



# Housing, Communities and Local Government Committee

House of Commons, London SW1A 0AA

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The Rt Hon James Brokenshire MP  
Secretary of State for Housing, Communities and Local Government  
Ministry of Housing, Communities and Local Government  
Fry Building  
2 Marsham Street  
London  
SW1P 4DF

18 June 2019

Dear James,

## **Leasehold: Competition and Markets Authority investigation and powers**

The Housing, Communities and Local Government Committee welcomes the Competition and Markets Authority (CMA) decision to launch an investigation into the potential mis-selling of leasehold properties and unfair terms.

The evidence we heard during our inquiry into Leasehold Reform demonstrated very clearly that a significant number of leaseholders had similar stories to tell about onerous ground rents, high and opaque service charges and one-off bills, unfair permission charges, and alleged mis-selling of leasehold properties by developers. It is right that these claims are finally acknowledged by regulators and fully investigated in a fair, transparent and impartial way.

We note that the CMA has committed to use its consumer protection law powers and that this has the potential to lead to enforcement proceedings if evidence is uncovered to justify such action.

It is, however, widely acknowledged that the CMA's power to intervene in broken markets is limited, particularly in the area of consumer protection law. In a recent letter to the Secretary of State for Business, Energy and Industrial Strategy ([21 February 2019](#)), the Chairman of the CMA, The Rt Hon Lord Tyrie, made several proposals for reform of the competition and consumer protection regimes of the CMA. In the context of the consumer protection powers that the CMA is using to investigate the leasehold sector, the [summary of proposals](#) issued by the CMA to the Government noted that:

*The enforcement powers available to the CMA provide only weak deterrence to wrongdoing, both in comparison with competition enforcement, and by international standards. A principal deficiency is that – in contrast to its powers to enforce competition law – the CMA cannot order the cessation of practices it considers to be illegal, and must instead pursue businesses through the courts. Even when the CMA wins in court, no fines are available*

Consequently, by requiring the CMA to pursue cases through the courts, we are concerned that this opens the possibility for unscrupulous developers, freeholders and managing agents to game the system, prolong disputes with the regulator and, over time, renege on commitments to good behaviour made during periods of more heightened scrutiny.

The CMA has called for the power to decide whether consumer protection law has been broken, direct businesses to bring infringements to an end and impose fines. It has asked to be given the power to order the cessation of practices that it suspects may be harming consumers, pending a final decision on whether the law has been broken. The CMA argues that these changes would bring the CMA's powers to enforce consumer law into line with those it has over competition law.

We therefore want to take this opportunity to add our voice to Lord Tyrie's recommendations for reform of the powers of the CMA. Further, we fully support calls for primary legislation to be introduced to give effect to these new powers. The difficulties faced by leaseholders clearly demonstrates the need for the CMA to be given stronger powers to intervene quickly and effectively in such broken markets.

Separately, we thank the Minister for Housing and Homelessness for her letter of 17 May 2019, informing us that there would be a very short delay to responding to our report. However, the Government response is now a month late and we would appreciate a further update as to when this is likely to be received.

A handwritten signature in black ink, appearing to read 'Clive Betts', with a stylized flourish above the name.

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

*cc. The Rt Hon Greg Clark MP, Secretary of State for Business, Energy and Industrial Strategy*