatives Network - DBT Consultation Response 2025.pdf
[70] Stephenson Harwood (2025), Realising the benefits of competitive markets: strengthening the Competition Appeal Tribunal, page 12
[71] Class Representatives Network (2025) response to DBT consultation; Hausfeld & Co. LLP response to DBT call for evidence
[72] Stephenson Harwood (2025), Realising the benefits of competitive markets: strengthening the Competition Appeal Tribunal; Class Representatives Network (2025) response to DBT consultation
[73] Stephenson Harwood (2025), Realising the benefits of competitive markets: strengthening the Competition Appeal Tribunal
[74] The Competition Appeal Tribunal Rules 2015
[75] Stephenson Harwood (2025), Realising the benefits of competitive markets: strengthening the Competition Appeal Tribunal;

4. The role of private enforcement in competition law

Key points:

- It is well recognised that **competition drives productivity growth, innovation, and economic growth**.
- **The collective proceedings regime complements the public enforcement of competition law** (by the CMA and sectoral regulators). Competition authorities face resource constraints, which prevent them from investigating or prosecuting every instance of possible anti-competitive harm. Private enforcement complements public enforcement by increasing detection and deterrence of anti-competitive conduct at lower cost to the taxpayer.
- **The regime also provides redress for UK businesses, consumers, and public sector bodies.** Out of the 28 claims certified by the CAT to proceed to trial as of 2025, 15 (54%) are on behalf of a business class or a mixed business/consumer class.

Competition drives productivity, innovation and growth

Competition refers to the process of rivalry between suppliers. Firms compete to attract customers by offering lower prices, higher quality of products or services, or more innovative products and services.

There is strong empirical evidence that competition drives productivity, innovation, and growth across the economy:[76]

- **Competition is a central driver of productivity growth.**[77] By rewarding efficiency and penalising inefficiency, it pushes firms to make better use of labour and capital, adopt new technologies, and streamline operations. Competitive pressure accelerates the reallocation of resources from less productive to more productive firms – raising overall productivity across the economy. As the OECD notes, "*it is clear that industries where there is greater competition experience faster productivity growth.*"[78]
- **Competition is a catalyst for innovation.**[79] Firms facing rivals have stronger incentives to develop new products, adopt new technologies and improve efficiency. By contrast, in concentrated or protected markets, dominant firms can earn profits without innovating. Competitive markets therefore benefit consumers through lower prices, higher quality goods and services, and innovative goods and services.[80]
- **Competition is a powerful engine of economic growth.** By driving firms to innovate and operate more productively, competitive markets raise efficiency and expand overall output across the economy. Lower prices and better products increase consumer purchasing power, while dynamic, competitive firms reinvest profits into new technologies and business models. This cycle of innovation, productivity improvement and reinvestment leads to growth. Indeed, an OECD report highlighted that because

[76] For a review of the economic literature on this topic, refer to CMA (2015), "Productivity and competition: A summary of the evidence" and CMA (2023), "Wider benefits of competition policy and enforcement"
[77] CMA (2015), "Productivity and competition: A summary of the evidence"
[78] OECD (2014), "Factsheet on how competition policy affects macro-economic outcomes"
[79] CMA (2023), "Wider benefits of competition policy and enforcement"
[80] We note that the empirical relationship between level of competition and innovation is not simple – the evidence suggests moderately competitive markets innovate the most, with both highly concentrated and highly competitive markets showing weaker innovation. However, given that the focus of competition law enforcement is on introducing or strengthening competition in markets where it does not work well, this will tend to increase innovation. See, for example, OECD (2014), "Factsheet on how competition policy affects macro-economic outcomes" and CMA (2023), "Wider benefits of competition policy and enforcement"

more competitive markets result in higher productivity growth, policies which make markets more competitive will result in faster economic growth.[81]

- For example, the European Commission found that competition policy interventions led to a decrease in steady-state (i.e. long run) profit margins across the economy, as firms set prices closer to costs than they would have in the absence of competition policy measures. This generated an **increase of real GDP relative to the baseline in the range of 0.6%-1.1%** in the medium to long term (equivalent to €100-180bn).[82]

- In Australia, the Productivity Commission estimated that the introduction of a national competition policy **added 2.5% to Australian GDP** (c.$20bn), not including the 'dynamic efficiency' gains from more competitive markets.[83]

In contrast, anti-competitive behaviour typically leads to lower output and higher prices for goods and services. These costs are not confined to transfers between the infringer and the harmed party but include costs to society as a whole due to reduced choice for consumers, sub-optimal allocation of resources and reduced innovation.[84]

Indeed, as noted earlier, one of the principal aims for introducing the opt-out collective proceedings regime was to **increase growth** "*by empowering small businesses to tackle anti-competitive behaviour that is stifling their business*".[85]

In addition, the positive impacts of competition law enforcement on economic growth and productivity tend to be the largest in non-tradeable goods sectors such as finance, since firms in these markets are not subject to the additional pressure from international competition that limits market power.[86] Given the UK's highly service-oriented economy,[87] these positive impacts may well be more substantial than in other economies.

The collective proceedings regime complements public enforcement of competition law

Effective enforcement of competition law is essential to realising these benefits for growth, innovation and productivity.

Although **public enforcement** by the CMA and sector regulators plays a critical role in addressing systemic harms and deterring anti-competitive conduct, resource constraints mean they cannot investigate or prosecute every instance of possible anti-competitive harm.[88] According to the CMA:

> "*To make efficient and effective use of public resources, the CMA needs to ensure it takes appropriate decisions about which projects and programmes of work it prioritises (and continues to prioritise), to* ***have the greatest impact*** *across the breadth of its work.*"[89]

[81] OECD (2014), "Factsheet on how competition policy affects macro-economic outcomes"
[82] European Commission (2024), Modelling the macroeconomic impact of competition policy: 2023 update and further development
[83] Productivity Commission (2005), 'Review of National Competition Policy Reforms', Productivity Commission Inquiry Report No.33.
[84] Department for Business, Innovation & Skills (2013), Private actions in competition law: a consultation on options for reform - final impact assessment
[85] Department for Business, Innovation & Skills (2013), Private actions in competition law: A consultation on options for reform – government response, page 3
[86] CMA (2023), "Wider benefits of competition policy and enforcement"
[87] For example, service industries accounted for 81% of total UK economic output, compared to c.70% of the EU's GDP and c.65% of Australia's GDP.
[88] CMA General Counsel Chris Prevett has acknowledged the important role for private enforcement against the backdrop of CMA resourcing constraints. See Highlights from the GCR Live: Competition Litigation conference | Herbert Smith Freehills Kramer | Global law firm
[89] CMA (2025), Statement regarding the CMA's decision to close an investigation into suspected anti-competitive conduct in relation to the supply of chemicals for use in the construction industry on the grounds of administrative priority

This means the CMA has often had to deprioritise investigations into possible anti-competitive conduct. For instance:

- In 2025, the CMA closed a cartel investigation in the construction chemicals industry on the grounds of administrative priorities.[90]

- Also in 2025, the CMA closed an investigation into suspected anti-competitive behaviour relating to freelance and employed labour in the television content sector on the grounds of administrative priorities, without reaching a decision on whether the parties infringed competition law.[91]

- Similarly, in 2017, the CMA closed an abuse of dominance investigation in the medical equipment sector[92] and a cartel investigation in the mobility scooter sector,[93] both on the grounds of administrative priorities.

Private enforcement through the collective proceedings regime complements public enforcement by increasing detection and deterrence of anti-competitive conduct at **lower cost to the taxpayer** – allowing the CMA and regulators to prioritise their resources. According to the CMA's General Counsel, Chris Prevett, the CMA takes the existence of private actions into account when deciding whether to launch its own investigation.[94] This creates a more comprehensive system of market oversight, while **reducing the burden on public resources**. As the CMA's Chief Executive Sarah Cardell noted, "*private enforcement can increase the breadth of cases through which enforcement activity of some kind is pursued*".[95]

At the same time, there is a potential tension between public and private enforcement. As the CMA noted in its response to DBT's consultation, if a claim is brought before the CAT which is the same or closely related to a matter under investigation by the CMA, this could lead to the potential for diverging positions, and the inefficient and duplicative use of public resources.[96] However, the CMA notes that this can be mitigated to some extent through the CAT's exercise of its case management powers.

More realistically, public and private enforcement are likely to be complementary: as Figure 2 above shows, the CMA has historically issued fewer enforcement decisions than some other jurisdictions. With public funds under pressure and demands on the CMA "possibly at an all time high",[97] the collective proceedings regime plays an important role in reducing the enforcement gap.

Providing redress for UK SMEs, consumers, and public sector bodies

The opt-out collective proceedings regime allows private parties – such as businesses, consumers, charities, and public bodies – to seek redress and deterrence when infringements happen. By aggregating claims at scale, collective proceedings make it economically viable to bring claims which would not be cost-effective for any one individual or SME, as Boxes 2 and 3 illustrate.

[90] CMA (2025), Statement regarding the CMA's decision to close an investigation into suspected anti-competitive conduct in relation to the supply of chemicals for use in the construction industry on the grounds of administrative priority
[91] CMA (2025), Case 51251 - Suspected anti-competitive behaviour relating to freelance and employed labour in the production, creation and/or broadcasting of television content, excluding sport
[92] CMA (2017), Statement regarding the CMA's decision to close an investigation into a suspected breach of competition law in the medical equipment sector on the grounds of administrative priorities
[93] CMA (2017), Statement regarding the CMA's decision to close an investigation into suspected breaches of competition law in the mobility scooter sector on the grounds of administrative priority
[94] Highlights from the GCR Live: Competition Litigation conference | Herbert Smith Freehills Kramer | Global law firm
[95] Private actions and public enforcement - GOV.UK
[96] CMA response to opt-out collective actions regime review: call for evidence
[97] Private actions and public enforcement - GOV.UK

Box 2: Redress for consumers – *Alex Neill v Sony*[98]

Alex Neill, the Class Representative, brought collective proceedings against Sony, alleging that Sony abused its dominant position in the digital gaming ecosystem for PlayStation consoles and the PlayStation Store. The claim centres on Sony's conduct in making itself the exclusive retailer of digital PlayStation games and in-game add-on content, and in imposing restrictive contractual and technical conditions that prevented alternative distribution channels.

By limiting competition and mandating that all purchases be made through its own store, Sony allegedly created a captive market in which it could charge developers and publishers an excessive 30% commission on all digital sales – costs that were then passed on to consumers through inflated prices for games and downloadable content.

The alleged harm affects an estimated **8.9 million UK PlayStation users**, who are said to have overpaid between £0.6bn and £5bn in aggregate for digital games and add-ons during the claim period. The proposed opt-out collective proceedings seek to recover these overcharges on behalf of all UK PlayStation users, relying on an aggregate damages model rather than individual claims.

The claim aims to provide consumer redress for alleged systemic overcharging in a locked digital ecosystem where switching or alternative supply was impossible. The collective proceedings model means that **millions of small-value claims can be pursued efficiently**: if successful, the claim will put money back in the pockets of UK consumers who were overcharged – money which will then flow back into the UK economy – while sending a strong deterrent signal.

[98] 1527/7/7/22 Alex Neill Class Representative Limited v Sony Interactive Entertainment Europe Limited; Sony Interactive Entertainment Network Europe Limited; and Sony Interactive Entertainment UK Limited | Competition Appeal Tribunal

Box 3: Redress for consumers – *Vicki Schobolt Class Representative Ltd v Valve Corporation*[99]

Valve Corporation, operator of the Steam platform, is alleged to have abused its dominant position in the distribution of PC games by imposing contractual and technical restrictions that inflated consumer prices.

The claim alleges three linked abuses:

- Platform Parity Obligations preventing publishers from selling games and add-on content more cheaply through rival stores;
- Tying and anti-steering restrictions that stopped users from purchasing in-game or downloadable content outside Steam once a title had been bought there; and
- Excessive and unfair commission rates on sales.

Together, these practices are alleged to have insulated Steam from price competition, sustaining high commissions and leading to higher retail prices for millions of UK consumers. The alleged effect is an aggregate overcharge of around £656 million, covering purchases made since 2018 in the UK (and since 2010 in Scotland).

The opt-out collective proceedings seek to pursue redress on behalf of an estimated 9-14 million consumers, including minors who form a significant proportion of the gaming audience.

By combining a consumer-wide collective claim with evidence-based market analysis, the Valve case aims both to compensate gamers for inflated prices and to re-establish competition in digital game distribution.

While the collective proceedings regime is often described as a mechanism to enable consumer redress, it is also an important mechanism for **UK businesses, public entities, NGOs, and charities to seek redress for anti-competitive behaviour** (as Boxes 4 and 5 illustrate). Out of the 28 claims certified by the CAT to proceed to trial as of 2025, 15 (54%) are on behalf of a business class or a mixed business/consumer class.[100] As the Government recognised:

> "***Helping small businesses is a key aim of these proposals**: the cost and complexity of competition cases means that small businesses have fewer options available to them to tackle anti-competitive behaviour.*"[101]
>
> "*There are significant benefits to the businesses that bring the cases in terms of behaviour change and **restoration of fairer competitive conditions**.*"[102]

[99] 1640/7/7/24 Vicki Shotbolt Class Representative v Valve Corporation | Competition Appeal Tribunal
[100] Hausfeld & Co. LLP response to DBT call for evidence
[101] Department for Business, Innovation & Skills (2013), Private actions in competition law: a consultation on options for reform - final impact assessment, paragraph 55.
[102] Ibid., paragraph 86.

Box 4: Redress for SMEs and public sector bodies – *Bulk Mail Claim Limited v Royal Mail*[103]

This claim follows Ofcom's 2018 finding that Royal Mail abused its dominant position in the bulk mail delivery market by attempting to introduce discriminatory price plans (Contract Change Notices) that penalised access operators, such as Whistl, who sought to compete in end-to-end mail delivery.

Ofcom found that the pricing scheme was a deliberate strategy to protect Royal Mail's position by raising rivals' costs and deterring entry and expansion. The foreclosure of competition prevented the emergence of lower-cost delivery options that **would have benefited major public and private mail users, including government departments, banks, utilities, and NHS trusts**.

Ofcom concluded that this conduct maintained high barriers to entry and reduced incentives for efficiency and innovation, leading to harm through higher bulk mail prices and lost service improvements for large public-sector mailers.

The collective proceedings claim, brought by Bulk Mail Claim Ltd on an opt-out basis, seeks redress on behalf of around 290,477 **business and public-sector purchasers** of bulk mail retail services. The claim – valued at about £1bn – argues that the exclusion of Whistl from the market caused a sustained overcharge for bulk mail delivery from 2014 onwards. Using a difference-in-difference economic model comparing UK prices with those in liberalised markets such as Germany and Sweden, the claim aims to quantify the competitive loss and the overcharge borne by customers.

The opt-out structure ensures that both large public bodies (such as NHS trusts and local authorities) and smaller mail users can obtain compensation without the administrative burden of filing individual claims. By aggregating dispersed losses and relying on the evidentiary findings of Ofcom's decision, the case seeks to return funds to affected UK businesses and public sector organisations, while deterring future anti-competitive behaviour.

[103] 1639/7/7/24 Bulk Mail Claim Limited v International Distribution Services Plc (formerly Royal Mail Plc) | Competition Appeal Tribunal

Box 5: Redress for public sector bodies – *Clare Spottiswoode v Motorola*[104]

Between 2020 and 2023, Motorola Solutions is alleged to have abused its dominant position in the market for emergency communications by charging excessive and unfair prices for the Airwave network – the secure land mobile radio (LMR) system used by the police, fire, and ambulance services.

Following delays to the planned replacement Emergency Services Network (ESN), public purchasers such as the Home Office, NHS bodies, and local authorities were "locked in" to the Airwave system with no competitive alternative. This gave Motorola the ability to maintain its prevailing high prices well beyond the expiry of the original contractual term at the end of 2019, despite significant cost reductions. The CMA later found that this "lock-in" had allowed Motorola to earn supernormal profits, and it imposed a price control from August 2023. However, that order operated only prospectively and did not compensate public bodies for historic overpayments.

To address this harm, Clare Spottiswoode CBE brought collective proceedings on behalf of all purchasers and financial contributors to Airwave Services, estimated to have suffered an aggregate overcharge of £600-650 million. The CAT certified the claim on an opt-out basis, recognising that many **public sector users – such as small police forces, fire services, and voluntary rescue organisations – lacked the resources to opt in or pursue individual litigation**.

By combining this retrospective damages claim with the CMA's forward-looking price control, the case provides a model of comprehensive redress. The collective proceedings mechanism ensures that public sector bodies can recover for past overcharging, complementing regulatory intervention which prevents future harm – together reinforcing deterrence, restoring public funds, and improving value for money in essential national infrastructure.

The quantum of damages will vary from case to case. Table 1 shows the average damages claimed and class sizes. Depending on the level of success and number of claimants in an individual case, the level of compensation can vary significantly. In particular, **the average damages per class member for cases where the class is composed primarily of businesses is c.£140,000** – a significant amount in redress for small UK businesses.

[104] 1698/7/7/24 Clare Mary Joan Spottiswoode CBE v Airwave Solutions Limited, Motorola Solutions UK Limited & Motorola Solutions, Inc | Competition Appeal Tribunal

Table 1: Analysis of average and median damages claimed and class sizes[105]

		All collective proceedings	Excluding classes composed primarily of businesses[106]	Only classes composed primarily of businesses[107]
Headline damages	*Mean*	£2.65bn	£1.86bn	£4.88bn
	Median	£787.6m	£537.5m	£2.39bn
Class size	*Mean*	13.9m	18.9m	298.5k
	Median	4.8m	10.4m	129.5k
Damages per class member	*Mean*	£36.9k	£1,473	£139.9k
	Median	£109	£66	£35.6k

Source: Linklaters (2025), Department for Business & Trade: Opt-out collective actions regime review: Response to call for evidence from Linklaters LLP (figures rounded)

The average damages per class member for consumer-focused cases (£66) can also be meaningful. For example, in *Merricks v Mastercard*, the CAT ringfenced £100m of the settlement for class members. This meant that individual class members can expect to receive up to £70. **Whether this is a meaningful sum will depend on individual circumstances, but it is likely to be meaningful for many consumers in the UK.** For comparison, the weekly jobseeker's allowance is £72.90 for those up to 24 and £92.05 for those 25 or over.[108]

As the CAT wrote in *Consumers' Association v Qualcomm*:

> *"[In] the current economic climate, and given the cost of living challenges faced by many consumers, we do not consider that an average claim of £16–17 per consumer is such a small sum that take-up is inherently likely to be limited."*[109]

The value of the regime extends beyond the compensation amounts for individual businesses and consumers – as a matter of principle, those who have suffered harm should be entitled to redress, while companies which have broken competition law should not be allowed to avoid the consequences of their actions, even if these consequences result in small harms dispersed across large groups of consumers or businesses.

[105] Linklaters: Figures for damages claimed and class sizes are principally based on estimates by class representatives as reported in summaries of claim forms or certification judgments. If those documents contained a range of figures, the highest ones have been used for this analysis. Where figures are not available based on those sources, press reporting has been used where available. The figures included here are as stated at the time of the claim form or certification hearing and have not been updated to reflect changes in the claim throughout the proceedings. The damages sought per class member have been calculated by dividing the overall damages estimate by the class size estimate. No data was available for the following collective proceedings: O'Higgins v Barclays; UK Trucks Claim v Stellantis; Home Insurance Consumer Action v BGL; Sciallis v Fender; Sciallis v Roland; Sciallis v Korg; Sciallis v Yamaha; Sciallis v Casio. Headline damages figures were not available for the following collective proceedings: CICC I v Mastercard; CICC I v Visa; CICC II v Mastercard; CICC II v Visa; Rowntree v PRS. Class size figures were not available for the following collective proceedings: McLaren v MOL; Road Haulage Association v MAN; Boyle v Govia Thameslink. For the purposes of this analysis each of following two sets of proceedings have been treated as a single proceeding, because the relevant data was only available on that basis: (i) the CICC I v Mastercard, CICC I v Visa, CICC II v Mastercard and CICC II v Visa proceedings; and (ii) the Gutman v Telefonica, Gutmann v Hutchison 3G, Gutmann v EE and Gutmann v Vodafone proceedings.

[106] Linklaters: Once business collective proceedings are excluded, the gist of the remaining proceedings is that they are consumer class actions (although their class members are not all exclusively consumers).

[107] Linklaters categorised the following proceedings as having classes composed primarily of businesses: Evans v Barclays; O'Higgins v Barclays; Road Haulage Association v MAN; UK Trucks Claim v Stellantis; Ad Tech Collective Action v Google; CICC I v Mastercard; CICC I v Visa; CICC II v Mastercard; CICC II v Visa; Ennis v Apple; Or Brook v Google; Kaye v Google; Bulk Mail Claim v International Distribution; Stephan v Amazon; BIRA v Amazon; Rodger v Google; Stasi v Microsoft; Spottiswoode v Airwave Services.

[108] Jobseeker's Allowance (JSA): How it works - GOV.UK

[109] Consumers' Association v Qualcomm Incorporated (Application for a Collective Proceedings Order) [2022] CAT 20, para. 106.

As we illustrate in the next section, the benefits of deterrence are also based on aggregate damages. Therefore – regardless of how much any individual member gets – the contribution to UK growth from greater deterrence is the same.

Impact on growth, innovation and productivity

The collective proceedings regime not only provides redress, but also deters anti-competitive behaviour. This helps to create a **level playing field**, ensuring that firms compete on merit rather than collude or abuse their dominant positions. In doing so, it complements public enforcement to drive **productivity growth, innovation and economic growth** through more competitive markets.

We quantify these benefits in the next section.

5. A cost-benefit analysis of the collective proceedings regime

Key points:

- **We model the costs and benefits** of the collective proceedings regime, building on the methodology used by the Department for Business, Innovation and Skills (BIS) and estimates from the European Commission on the long-run effect of competition interventions on economy-wide prices and GDP.
- Our analysis suggests the net benefits of an effective, functioning collective proceedings regime are likely to be substantial, **ranging from £3.5bn to £10.5bn per year.** The benefits of having a more competitive economy for driving productivity, innovation and growth outweigh the costs involved, notwithstanding that costs are likely to fall even further as the regime matures.

To estimate the quantitative benefits of the collective proceedings regime, we first adopt the methodology used by the Government in its 2013 impact assessment – updated to reflect recent developments – to estimate the costs and static and behavioural benefits of the regime.

However, as the Government noted:

> *"Improvements brought by competition bring a range of **longer-term benefits to growth, productivity and innovation**, beyond those which can be captured by this analysis."*[110]

We therefore extend the analysis to include the dynamic benefits of a more competitive economy using insights from the European Commission's modelling.[111] Our detailed methodology is outlined in the **Annex**.

We consider three scenarios for the long-run potential economic costs and benefits.

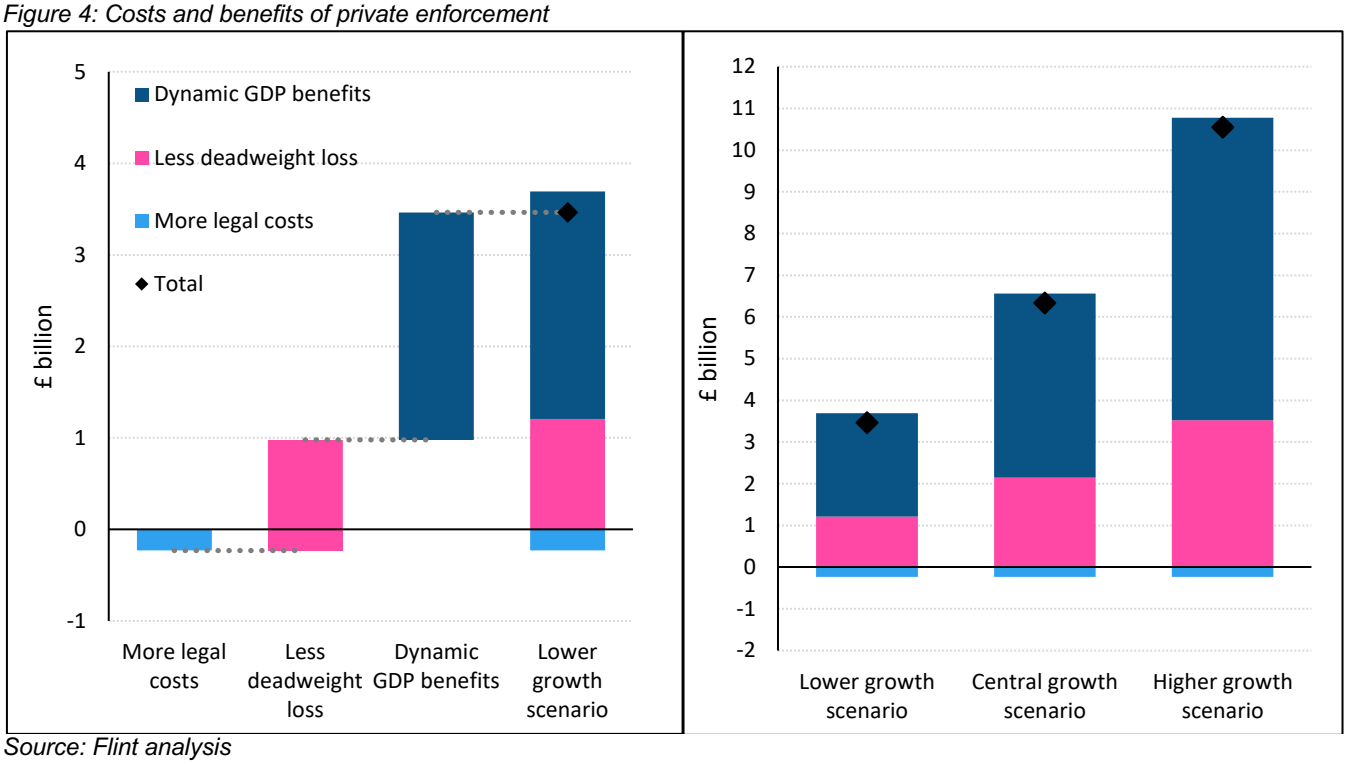
- Our **lower growth scenario** is based on the experience of the last three years. It assumes that £590 million of redress for consumers, businesses, public entities, NGOs, and charities harmed by anti-competitive conduct will occur every year over the long run due to the existence of an effective private enforcement regime. This value is 60% below our moderate growth scenario. As noted earlier, this redress is a transfer from infringers to those who have suffered harm; we therefore do not include this as a net benefit or cost. In this scenario, we assume £230 million of legal costs are incurred annually, informed by recent experience on the volume of cases and costs. However, these economic costs are dwarfed by the £1.2bn in welfare gains from lower prices and more efficient markets,[112] which stem from deterred anti-competitive behaviour, following the Government's methodology. In addition, there will be further dynamic GDP benefits from extra competition driving productivity gains across the economy. Using estimates produced by the European Commission (see Annex), we estimate these dynamic benefits will add a further £2.5bn to GDP in this scenario. This results in overall average net annual economic benefits of **£3.5bn**. Given the growth in number of cases and the consequent large backlog of pending cases still going through the CAT, the sector's own expectations of future settlements are likely to exceed the assumptions made in this scenario.

[110] Department for Business, Innovation & Skills (2013), Private actions in competition law: a consultation on options for reform - final impact assessment, page 4
[111] European Commission (2024), Modelling the macroeconomic impact of competition policy: 2023 update and further development
[112] In simple terms, deadweight loss from monopoly arises because a monopolist restricts output and sets price above marginal cost, so consumers who are willing to pay more than the marginal cost of producing the product but less than the monopoly price have to forgo the good. As a result, total surplus is not maximised.

- Our **moderate growth scenario** takes into account the significant sums at stake in the existing caseload of private enforcement cases that are yet to be settled or dismissed. We assume in this scenario that the average annual level of redress will total £1.5bn per year, in line with the claim value in one recent successful case.[113] As before, in line with the Government's methodology, we do not include this redress as a net cost or benefit as it is a transfer. While legal costs are unchanged, the higher success rate of claims in this scenario raises both the static and the dynamic economic benefits. As a result, the average net annual economic benefits in this scenario total **£6.3bn**.

- In our **higher growth** scenario, we assume redress of £2.8bn per year. This figure is equivalent to a quarter of the certified and pending claims value made in 2024, and is 90% above our moderate growth scenario. Compared to recent experience, this figure would mean that the average annual level of redress would continue to increase over the coming years, although we note that this figure remains significantly lower than claim values currently in the pipeline and therefore reflects realistic growth expectations. Again, legal costs are unchanged but static and dynamic benefits are higher, raising the total net effect to **£10.5bn**.

Figure 4: Costs and benefits of private enforcement



Source: Flint analysis

As Figure 4 demonstrates, the net benefits from these three channels range from £3.5bn to £10.5bn per year across the three scenarios, comfortably within the wide range produced by external estimates. As explained above, one reason that our figures for net benefits are so different to the £18bn "cost" produced by ECIPE is that we exclude compensation payments for redress, as these represent a transfer to businesses and consumers harmed by anti-competitive behaviour, rather than a net cost to the economy.[114]

Our higher growth scenario does not represent an upper bound on the net benefits of the collective proceedings regime. For example, we note that a recent report estimates the regime's annual economic impact to fall between £12.1bn and £24.2bn per year, with a median estimate of approximately £18.1bn annually.[115] These figures, which employ a 'top-down' modelling approach, indicate the considerable

[113] UK court loss could cost Apple £1.5bn - BBC News; However, we note that the final award value is yet to be determined at the time of writing, and the defendant has indicated it will appeal the CAT's ruling.
[114] ECIPE (2025), The Impact of Increased Mass Litigation in the UK; We note also that ECIPE does not quantify the benefits of the regime.
[115] Stephenson Harwood (2025), Realising the benefits of competitive markets: strengthening the Competition Appeal Tribunal.

upside to the figures produced based on our 'bottom-up' assumptions – for instance, if more successful claims or a larger deterrent effect than we have assumed were to occur.[116]

Our analysis suggests the **net benefits** (e.g. after accounting for legal costs) of an effective, functioning collective proceedings regime are likely to be substantial. The analysis is based on a limited number of concluded cases given the novelty of the regime, so the results are subject to uncertainty around future outcomes for the sector and other modelling choices, but we do not believe that reasonable alternative assumptions would substantially change our central finding: that enforcing competition law supports well-functioning markets and promotes economic growth.

In short, the benefits of having a more competitive economy for driving productivity, innovation and growth are likely to outweigh the costs involved, notwithstanding that costs are likely to fall even further as the regime matures. As noted earlier, there may also be scope to make the regime more cost-efficient and proportionate, which could benefit both defendants and claimants while preserving these benefits.

[116] Our more bottom-up approach starts with information on the volume and value of claims that have been made in recent years. Stephenson Harwood's more top-down approach starts by adding up the much larger value of economic activity taking place in all the sectors of the economy that are currently subject to collective proceedings. It calculates the potential for harm in these sectors by assuming an 18.1% overcharge rate from these sectors, assuming that the proportion of this that will be deterred from all competition law enforcement is 24.5%, and finally assuming that between 20% and 40% of this deterrence can be attributable to collective actions.

6. Conclusion

The evidence in this report shows that **the UK's opt-out collective proceedings regime is a contributor to economic growth**. By enabling redress at scale and strengthening deterrence, it helps to create more competitive markets. More effective competition, in turn, drives productivity improvements, spurs innovation, and raises living standards. Our scenarios suggest **sizeable net benefits ranging from £3.5bn to £10.5bn per year** due to lower prices, better quality, and faster diffusion of new technologies in a more competitive UK economy.

The collective proceedings regime is an important complement to public enforcement. The CMA and sector regulators rightly focus their scarce resources on the highest-impact cases, but they cannot investigate every instance of harm. Collective proceedings expand the reach of the system at lower cost to the taxpayer by harnessing private information, private capital, and specialist legal and economic expertise. Together, public and private enforcement increase the expected cost of infringement and therefore strengthen deterrence.

Much of the criticism directed at the regime rests on a misunderstanding of "costs". Payments of compensation are transfers from companies which have broken competition law to those harmed – UK consumers, SMEs, and public bodies – not a net cost to the economy. The real resource costs are primarily legal and court costs. Even those contribute to one of the most successful parts of the UK economy: according to the Government, the UK legal sector "is a national asset and an engine of economic growth", contributing £42.6bn to the economy in 2024 alone.[117] Arguments that aggregate claim values or redress figures harm growth simply do not stand up to scrutiny.

Crucially, costs must be weighed against the considerable benefits that critics often ignore. Collective proceedings deliver practical access to justice for dispersed, low-value harms that would otherwise go unremedied, putting money back into the pockets of consumers and public bodies and helping smaller UK businesses – the backbone of the economy – to compete on a level playing field. That is good for competition, investment, and growth.

However, the regime is clearly not perfect. It is true that legal costs have exceeded initial Government expectations, and proceedings have taken significantly longer compared to other jurisdictions. This can partly be attributed to the novelty of the regime: procedures have had to be clarified, funding structures tested, and appeals resolved. **Nevertheless, there is scope to improve the efficiency and speed of the regime**, which should benefit both defendants and claimants, without blunting the regime's effectiveness.

Ultimately, the collective proceedings regime is still in its early days. It has only been five years since the first CPO was issued, with only five cases reaching final judgment and a small number of settlements reached. As CMA Chief Executive Sarah Cardell noted, "*We are still only at the start of seeing the impacts of the reforms introduced by the Consumer Rights Act 2015.*"[118] Similarly, former Law Society president David Greene has remarked: "*The opt-out regime under the Consumer Rights Act is relatively young and, like all fresh process regimes, is taking time to bed in.*"[119] It would be premature to draw sweeping conclusions about the regime's effectiveness based on an immature caseload or to curtail the scope of the regime based on short-run frictions that are likely to ease as the regime beds in.

[117] Industrial Strategy: Professional and Business Services Sector Plan; The UK government has identified legal services as a pioneering and world-leading frontier industry, and a key part of the Professional and Business Services sector – one of the eight growth driving sectors in the government's industrial strategy.
[118] Private actions and public enforcement - GOV.UK
[119] UK Competition Appeal Tribunal regime must be given more time to bed in - The Global Legal Post

Annex: Economic modelling methodology

As explained in Section 4, the collective proceedings regime complements the public enforcement of competition law to deter anti-competitive behaviour. This drives productivity growth, innovation and economic growth through more competitive markets. In this Annex, we produce illustrative scenarios to quantify the potential benefits that this has on the economy.

Doing so requires making a series of assumptions around:

- The **volume and nature of collective proceedings cases** that might be expected to occur once the regime reaches steady state (i.e. in the long run);
- The **static and behavioural economic benefits** that more cases would have; and
- How a more competitive economy would dynamically support **growth and innovation**.

The volume and magnitude of collective proceedings cases

The number of collective proceedings cases brought to the CAT since 2015 has exceeded initial Government expectations. In 2013, the Department for Business, Innovation and Skills' (BIS's) impact assessment assumed that around two cases per year would be brought to the CAT in steady state, resulting in additional redress of £17 million per year.[120] But the reforms have led to more collective proceedings cases than had initially been expected. As Figure 1 shows, there have been 64 cases since 2015, of which 33 (52%) have been certified and 16 (25%) are pending certification.[121]

Given the large discrepancy between these figures, there is significant uncertainty around the volume and value of future successful claims. What might happen once participants' expectations adjust to the likely reactions of courts, regulators and opponents, backlogs are cleared, and the regime reaches steady state?

To highlight the potential range of future outcomes we produce three scenarios:

- Redress in our **lower growth scenario** is based on annual redress over 2023-2025, which averages £590 million per year.[122] Given the growth in number of cases and the consequent large backlog of pending cases still going through the CAT, the sector's own expectations of future settlements are likely to exceed the assumptions made in this scenario.[123] This figure is 60% below our moderate growth scenario.
- We assume that redress in our **moderate growth scenario** totals £1.5bn per year. This figure is based on a widely reported claim value in one recent successful case.[124] While this figure is larger than settlements reached to date, the case is the first to reach a successful conclusion at trial, and the figure lies comfortably within the range of recent claims brought to the CAT, so higher outcomes are possible.
- In our **higher growth** scenario, we assume redress to be £2.8bn per year (90% above our central scenario). While this figure is more than has been awarded in any single year to date, it is still

[120] See Option e from page 37 of Department for Business, Innovation & Skills (2013), Private actions in competition law: a consultation on options for reform - final impact assessment.
[121] Linklaters | Big CAT Watch (Data as of 11 March 2026)
[122] These four cases are the £39 million reached (via three separate approvals from 2023 onwards) in Mark McLaren v MOL (Europe Africa) Ltd and others, the £24.5 million reached in 2024 in Justin Gutmann v First MTR South Western Trains Ltd & Anor, the £200 million reached in Walter Hugh Merricks CBE v Mastercard Inc & Ors, and the widely publicised £1.5 billion claim figure in Kent v Apple (which we note is not final and may be subject to appeal).
[123] Indeed, we note that the CAT recognised the settlement in *Merricks v Mastercard* was an extraordinarily low proportion of the original claim value. Other more successful settlements will likely be larger as a proportion of claim value. See 1266/7/7/16 Walter Hugh Merricks CBE v Mastercard Incorporated and Others - Judgment (CSAO Application) | 20 May 2025, paragraph 208.
[124] UK court loss could cost Apple £1.5bn - BBC News; However, we note that the final award value is yet to be determined at the time of writing, and the defendant has indicated it will appeal the CAT's ruling.

significantly less than the total claim value newly made in 2024. For instance, £3.7bn worth of claims made in 2024 have been certified by the CAT, with a further £7.7bn of claims still pending certification – so £2.8bn corresponds to exactly a quarter of all of this total claim value being awarded as redress. If we were to instead look only at claim values for certified CAT claims made between 2021 and 2024, £2.8bn would represent a modest success rate of 15%. We therefore consider this redress figure to reflect realistic growth expectations.

For economic modelling purposes, all three scenarios assume that around 80% of cases are standalone, rather than follow-on cases. This assumption is based on the experience of recent years (Figure 1).

Estimating the static and behavioural effects of these scenarios

The assumed size of redress, as described above, ranges from £590 million in the lower growth scenario to £2.8bn in the higher growth scenario. As explained above, redress represents a transfer, rather than a use of economic resources: it therefore should not contribute to net cost or benefit. To convert these scenarios into an estimate of their impacts on the economy, we use assumptions set out in the Government's impact assessment to estimate two further factors:[125]

- **Economic costs from increased litigation.**
  - Both the resources and time used up by defendants in the additional legal activity that is required to reach settlements can no longer used for other purposes and so represent costs to the economy in the Government's methodology.[126]
  - It is likely that the combination of these costs and costs to courts will be larger than the £13.9 million the Government assumed, given the larger volume of CAT activity.
  - We have assumed that annual legal costs (including court costs and defendants' costs) are around £230 million in each of the three scenarios. This is based on the following assumptions:
    - We assume six new cases are certified every year (based on the four-year average of cases certified as opt-in or opt-out by the CAT between 2021 and 2024 in a report produced by CMS).[127]
    - We assume that an average claim costs the defendant £40m. Relatively little information on defendants' costs is publicly available. To our knowledge, the one public data point is BT's costs in *Justin Le Patourel v BT Group*, which amounted to c.£26m.[128] Our £40 million figure scales up these costs by 50% as a conservative approximation for defendants' costs in other claims. As a cross-check, we note that BT's costs were 20% greater than the claimants' costs in this case; applying a 50% scaling factor to publicly available data on claimants' budgets yields a similar figure to £40m.
  - Court costs are calculated using the ratio of court costs to other legal costs in the Government's original impact assessment.
- **The avoided deadweight loss due to greater deterrence.**

[125] Department for Business, Innovation & Skills (2013), Private actions in competition law: a consultation on options for reform - final impact assessment.
[126] However, we note that legal spend itself also contributes to the UK economy. According to the Government, the UK legal sector "is a national asset and an engine of economic growth", contributing £42.6 billion to the economy in 2024 alone. The UK government has identified legal services as a pioneering and world-leading frontier industry, and a key part of the Professional and Business Services sector – one of the eight growth driving sectors in the government's industrial strategy. See Industrial Strategy: Professional and Business Services Sector Plan.
[127] CMS (2025), European Class Action Report 2025.
[128] 1381/7/7/21 Justin Le Patourel v BT Group PLC - Order of the Chair (Costs) | 21 May 2025 ; 1381/7/7/21 Justin Le Patourel v BT Group PLC - Reasoned Order (Permission to Appeal and Costs) | 13 Feb 2025

- Successful business and consumer redress deters future anti-competitive behaviour by revealing the expected cost of being caught.

- This deterrence leads to greater economic efficiency through avoided deadweight loss, above and beyond just shifting monopoly profits from firms to consumers.[129]

- In the lower growth scenario, we use an assumption from the Government's impact assessment to calculate the size of deterrence: a 1:1 deterrence ratio for follow-on cases and 5:1 for standalone cases, as the latter reveal to prospective rulebreakers a raised probability of getting caught. These ratios were based on surveys by the Office of Fair Trading (OFT) which measured companies' self-reported reactions to competition policy decisions (including cartel, abuse and commercial cases).[130] A CMA literature review of available UK evidence since affirmed that cartel deterrence ratios might lie between 4.6:1 and 28:1, while more recent analysis of the outcomes from four recent cases found an average ratio of around 12:1, potentially suggesting greater upside to our figures.[131]

- We then convert these deterred price increases into figures for the amount of deadweight loss avoided. Based on OFT evidence, outlined in the Government's impact assessment, we have assumed that the total transfer from deterred price increases is exactly twice the deterred deadweight loss, and so have scaled down our estimate accordingly.[132]

- We assume that the deterrence ratio for additional redress in the moderate and higher growth scenarios (relative to the lower growth scenarios) is 50% smaller than the lower growth scenario, to reflect the possibility that additional redress has a diminishing marginal effect on deterrence.

- Based on these assumptions, we calculate that the indirect benefits stemming from deterrence range from £1.2bn to £3.5bn across the three scenarios.

Dynamic GDP benefits

The estimates above update the Government's methodology to capture the net effect of a series of static and behavioural changes, holding the responses of key macroeconomic variables fixed. But as the Government notes, "*Improvements brought by competition bring a range of longer-term benefits to growth, productivity and innovation, **beyond those which can be captured by this analysis***."[133] As Section 4 explained, a robust body of literature provides strong support to the conclusion that a more competitive economy supports economy-wide growth and innovation.[134]

The precise magnitude of these dynamic growth effects is harder to quantify with any confidence than the net benefits described above. Nevertheless, this section provides a stylised estimate of their effects in order to provide a more complete estimate of the potential benefits of greater private enforcement. These benefits occur primarily through the following channels:

- **Within-firm effects** – through which greater exposure to competition drives efficiency gains and improved managerial practices;

[129] In simple terms, deadweight loss from monopoly arises because a monopolist restricts output and sets price above marginal cost, so consumers who are willing to pay more than the marginal cost of producing the product but less than the monopoly price have to forgo the good. As a result, total surplus is not maximised.
[130] These figures were based on Office for Fair Trading analysis which looks at the ratio of anti-competitive behaviours abandoned or modified to those where an OFT decision was made. Office of Fair Trading (2011), The impact of competition interventions on compliance and deterrence.
[131] CMA (2025), The deterrent effect of competition authorities' work - literature review and DotEcon (2018), Evaluation of CA98 cases: A DotEcon report. The 12:1 ratio is the arithmetic average of the figures shown in Table 25, which range from 2.7:1 for mobility scooter cases to 21:1 for bathroom fittings cases. See also Section 4.3 of OECD (2025), Assessment the impact of competition authorities' activities.
[132] See paragraph 85 of the BIS (2013), Private actions in competition law: a consultation on options for reform - final impact assessment.
[133] Department for Business, Innovation & Skills (2013), Private actions in competition law: a consultation on options for reform - final impact assessment, page 4
[134] See, for instance, the summary in CMA (2023), Wider Benefits of Competition Policy and Enforcement.

- **Between-firm effects** – through which greater competition eliminates low productivity firms, and gives high-productivity firms scope to expand market share; and

- **Innovation effects** – through which greater competition incentivises innovations that cut costs, raise quality, and develop new products.

We model this relationship using an elasticity implied by an influential and high-quality European Commission modelling exercise. Combining a large-scale macroeconomic model of the economy as a whole with a detailed input-output model of sectoral interlinkages, it estimates that the aggregate effect of all of its recent competition policy interventions will lower economy-wide prices by 0.7 per cent over the long run and boost GDP by 1.1 per cent over the same horizon.[135] The -1½ elasticity implied by this relationship therefore helps illustrate the relationship between pro-competitive measures and growth.[136] While there is significant uncertainty around this relationship, other modelling exercises in different jurisdictions that make different analytical choices tend to produce similar or larger results.[137]

To illustrate the dynamic benefits of private enforcement we assume that this implied elasticity, which captures the effect of public enforcement, can also be applied to calculate how the initial static and behavioural costs and benefits of private enforcement flow through to key macroeconomic variables. This appears reasonable – as both forms of enforcement will transmit through the economy in similar ways. In applying this elasticity, we have scaled down the elasticity figure by one-third, which gives an elasticity of -1, to avoid double counting any of the static efficiency gains from competition.

We therefore assume that the effect of deterrence flows through to lower markups and economy-wide prices by 0.1% to 0.2% across the three scenarios. Combining these price changes and the unitary (-1) elasticity described above results in an increase in long-run real GDP of £2.5bn to £7.3bn from dynamic growth effects across the three scenarios.

Total benefits

The total benefits resulting from the deterrence and prevention of anti-competitive behaviour and its associated dynamic growth effects (**net** of extra legal costs) are shown in Figure 4 above. These amount to £3.5bn per year in our lower growth scenario (0.1% of GDP), £6.3bn per year in our moderate growth scenario (0.2% of GDP), and £10.5bn in our higher growth scenario (0.4% of GDP). All of these scenarios reflect long-run outcomes, although we expect that the scenarios' static and behavioural impacts would be felt rapidly. The dynamic effects of the scenario would be likely to take more time to materialise as within-firm efficiency gains, the structure of affected industries, and the level of innovation adjust more gradually in response to greater competition.

To produce our cost-benefit analysis, we have extrapolated from a small sample of concluded cases. Given the significant year-on-year variation in the number, nature, and size of past cases, plausible alternative assumptions about how to project future outcomes and other modelling choices can lead to markedly different estimates of economic effects. Although we consider the range we have produced to be reasonable, there remains a substantial degree of uncertainty around the precise estimates.

[135] The most recent exercise, published in 2024, covers interventions that took place from 2012 to 2022. See European Commission (2024), Modelling the macroeconomic impact of competition policy: 2023 update and further development. In the Commission's model, pro-competitive measures drive down markups, lowering economy-wide prices and boosting real incomes. The resulting increase in actual and expected sales drives up investment and supports growth.

[136] By incorporating spillover effects and the direct effects of redress, the Commission's approach amplifies the modelled impact of competition policy on prices. We have not included these channels in order to focus on the impacts from deterrence and prevention. Including them would further raise the responsiveness of GDP. For example, the spending profile of UK businesses and consumers who receive payments for redress is likely to be more UK-centric compared to defendants (often multinational corporations). This is likely to lead to more money being spent within the UK and therefore a larger increase in UK GDP from multiplier effects.

[137] For instance, a comparable exercise in Australia found that proposed changes to competition modelling would lower CPI by 0.7 to 1.4 per cent and boost GDP by 1.0 to 1.7%, implying a similar elasticity. See Australian Government (2024), National Competition Policy: modelling proposed reforms - Study report. Analysis produced by a modelling consortium for the European Commission also provides scenarios in which competition policy leads to higher innovation, lowering prices by as much as -5% and raising GDP by as much as +8%. Again, see European Commission (2024), Modelling the macroeconomic impact of competition policy: 2023 update and further development.

Nonetheless, the direction, key mechanisms, and broad magnitude of the results are supported by the most recent information available, economic theory, and empirical evidence. We therefore do not believe that reasonable alternative modelling choices would lead to a materially different conclusion from our central finding: that the private enforcement of competition law supports well-functioning competitive markets and thereby promotes economic growth.