

Housing, Communities and Local Government Committee

House of Commons, London SW1A 0AA

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Mr Andrea Coscelli
Chief Executive
Competition and Markets Authority
Victoria House
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Dear Andrea,

Leasehold Reform

Last week, the Housing, Communities and Local Government Committee, which I Chair, concluded its inquiry into Leasehold Reform. Our final report made several recommendations for reform and actions to be taken by the Government, Law Commission and the Competition and Markets Authority (CMA). I would like to draw your attention to the recommendations that relate to the CMA.

Throughout our inquiry, we heard extensive evidence from leaseholders regarding onerous ground rent terms, high and opaque service charges and one-off bills, unfair and excessive permission charges, the alleged mis-selling of leasehold properties by developers, and unreasonable costs to enfranchise or extend leases. Our report concluded that, too often, leaseholders had been treated by developers, freeholders and managing agents, not as homeowners or customers, but as a source of steady profit.

We were concerned by accusations made by several leaseholders, particularly house lessees, that they had been mis-sold their properties by developers. It is clear that many leaseholders were unaware of the differences between freehold and leasehold at the point of purchase, in particular the additional costs and obligations that come with a leasehold property, and that some developers deliberately obscured these differences, with some leaseholders reporting that they had been told by sales staff that properties were “equivalent to freehold”. This was clearly misleading.

Further, we received a substantial number of submissions from leaseholders accusing developers of reneging on promises made by their sales teams to allow leaseholders to purchase their freeholds at an agreed price after two years. Leaseholders told us that their freeholds had been subsequently sold on—without having given them the opportunity to purchase the freehold themselves—to third party investors, who were not willing to allow leaseholders to purchase their freeholds at the same price offered during the sales process. For example, one leaseholder told us that an initial offer to purchase their freehold after two years for £5,000 increased to £40,000, because their freehold had been sold on to a third party.

Developers denied that their sales teams deliberately misled leaseholders with inaccurate sales information and false promises of purchasing their freeholds at an agreed price. However, the number of near-identical stories from leaseholders suggests that these offers were made, and this clearly reflects a serious cross-market failure of oversight of sales practices by developers.

That is why our report called on the CMA to investigate mis-selling in the leasehold sector within the next six months and, where appropriate, make recommendations for appropriate compensation, with the option of enfranchisement.

We are aware that the Secretary of State, Rt Hon. James Brokenshire MP, wrote to you on 2 November 2018 to make a similar request, and that you responded to this on [26 November 2018](#) to refuse to undertake such an investigation. You highlighted that “Our ability to launch new discretionary work such as this is significantly affected by the near-time preparations that we must make for EU Exit”. **It is extremely concerning that you consider that you do not have the resources to address an issue that is so important to the millions of people who live in leasehold properties; we do hope that this does not reflect a misunderstanding of the scale of the problem.**

However, you also argued that a new market study would not “add any significant value in understanding what is needed to address the problem”. We disagree. **The CMA has an important role to play in the examination and disclosure of market failures, along with powers to enforce competition law, including the enforcement of prohibitions on the use of unfair terms or unfair business practices. We believe there is much that the CMA could add to this process, not least in making clear that such exploitation by developers will not be tolerated in future. This is a clear opportunity for the CMA to contribute its expertise in this area.**

Further, we heard extensive evidence regarding the onerous lease terms that had been imposed by developers and freeholders. The most high-profile of these are, of course, the 10- and 15-year doubling ground rent clauses. But there are also excessive and unreasonable permission fees, including a £3,500 fee one leaseholder was told she would have to pay for permission to put up a conservatory, a £200 fee to change a mortgage provider, or a £68 fee to change a doorbell.

We heard that the CMA could exercise its powers under section 130A of the Enterprise Act 2002, to conduct a market study for the purposes of considering whether something connected with the sale of leasehold land might adversely affect consumers and whether steps can and should be taken to remedy that. **Were the CMA to indicate its view as to whether onerous leasehold terms constitute ‘unfair terms’, this would be a vital step towards these onerous terms being declared unenforceable in practice.** This would be a great relief to hundreds of thousands of leaseholders affected by onerous terms.

As we have outlined in our report, if the CMA determines that onerous terms in existing leases are indeed unfair, or that they were mis-sold, the Government should take further action. We believe that where leaseholders have paid unreasonable permission fees or ground rents over the course of their leases so far, they should have those refunded by freeholders with interest.

Leaseholders have been left to fight their own battles for too long. It is time for the CMA to fulfil its duty to intervene in this broken market and ensure that leaseholders’ interests are put first.

I am copying this letter to the Secretary of State for Housing, Communities and Local Government, The Rt Hon James Brokenshire MP, and to the Minister for Housing and Homelessness, Heather Wheeler MP.

A handwritten signature in black ink, appearing to read 'Clive Betts', written in a cursive style.

Clive Betts MP
Chair, Housing, Communities and Local Government Committee