

A man in a dark suit and tie is speaking at a podium. The podium has a sign that says "STRONGER FUTURE TOGETHER" and the Labour logo. In the background, a large "Labour" logo is visible on a screen.

Labour

## **MAKING MARKETS WORK**

### **How a Labour Government would transform competition and anti-trust regulation in the UK**

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## Background – change is on the agenda

The Labour Party has competition regulation in its sights, and it is increasingly clear that, in government, the Party would take steps to reshape regulatory activity to give it a stronger focus on economic growth and consumer protection, and to make markets ‘deliver for the people’.

A [recently leaked](#) blueprint for the Party’s 2024 General Election Manifesto made it clear that Labour would reform the competition regime and make it “fit for the modern economy, promoting innovation while protecting consumers.”

This builds on the Party’s earlier commitment, which it made in its September 2022 industrial strategy document, [Prosperity through Partnership](#), to address the novel challenges posed in digital markets. The policy paper also highlights how competition could operate more effectively across the whole economy, including the everyday economy, a particular focus for Labour.

It is clear that Labour will force competition regulation away from the dry and theoretical practices of the recent past towards practical steps that protect consumers and grow the economy, and that can be shown to do so. Head-scratching decisions from the regulator will come under intense scrutiny from a party keen to deliver early results.

## A track record of competition reform

Using competition regulation to stimulate fair markets and innovation, and to ensure that consumers are treated fairly, is a natural step for a centre-left party such as Keir Starmer’s Labour.

We only need to look back to the dawn of the last Labour Government to see that one of its early forays into regulatory reshaping was the Competition Act 1998. This rolled up the then Office of Fair Trading and the Competition Commission into the new CMA, and gave the regulator expanded powers in turn.

At the time, the UK had its own outdated competition law framework, in need of reform to bring it in line with EU law, and which considered just economic effects and not the form of agreements in commerce and industry. The revamp of competition law was designed to prevent businesses having to contend with two legislative regimes, Labour’s then Secretary of State Margaret Beckett argued. Some Labour commentators are concerned that this is where we are ending up now as a country, with seemingly deliberate dissonance between UK and EU competition decisions creating friction and casting doubt over whether we are ‘open for business’ as a country.

Subsequent legislation complemented the Competition Act, notably the Enterprise Act 2002 and the Enterprise Regulatory Reform Act 2013. On the horizon, and scheduled to be introduced during the remaining term of this Government, is the Digital Markets Competition and Consumers Bill. This last piece of legislation is in response to the perceived excessive dominance of firms active in digital markets, and it provides for an expansion of *ex ante* powers to be exercised against them. So, since the late 1990s, there has been an evolving thread of competition legislation, before we even speak about recent provisions on national security and subsidy control.

## **A mission to deliver a challenging growth objective**

A Labour Government would take the reins with the primary intention that its long-term goals for growth are achieved. Indeed, Labour's [key mission to secure the highest sustained growth in the G7](#), arguably underpins all its 'mission-driven' priorities in Labour's natural philosophy. The Party's instinctive conviction is that encouraging high private and public investment in innovative sectors like green technologies and skills, will ultimately raise an economic tide 'to lift all boats'.

Labour also remains closely guided by its [industrial strategy](#). This stresses the importance of a pro-innovation regulatory regime, and a "robust and agile" competition regime, aimed at levelling the playing field for smaller firms, "creating more competitive markets and enabling new services."

Moreover, the industrial strategy explicitly points to competitive markets as being "vital to long-term economic prosperity", while warning that competition has been weakening across the UK economy. Labour has therefore committed to "developing a pro-competition regulatory regime" that addresses novel challenges, particularly in digital markets, but also looking at ways to make competition operate more effectively across the whole economy, including the everyday economy.

There is also evidence that Sir Keir Starmer has been embracing thinking to the centre and right of the Party, by setting out his stall with affiliate groups like Progressive Britain. At their annual conference, he indicated that he is likely to focus Labour's regulatory strategy on explicitly pro-growth outcomes for the UK economy.

## **Closer alignment with the EU competition regime**

Labour is also awake to the potential need for closer alignment with the EU, both in terms of regulatory behaviours and in terms of business and trade. The possibility of even an EEA-style free trade deal is looking more likely under a Labour Government.

Relatedly, the view from the EU is also relevant to Labour's thinking. Sources in Brussels indicate that the EU pays little heed to UK competition decisions, but to the extent that policy-makers in Brussels and Strasbourg do take a view, they opine that the UK's resource and knowledge base in competition regulation has diminished as a result of Brexit. These may be unwelcome noises, but they have real-world impacts.

Europe's institutions regard the UK as operating from a standing start and having to grapple quickly with complex decisions in not-so-splendid isolation. EU officials and policy-makers are therefore unclear as to whether the CMA is behaving as an activist regulator, or if it is just trying to carve its own niche. In any case, decisions such as the one to [block Microsoft's acquisition](#) of Activision Blizzard have been viewed with a level of consternation. As such, Labour is itself conscious of the need for a renewed level of alignment with EU regulatory decision-making.

## Warmer relations with business

Meanwhile, the Labour Party has continued significant strides in bolstering its pro-business credentials, looking to prove itself and wrest the mantle from the Conservatives of ‘the natural party of business’, to which so much damage was done by Boris Johnson’s glib and facile “f\*ck business” jibe.

Businesses and their competition counsel should expect a Starmer government to be pro-intervention at all levels. Labour frontbenchers believe they can speed up the transition towards a ‘purposeful’ economy, for example, through a green jobs revolution and greater incentives for training and investment in technology and capital equipment.

## Competition for growth versus picking winners

How does the enforcement of competition policy play into this overall growth mission? Labour sources indicate there will need to be a change of posture from the regulator or they will clash. The CMA will be getting extensive new powers to focus on digital markets, and there is a danger that this could be at the expense of critical infrastructure and the basic industries on which growth will depend.

A good example comes in addressing the challenges facing the steel sector, which features highly on Labour’s to-do list. Illustrating the complexity of the task ahead, in January 2023, Stephen Kinnock, MP for Aberavon and Shadow Home Office Minister stated, ‘We need government action on industrial electricity prices to bring them in line with other European countries; a commitment from public bodies to buy more steel from Britain rather than abroad; and more support for green initiatives such as floating offshore wind and a celtic freeport which will boost Tata Steel’s supply chains and offer energy security.’ This approach goes way beyond previous governments in recent years and could likely pit the Government against the CMA.

## Reducing uncertainty over national security decisions

Similarly, Shadow Business Secretary Jonathan Reynolds MP has told firms that the complexities of foreign and domestic investment in British industry and infrastructure is one the most significant yet opaque issues the country faces. He acknowledged that it would not be feasible to meet ambitious net zero targets without at least some involvement of Chinese supply chains, arguing that there must be a degree of pragmatism, married with a level of sensitivity in engaging international partners with complex agendas. He has also indicated Labour’s concern around the high level of uncertainty that businesses have around the National Security and Investment Act. Greater transparency and reform can be expected here. Labour would welcome investment into the UK, so would focus on providing clarity on how and why decisions under the Act are made, particularly on the criteria and public interest test applied to deals. It is safe to assume they would ask the same of the CMA in its decision making. Shadow Chancellor Rachel Reeves is particularly keen to see this clarity, given her background in the financial sector and the Bank of England, tied with her philosophy as a social democrat with more pragmatic, technocratic leanings.

## A creative, flexible and mission-driven competition policy regime

A positive step in this regard already underway at the CMA, is its [Draft Guidance for businesses entering into environmental sustainability agreements](#). This move has reportedly gone down well inside Labour HQ, as the Party has similar plans for a Supply Chain taskforce operating across critical sectors and promises to intervene when there is a clear case by using government investment and regulation.

We can foresee that more guidance could be proposed by a Labour Government in other areas where collaboration could give ambitious companies an extra incentive to innovate, for example in transport infrastructure, healthcare solutions, and renewable energy. An activist pattern of competition guidance and carve-outs may well be used to act as a stimulus to key sectors, providing more room for manoeuvre and collaboration horizontally and vertically a way that will require the CMA to swallow some of its deal-blocking orthodoxy in return for greater relevance to a new administration's key objectives for UK growth. Prepare for a big pivot.

### About the authors



**Jon McLeod, Partner and Head of Competition and Regulation**

Jon specialises in regulatory policy challenges and has advised businesses and individuals on political relations, corporate governance, dispute resolution and reputation management. Bringing connections across political parties, the law and industry sectors, as well as particular knowledge of communications challenges arising from competition and anti-trust matters, where he has worked alongside leading legal firms in a wide range of transactions and investigations, Jon leads DRD's competition and anti-trust practice.

In 2021, Jon delivered the launch of a new bank regulator, the BBRS. Previously he was a Partner and Head of Public Affairs at Brunswick. Before that, Jon spent 21 years at Weber Shandwick, latterly as chair of its UK corporate, financial and public affairs practice, and of its Manchester office. Client sectors included sports business, media, heavy industry, raw materials, technology, life sciences, leisure, trade and professional services.

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### **Claire Harris, Senior Advisor**

Claire is a seasoned advisor on all matters competition and anti-trust. Her experience encompasses senior roles at several international law firms and regulators, such as the precursor to the UK's CMA, and in strategic communications and consulting. Claire works internationally, across London and Brussels, providing strategic counsel to companies involved in competition cases before the European Union. Her specialist expertise provides her with unique opportunities to deliver results to a wide range of clients, particularly in the tech sector.

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### **Toby Chapman, Senior Analyst**

Toby supports clients in crisis and reputation management, communications campaigns and public affairs engagement. He joined DRD from HM Treasury, where he was a policy advisor delivering strategic advice to UK Government ministers. He recently worked with the Labour Party's external relations team, establishing stakeholder networks and communications platforms for businesses and supporters. He also supported events and provided briefings for official engagements by the Leader of the Opposition.

Toby has also provided research and analytical support for House of Commons select committees, and political intelligence and advice on communication strategies for companies across a wide array of sectors, including technology firms, energy companies, charitable foundations, and asset management firms. Prior to joining the Treasury, Toby worked at the National Audit Office, conducting financial investigations. Toby holds a BA in History from the University of Oxford, and an MSc in Public Policy from University College London.

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## About DRD

Founded in 2012, DRD Partnership has made a rapid impact in applying proven expertise in managing reputational issues for client businesses and organisations across a wide range of domestic and international markets. DRD Partnership is a strategic communications consultancy focused on building value for our clients and protecting their reputations at moments of challenge and change.

Our approach combines the deep experience of our senior partner team with rigorous analysis and interrogation of issues. This is to ensure that our programmes deliver meaningful impact.

DRD's partners have held senior roles in government, financial institutions, the law, international corporations, charities and leading public affairs consultancies. By combining our insight into relevant institutions with our experience of engaging stakeholders and delivering campaigns in multiple markets, we ensure that, when clients have only one chance to get things right, we are consistently able to meet and exceed their expectations.

## Overview of DRD's Competition and Regulation services

Our work seeks to enhance and support the services of legal advisers and is guided by our clients' commercial, regulatory and reputational objectives. All our services are tailored to specific needs, but broadly speaking our potential offer can be summarised as follows:

- Apprise clients and their legal advisors of what is important to political decision-makers and influencers who oversee the regulators in the jurisdictions where they may face scrutiny.
- Create an effective communications strategy towards stakeholders, for instance, emphasising the benefits of a transaction to customers or addressing investors' concerns during an investigation.
- Prepare clients for Select Committee hearings or any other high-level political meetings.
- Where appropriate, brief Members of Parliament, who can interrogate the relevant senior political decision-makers that oversee the regulators clients are facing; and brief other bodies that may be consulted during the lifecycle of a regulatory process.
- Ensure journalists are well-briefed, to obtain positive press commentary that is in line with the argumentation put forward by legal advisers, or at the very least pays more than simply lip service to both sides of the argument.

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