



# House of Commons

Tuesday 10 July 2012

## PUBLIC BILL COMMITTEE PROCEEDINGS

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### ENTERPRISE AND REGULATORY REFORM BILL

[TWELFTH AND THIRTEENTH SITTINGS]

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Norman Lamb

That the Order of the Committee of 19 June 2012 be amended as follows: (1) in paragraph (1)(i), for “10.30 am and 4.00 pm” substitute “9.00 am and 1.30 pm”; (2) in paragraph (4), for “8.00 pm” substitute “5.30 pm”.

*Agreed to*

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Mr Iain Wright  
Ian Murray  
Chi Onwurah

*Not called* **82**

Schedule 4, page 63, line 26, at end insert—

- (i) an assessment of the adequacy of staff skills in relation to the performance of the CMA’s functions;
- (j) an estimate of the resource needed adequately to perform its functions for the two financial years following the year in which the annual report in 14(1) refers.’.

Mr Iain Wright  
Ian Murray  
Chi Onwurah

*Not called* **84**

Schedule 4, page 63, line 26, at end insert—

- ‘(2A) The first annual report of the CMA following Royal Assent must include an assessment of transition costs in both financial and competition terms.’.

Enterprise and Regulatory Reform Bill, *continued*

Mr Iain Wright  
 Ian Murray  
 Chi Onwurah

*Negatived on division* 83

Schedule 4, page 64, line 27, at end insert—

*‘Consumer research*

- 16A (1) The CMA must make arrangements for ascertaining—
- (a) the state of public opinion about the manner in which financial services are provided to consumers;
  - (b) the experiences of consumers in relation to the provision of financial services;
  - (c) the experiences of such consumers in relation to the handling, by institutions within the financial services sector, of complaints made to them by such consumers;
  - (d) the experiences of such consumers in relation to the resolution of disputes with institutions within the financial services sector; and
  - (e) the interests and experiences of such consumers in relation to other matters that are incidental to, or are otherwise connected with, their experiences of the provision of financial services or of the availability of associated facilities.
- (2) The CMA shall consult with concurrent regulators where necessary.
  - (3) The CMA shall publish the conclusions from research carried out under section (1) every two years.
  - (4) The CMA shall produce a report stating its conclusions and any recommendations from section (1) to the Secretary of State every 2 years.
  - (5) The Secretary of State shall publish a response to the report within 60 days.
  - (6) Arrangements made by the CMA for the purposes of this section may include arrangements for the carrying out of research in one or more of the following ways—
    - (a) by members or employees of the CMA;
    - (b) by persons who are neither members nor employees of the CMA.
  - (7) This section does not restrict the CMA’s power to make any arrangements they consider to be incidental or conducive to the carrying out of any of their functions.
- 16B (1) The CMA must make arrangements for ascertaining—
- (a) the level of competition in the financial services sector; and
  - (b) the effects of the competition environment in the financial services sector on
    - (i) the availability of finance to small and medium-sized enterprises;
    - (ii) the availability of finance to high growth businesses;
    - (iii) the availability of finance to businesses in general.
  - (2) The CMA shall consult with concurrent regulators where necessary.
  - (3) The CMA shall publish the conclusions from research carried out under section (1) every two years.
  - (4) The CMA shall produce a report stating its conclusions and any recommendations from section (1) to the Secretary of State every two years.
  - (5) The Secretary of State shall publish a response to the report within 60 days.

**Enterprise and Regulatory Reform Bill, continued**

- (6) Arrangements made by the CMA for the purposes of this section may include arrangements for the carrying out of research in one or more of the following ways—
- (a) by members or employees of the CMA;
  - (b) by persons who are neither members nor employees of the CMA.
- (7) This section does not restrict the CMA’s power to make any arrangements they consider to be incidental or conducive to the carrying out of any of their functions.’.

Mr Iain Wright  
Ian Murray  
Chi Onwurah

*Not called* **90**

Schedule 4, page 67, line 24, at end insert—

- ‘(2A) No person who participated in the CMA Board’s consideration of whether to refer the matter to the chair shall form part of a group selected by the chair to investigate the matter.’.

Mr Iain Wright  
Ian Murray  
Chi Onwurah

*Not called* **85**

Schedule 4, page 68, line 19, at end insert—

- (f) at least three persons (“specialist consumer competition panel members”) appointed to the CMA panel under paragraph 1(1)(b) for the purpose of being available for selection as members of a group constituted to carry out specialist consumer competition welfare functions on behalf of the CMA;
- (g) at least three persons (“specialist financial competition panel members”) appointed to the CMA panel under paragraph 1(1)(b) for the purpose of being available for selection as members of a group constituted to carry out specialist financial services competition functions on behalf of the CMA.’.

*Schedule 4 agreed to.*

*Clause 19 agreed to.*

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Norman Lamb

*Agreed to* **21**

Schedule 5, page 79, line 39, leave out paragraph 32 and insert—

- ‘32 (1) Section 52 (advice and information) is amended as follows.
- (2) In subsection (1), for the words from the beginning to “the Director” substitute “The CMA”.
  - (3) In subsection (1A), for the words from the beginning to “the OFT” substitute “The CMA”.
  - (4) In subsections (2) to (6) and (8), for “OFT” (in each place where it occurs) substitute “CMA”.’.

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**Enterprise and Regulatory Reform Bill, *continued***

Norman Lamb

*Agreed to* 22

Schedule 5, page 81, line 29, at end insert—

‘  
In Schedule 2 (exclusions: other competition scrutiny), in Part 3, in paragraph 5(3)(a), for “Director” substitute “CMA”.’.

Mr Iain Wright

Ian Murray

Chi Onwurah

*Negated on division* 92

Schedule 5, page 83, line 28, after ‘subsections’, insert ‘(1A),’.

Mr Iain Wright

Ian Murray

Chi Onwurah

*Not called* 91

Schedule 5, page 84, line 14, after ‘subsections’, insert ‘(1A),’.

Norman Lamb

*Agreed to* 23

Schedule 5, page 87, leave out line 28.

Norman Lamb

*Agreed to* 24

Schedule 5, page 89, line 12, at end insert—

‘( ) after “(6)” insert “—  
(a) ”.’.

Norman Lamb

*Agreed to* 25

Schedule 5, page 89, line 13, at end insert ‘, and

( ) at the end insert “; and

(b) for the purposes of section 34C, the group constituted in consequence of the reference under section 45 is to be treated as if it were constituted in consequence of a reference under section 22 or (as the case may be) 33.”.

*Schedule, as amended, agreed to.**Schedule 6 agreed to.**Clause 20 agreed to.**Clause 24 agreed to.**Schedule 8 agreed to.*

Enterprise and Regulatory Reform Bill, *continued*

Mr Iain Wright  
 Ian Murray  
 Chi Onwurah

*Not selected* 88

Clause 21, page 17, line 38, at end insert—

‘(13) No member involved in the decision making process shall have taken any part in the phase one investigation.’

*Clause agreed to.*

*Clause 22 agreed to.*

*Schedule 7 agreed to.*

*Clause 23 agreed to.*

*Clauses 25 and 26 agreed to.*

*Schedule 9 agreed to.*

*Clause 30 agreed to.*

Mr Iain Wright  
 Ian Murray  
 Chi Onwurah

*Not called* 61

Schedule 12, page 188, line 4, at end insert—

‘(d) the resources which will be assigned to the market study.’

Mr Iain Wright  
 Ian Murray  
 Chi Onwurah

*Withdrawn* 62

Schedule 12, page 188, line 35, leave out ‘6’ and insert ‘3’.

Mr Iain Wright  
 Ian Murray  
 Chi Onwurah

*Not called* 65

Schedule 12, page 188, line 35, leave out ‘6’ and insert ‘12’.

Mr Iain Wright  
 Ian Murray  
 Chi Onwurah

*Not called* 63

Schedule 12, page 189, line 32, leave out ‘6’ and insert ‘3’.

Mr Iain Wright  
 Ian Murray  
 Chi Onwurah

*Not called* 66

Schedule 12, page 189, line 32, leave out ‘6’ and insert ‘12’.

Enterprise and Regulatory Reform Bill, *continued*

Mr Iain Wright  
 Ian Murray  
 Chi Onwurah

Schedule 12, page 189, line 41, leave out '6' and insert '3'. *Not called* 64

Mr Iain Wright  
 Ian Murray  
 Chi Onwurah

Schedule 12, page 189, line 41, leave out '6' and insert '12'. *Not called* 67

Norman Lamb

Schedule 12, page 193, line 15, after 'if', insert 'the CMA has accepted an undertaking or group of undertakings under section 154 and'. *Agreed to* 26

Norman Lamb

Schedule 12, page 193, line 33, at end insert— *Agreed to* 27  
 '() In subsection (1), after paragraph (a) insert—  
 "(aa) any decision not to make a reference under section 131 following a consultation in relation to the matter concerned under section 169;".

Norman Lamb

Schedule 12, page 194, line 3, at end insert— *Agreed to* 28  
 ' In section 179 (review of decisions under Part 4), in subsection (2), before paragraph (a) insert—  
 "(za) does not include a decision whether to carry out functions under section 5 in a case where the CMA is, or would have been, required to publish a market study notice (see section 130A(1));".

*Schedule, as amended, agreed to.*

*Clause 28 agreed to.*

Mr Iain Wright  
 Ian Murray  
 Chi Onwurah

Schedule 11, page 183, leave out lines 18 to 21. *Withdrawn* 86

Norman Lamb

Schedule 11, page 184, line 42, after '140A(2)', insert '(b)'. *Agreed to* 29

**Enterprise and Regulatory Reform Bill, continued**

Norman Lamb

Schedule 11, page 184, line 46, after '140A(2)', insert '(b)'.

*Agreed to* 30Mr Iain Wright  
Ian Murray  
Chi Onwurah

Schedule 11, page 186, line 12, leave out from 'exceeding' to end of line 17 and insert—

*Not called* 87

'10 per cent. of the company's revenues for the previous year, or £30,000 whichever is the higher;

- (b) in the case of any amount calculated by reference to a daily rate, an amount per day exceeding 10 per cent. of the company's revenues for the previous year, or £15,000 whichever is the higher; and
- (c) in the case of a fixed amount and an amount calculated by reference to a daily rate, a fixed amount exceeding £30,000 or 10 per cent. of the company's revenues for the previous year whichever is the higher, and an amount per day exceeding £15,000 or 10 per cent. of the company's revenues for the previous year whichever is the higher.'

*Schedule, as amended, agreed to.*

Norman Lamb

Clause 27, page 21, line 24, after 'where', insert '—  
(a) '.*Agreed to* 31

Norman Lamb

Clause 27, page 21, line 25, at end insert '; or  
(b) the CMA has begun the process of consultation under section 169 in respect of a decision of the kind mentioned in subsection (6)(a)(i) of that section.'*Agreed to* 32

Norman Lamb

Clause 27, page 21, line 30, after 'permitted period', insert ', in a case to which this section applies by virtue of paragraph (a) of subsection (A1).'

*Agreed to* 33

Norman Lamb

Clause 27, page 21, line 42, after 'period.' insert—  
'(1B) For the purposes of subsection (1), the permitted period, in a case to which this section applies by virtue of paragraph (b) of subsection (A1), is the period beginning with the date on which the CMA begins the process of consultation concerned and ending with—  
(a) the acceptance by the CMA of an undertaking under section 154 instead of the making of a reference under section 131 in relation to the matter concerned;*Agreed to* 34

**Enterprise and Regulatory Reform Bill, *continued***

- (b) the publication of notice of the fact that the CMA has otherwise decided not to make such a reference in relation to the matter; or
- (c) the making of such a reference in relation to the matter.’.

Norman Lamb

Clause 27, page 22, line 28, leave out ‘In subsection (1A)(a), the’ and insert ‘In this section, a’.

*Agreed to* 35

Norman Lamb

Clause 27, page 22, line 33, leave out ‘subsection (1A)(a)’ and insert ‘this section’.

*Agreed to* 36

Norman Lamb

Clause 27, page 22, line 44, at end insert—

*Agreed to* 37

‘(1A) This section also applies where—

- (a) the CMA has conducted a consultation under section 169 in respect of a decision of the kind mentioned in subsection (6)(a)(i) of that section;
- (b) the CMA has decided that it should make an ordinary reference or a cross-market reference in relation to the matter concerned under section 131; and
- (c) an intervention notice under section 139(1) is in force in relation to the matter at the time when the CMA makes that decision.’.

Norman Lamb

Clause 27, page 23, leave out lines 3 to 6 and insert—

*Agreed to* 38

‘(b) in a case falling within subsection (1), shall not publish the market study report under section 131B(4) and shall instead, within the period mentioned in section 131B(4), give the report to the Secretary of State; and

(c) in a case falling within subsection (1A), shall give to the Secretary of State a document containing—

- (i) its decision and the reasons for its decision; and
- (ii) such information as the CMA considers appropriate for facilitating a proper understanding of the reasons for its decision.’.

Norman Lamb

Clause 27, page 23, line 13, leave out ‘contained in the market study report concerned’.

*Agreed to* 39

Norman Lamb

Clause 27, page 23, line 20, leave out ‘section 131B’ and insert ‘this Part’.

*Agreed to* 40

Norman Lamb

Clause 27, page 23, line 23, leave out ‘contained in the market study report’.

*Agreed to* 41



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**Enterprise and Regulatory Reform Bill, continued**

Norman Lamb

*Agreed to 42*

Clause 27, page 23, line 37, leave out 'market study report concerned contains the decision of the CMA' and insert 'decision of the CMA was'.

Norman Lamb

*Agreed to 43*

Clause 27, page 23, line 40, leave out 'report contains the decision of the CMA' and insert 'decision of the CMA was'.

Norman Lamb

*Agreed to 44*

Clause 27, page 23, line 43, at beginning insert 'In a case falling within subsection (1),'

Norman Lamb

*Agreed to 45*

Clause 27, page 23, line 45, at end insert—

- ( ) In a case falling within subsection (1A), the Secretary of State shall publish the document given to the Secretary of State by the CMA under subsection (2)(c), at the same time as the Secretary of State makes a reference under this section.'

*Clause, as amended, agreed to on division.*

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Norman Lamb

*Agreed to 46*

Schedule 10, page 172, line 8, after 'notice', insert 'or (as the case may be) the consultation under section 169'.

Norman Lamb

*Agreed to 47*

Schedule 10, page 172, line 10, after 'notice', insert 'or (as the case may be) on which the process of consultation began'.

Norman Lamb

*Agreed to 48*

Schedule 10, page 172, line 38, after 140A(2) insert '(b)'.

Norman Lamb

*Agreed to 49*

Schedule 10, page 172, line 41, at end insert—

'(4BA) Subsection (4C) also applies in a case where—

- (a) an intervention notice ceases to be in force in accordance with subsection (4A); and
- (b) the CMA has, before the time at which the notice ceases to be in force—
  - (i) decided that it should make an ordinary reference or a cross-market reference under section 131 in relation to the matter concerned; and
  - (ii) given a document containing its decision, the reasons for it and such information as the CMA considers appropriate for

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**Enterprise and Regulatory Reform Bill, *continued***

facilitating a proper understanding of the reasons for its decision to the Secretary of State in accordance with section 140A(2)(c).’.

Norman Lamb

Schedule 10, page 172, line 47, leave out ‘section 131B’ and insert ‘this Part’. *Agreed to* **50**

Norman Lamb

Schedule 10, page 178, line 22, leave out ‘section 131B’ and insert ‘this Part’. *Agreed to* **51**

Norman Lamb

Schedule 10, page 179, line 33, leave out ‘section 131B’ and insert ‘this Part’. *Agreed to* **52**

Norman Lamb

Schedule 10, page 179, line 38, leave out ‘section 131B’ and insert ‘this Part’. *Agreed to* **53**

Norman Lamb

Schedule 10, page 181, line 9, at end insert—  
 ‘() In subsection (7), omit “or (2)(d)”.’. *Agreed to* **54**

*Schedule, as amended, agreed to.*

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Mr Iain Wright  
 Ian Murray  
 Chi Onwurah

Clause 29, page 28, line 11, at end insert—  
 ‘(2BA) When subsection (2B) is applied, the relevant authority must publish a cost benefit assessment for the measures applied.’. *Withdrawn* **57**

*Clause agreed to.*

*Clauses 31 to 33 agreed to.*

*Schedule 13 agreed to.*

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Enterprise and Regulatory Reform Bill, *continued*

Mr Iain Wright  
Ian Murray  
Chi Onwurah

*Not selected* 58

Clause 34, page 32, line 45, at end insert—

‘(5A) After sub-paragraph 2(4) insert—

“(5) No member involved in the decision making process shall have taken any part in the investigation.”.’.

*Clause agreed to.*

*Clauses 35 to 38 agreed to.*

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Mr Iain Wright  
Ian Murray  
Chi Onwurah

*Withdrawn* 89

Clause 39, page 35, line 6, at end insert—

‘(2A) In subsection (1), after “at least two undertakings (A and B)”, insert—  
“with the intention of substantially reducing competition.”.’.

Mr Iain Wright  
Ian Murray  
Chi Onwurah

*Withdrawn* 59

Clause 39, page 35, line 35, at end insert—

‘(2A) All “relevant information” must be made available on the undertakings website under the title “commercial arrangements”.’.

*Clause agreed to.*

*Clauses 40 to 43 agreed to.*

*Schedule 14 agreed to.*

*Clauses 44 to 47 agreed to.*

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Norman Lamb

*Agreed to* 55

Schedule 15, page 203, line 29, leave out paragraph (a) and insert—

‘(a) omit “to the Competition Commission” (in each place where it occurs), and’.

*Schedule, as amended, agreed to.*

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**Enterprise and Regulatory Reform Bill, *continued***

Mr Iain Wright  
Ian Murray  
Chi Onwurah

*Not called* **60**

Clause **48**, page **41**, line **16**, at end add—

“consumers” includes small businesses, up to 50 employees in size.’.

*Clause agreed to.*

[Adjourned until Thursday at 9.00 am