

Approval of voluntary redress schemes under Competition Act 1998

1 The PSR background

- 1.1 The Payment Systems Regulator Ltd (PSR) was incorporated on 1 April 2014 as a subsidiary of the Financial Conduct Authority (FCA), and became fully operational on 1 April 2015. We regulate payment systems operating in the UK, and have a range of regulatory powers under the Financial Services (Banking Reform) Act 2013 (FSBRA), as well as concurrent competition powers under the Competition Act 1998 (CA98) and Enterprise Act 2002 (EA02).
- 1.2 We have statutory objectives to promote effective competition, innovation and the interests of service users.

2 Legal background

- 2.1 The Competition Act 1998, as amended by the Consumer Rights Act 2015 (CRA15),¹ permits a person (the applicant) to submit a voluntary redress scheme for approval to the Payment Systems Regulator, or the Competition and Markets Authority (the CMA) or a concurrent regulator.
- 2.2 We can exercise this approval function only in so far as it relates to an infringement under Chapter I or II of the CA98 or Articles 101(1) or 102 of the Treaty on the Functioning of the European Union that relate to participation in payment systems in the UK.²
- 2.3 The PSR, the CMA and other concurrent regulators are required to publish guidance on applications for approval of redress schemes, the approval of such schemes, and the power to enforce approved schemes.³

3 Guidance

- 3.1 The CMA has published guidance on voluntary redress schemes ('the CMA Guidance')⁴, on 14 August 2015.⁵

¹ Section 49C of the CA98, as amended by the CRA15.

² Section 61 of FSBRA.

³ Section 49C(9) of the CA98, as amended by the CRA15.

⁴ <https://www.gov.uk/government/publications/approval-of-redress-schemes-for-competition-law-infringements>; a copy of the 14 August 2015 guidance can also be found on our website at www.psr.org.uk/psr-publications/policy-statements/CMAs-voluntary-redress-guidance

- 3.2 We have adopted the CMA Guidance.⁶ However, when we decide whether to consider a scheme for approval, we have decided to apply our Administrative Priority Framework⁷ instead of the CMA's Prioritisation Principles (as envisaged in the CMA Guidance). The table at the end of this document sets out the sections of the CMA Guidance which would be amended by this change.
- 3.3 We will keep our approach and the CMA Guidance under review in light of our developing experience or changes in the law.

4 Key changes to CMA Guidance adopted by PSR

- 4.1 The following table lists sections of the CMA Guidance which would be amended by these changes.

CMA Guidance on the approval of voluntary redress schemes for infringements of competition law reference	PSR Amendment
Paragraph 3.2, footnote 71	See Prioritisation Principles for the CMA (CMA16) <u>PSR Administrative Priority Framework (March 2015)</u>

⁵ It was approved by the Secretary of State as required under section 49C(10) CA98 on 6 August 2015.

⁶ Following public consultation. The Secretary of State approved our approach as required under section 49C(10) CA98 on 23 March 2016.

⁷ <https://www.psr.org.uk/administrative-priority-framework>.