

Insights

THE CMA RAMPS UP DIRECTOR DISQUALIFICATIONS FOR COMPETITION LAW BREACHES

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SUMMARY

Financial services executives should be alert to the increasing risk of disqualification for directors of UK companies which have breached competition law. Even where the individuals themselves were not personally involved in the infringement.

Financial services executives face an increasing risk that stems from the power of the CMA and FCA to apply for directors of UK companies which have breached competition law to be disqualified from directorships and senior management roles for up to 15 years. The CMA has secured 25 disqualifications in industries ranging from estate agency to pharmaceuticals. In its own words, it has been “ramping up” its use of this power and has made clear that it now assesses whether to seek disqualifications of company directors in all cases where competition law is broken.

Directors should be aware that it is their responsibility to ensure the necessary processes and frameworks are implemented to identify, manage and monitor competition risks on an ongoing basis. If a company breaches competition law, its directors may be disqualified even if they did not recognise there was a breach. A number of directors have already been disqualified even though their conduct did not contribute to the breach.

Companies must therefore be vigilant about competition law risks and that the compliance framework in place meets an “ought to have known” standard.

Andrew Hockley, Doran Boyle and Sandy Aziz wrote about this in our Emerging Themes in Financial Regulation 2021 publication.

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