

Anti-competitive Land agreement reviews

Why are we doing this review?

We have seen that land agreements, such as land covenants, have been used in ways that have the potential to lessen competition in three sectors: fuel, groceries and residential building supplies. We are now looking across the whole economy, to understand whether and how land agreements impact competition between businesses and, if so, what type of action can most appropriately mitigate any harm created.

What is competition?

When customers can choose between different providers, they benefit and so does the economy as a whole. Their ability to choose incentivises businesses to compete with one another, and the simplest way for a company to compete is to offer a better price than its competitor. Businesses may also be encouraged improve the quality of goods and services they sell or offer a greater range.

What is a land agreement?

We use 'land agreements' as a general term to mean any legal agreements that a party (individual, business or organisation) can enter into, to either restrict the way land can be used, by whom, or require it to be used in a certain way. Covenants are one type of land agreement, lease agreements are another.

How can land agreements impact competition?

Land agreements have the potential to impact competition if they are used by one party to make it harder for competitors (or potential competitors) to establish their business or attract customers. We are interested in whether land agreements can be used in ways that:

- › make it harder for new businesses to enter a market, for existing businesses to expand – for example, a business using a land agreement to prevent or deter existing or potential competitors establishing themselves on nearby sites.
- › restrict consumer choice – for example, a land agreement that requires a certain supplier to be used for goods or services.

We welcome views on other competition impacts of land agreements.

We want to hear from anyone with experience of land agreements, in particular...

Businesses impacted by land agreements

- › Have your choices been impacted by a land agreement that specified you must do or not do something?

Businesses benefitting from land agreements

- › What purpose do your land agreements serve, and have you considered any possible alternatives to achieve this?

We would like to hear from a range of stakeholders, whether retail or non-retail, rural or urban. We also encourage consumers, property developers and legal practitioners to submit.

The sorts of changes we are considering...

We are also seeking your views on where we could focus efforts to improve current processes and practices around land agreements that may impact competition. Possible options include increasing understanding of the existing rules, making it easier to remove land agreements that have served their purpose, introducing information disclosure requirements or strengthening the current laws that prohibit covenants and agreements that substantially lessen competition.

What we will use this information for

This consultation is the first stage of our review. We will use the information you provide to understand the nature and scale of any harm created by the use of land agreements, whether further action is required and what type of action can most appropriately prevent or mitigate any harm. We also want to understand the positive purposes land agreements serve, such as incentivising development and investment. This will help us when evaluating potential interventions and how they should be targeted.