

CMA approach to the Competition Act 1998 and compliance

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CA98 process - pre-SO stage

Impact on parties under investigation

Parties will be notified of case opening when CMA uses formal information gathering powers, which may involve an unannounced inspection – likely to be significant request for information to a tight deadline.

State of play meetings provide opportunity for parties to put their side of the story

Further information requests likely throughout

Parties asked to assess information on file for confidentiality

Case prioritised by CMA but SRO signs off on s.25 threshold being met



SRO responsible for any decisions on - interim measures; - settlement; - commitments, with oversight (principally from Case and Policy Committee)

If settlement agreed, case against settling party continues under agreed streamlined process



Case Opening

Case opening notice published on .gov.uk

Use of formal investigation powers: s26 info requests to parties; s27/28 visits to parties' premises

'State of play' meeting with parties

Evidence gathering and review

Case Team reviews and considers evidence - Further information requests issued as necessary

Stop/Go decision

SRO decides to continue with case to SO

Case Team fills evidence gaps and drafts the SO

'State of play' meeting with parties

Statement of Objections

SRO authorises issue of SO

CA98 process - post-SO stage

Impact on parties under investigation

Parties have up to 12 weeks to read and consider the SO and evidence on the file and make reps. Usually an opportunity to consider settlement (admit and get reduction in penalty)

Parties may attend oral hearings (their choice)

Opportunity for reps and oral hearing on penalty

Decision may be appealed

SRO responsible for any decisions on
 - interim measures;
 - settlement;
 - commitments, with oversight (principally from Case and Policy Committee)

If settlement agreed, case against settling party continues under agreed streamlined process

Statement of Objections (SO)

Parties' SO representations

Proposed decision

Final decision

3 Person Case Decision Group appointed by Case and Committee

Case Decision Group reviews parties' written representations and attends oral hearing

If, in light of reps, **Case Decision Group** minded to find infringement and impose penalty:
 - draft penalty statement issued
 - parties make written & oral representations on draft penalty

Case and Policy Committee consulted on proposed decision on infringement/penalty

Final decision issued – public announcement of decision and penalty – up to 10% of world wide turnover

SO issued to parties

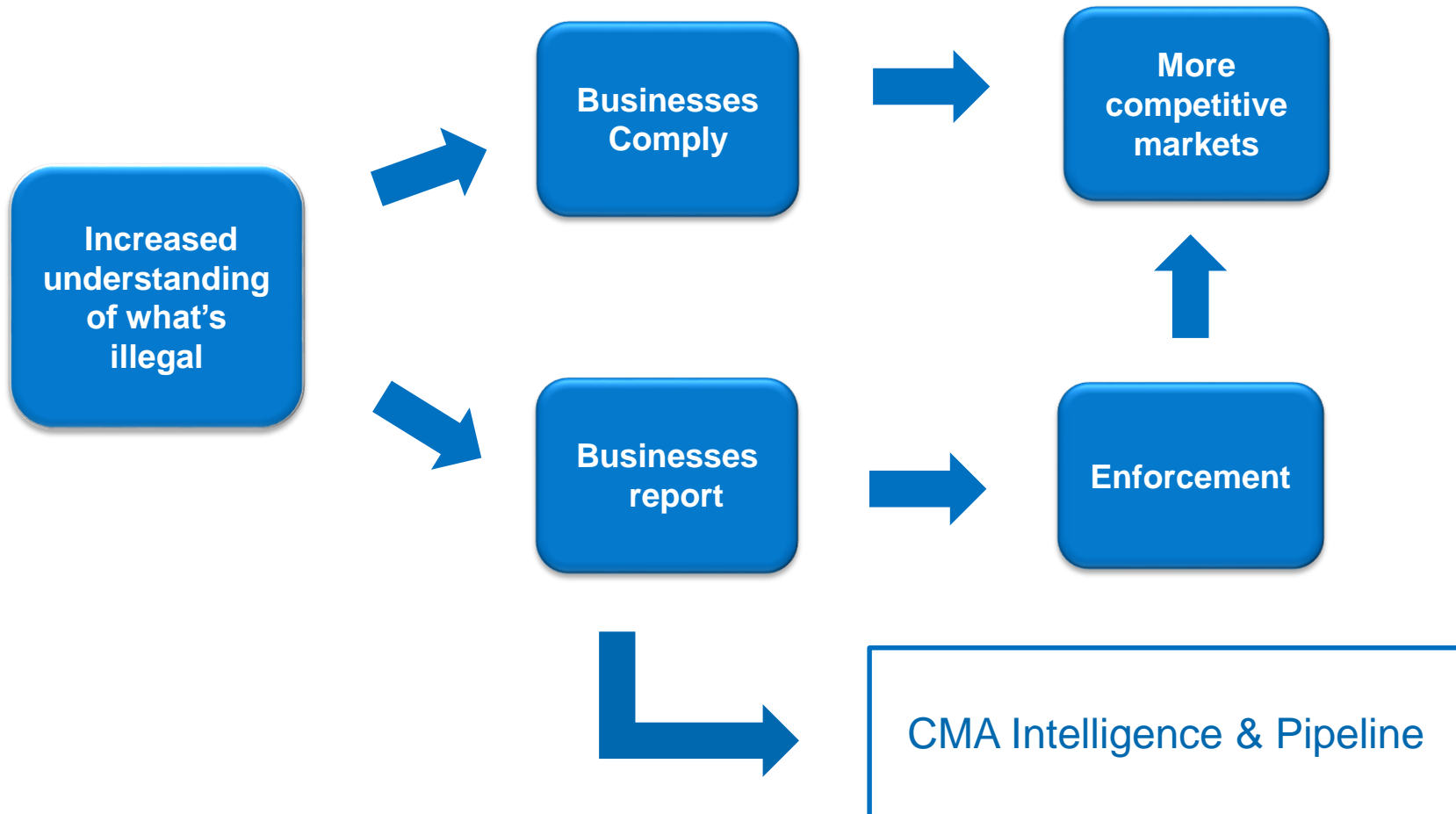
Parties granted access to file

'State of play' meeting with parties

Procedural Adjudicator report on procedural issues

Compliance + reporting

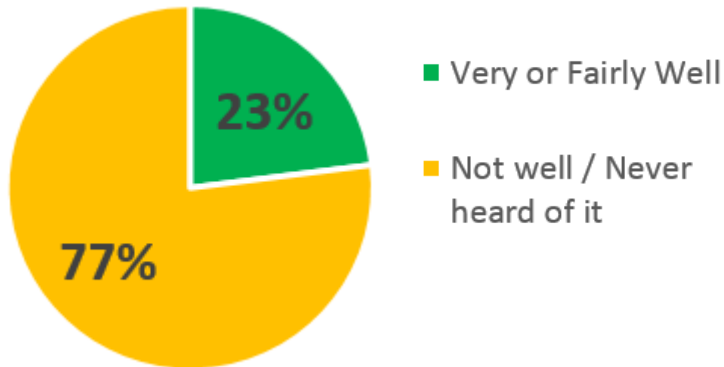
Promoting compliance drives reporting



Awareness of competition law

- “Competition law” can seem abstract and complex
- And businesses lack knowledge that certain *behaviours* can be illegal
- We’ve developed short & simple material to promote a better understanding

How well businesses think they know competition law



Businesses unsure whether these activities were illegal



The benefits of compliance

- 1. Avoid anticompetitive conduct in the first place**
- 2. Quickly identify conduct that does occur and potentially apply for leniency**
- 3. May benefit from reduction in penalty – will require proof that compliance programme has been improved/introduced**