

Market Strategy Survey

Ethical Business Practice and Ethical Business Regulation

In December 2021, the CMA carried out a 'Market Strategy Survey', part of which asked about Participants' understanding of Ethical Business Practice (EBP) and Ethical Business Regulation (EBR). The expectation was that if individual respondents shared their thoughts on what these concepts mean for our industry, the CMA could synthesize the results, and together we could take a step forward towards a common understanding. Of the 21 organisations invited to participate, eight provided a response: by value of wholesale charges, respondent organisations account for approximately 25% of the total Market, and 60% of all new entry into the Market (by supply points, 40% and 75% respectively).

This briefing does not attempt to provide agreed definitions or explanations of the EBP and EBR concepts. **We acknowledge that the descriptions set out do not necessarily represent the views of any single organisation, nor do they claim to represent a Market view.** However, we found the results thought-provoking, and hopefully they will be a useful addition to the conversation.

Market expectations

By way of introduction, we asked Participants about their expectations for the Market. The following were the key themes to emerge from the responses:

The Market should be trusted by customers; to earn this trust, participants should operate ethically, openly, and honestly.

Customers should be aware of the Market, so that they can exercise their choices; further work is needed to promote this awareness.

The Market should provide a fair return for all parties, and there should be no unnecessary costs or risks.

The Market should function well technically, with good communications between all parties; bilateral communications could be improved.

Respondents generally felt that the Market had performed well in terms of its technical and data underpinnings, but more work was now required to promote the ethical aspects being emphasized by the regulator.

Ethical business practice

We then asked participants what EBP meant to them and their organisation. Taken together, the respondents identified four defining characteristics, each with a number of separate components, that they believe describe EBP. Most respondents identified aspects of ethical business practice that fit under two of the headings below, and there was a considerable overlap in the thoughts expressed by different respondents.

EBP has a principled underpinning

- It is based on fairness and trust.
- It is characterised by transparency and openness.
- It requires mutual respect between all parties in the Market.

EBP is based on verifiable actions

- All parties should abide by Market rules and regulations.
- All customer-facing information should be clear and contain nothing misleading.
- Participants should abide by a Code of Practice.

EBP applies a broad social perspective

- All parties should consider the impact of their actions on the environment and society.
- All parties should consider their full supply chain when thinking about good practice.

EBP is supported by effective processes

- Participants should share data and information, but this must be handled in the spirit intended.
- The Senior Stakeholder Group (SSG) should discuss Market behaviour and coordinate with the Market Health Checker (MHC).
- Unethical behaviour should be addressed by the MHC.

Individually, respondents felt they had a good understanding of EBP, but also had many questions; collectively, their responses provide a much broader description of the concept. There was an even balance between the principles that should underpin EBP (including applying a broad social perspective) and its practical application. The central role of the Senior Stakeholder Group (SSG) in driving forward change for the better in the Market, and the need for clarity in any and all information presented to customers, were particularly emphasised.

Ethical business regulation

Finally, we asked participants what EBR meant to them and their organisation. Responses followed a similar pattern to those for the first question: taken together, the responses identified four defining characteristics of ethical regulation, each with a number of components. Most respondents generally identified aspects of ethical regulation that fit under two of the different headings, and again, there was a considerable overlap in the views of different respondents.

EBR has a principled underpinning

- Regulation should be fair, proportionate, and moral.
- Regulation should be transparent, both in terms of regulatory decisions, and when enforcement action is taken.

EBR works in collaboration with industry

- The regulator should provide high-level guidance on their expectations for the Market.
- The regulator should engage in open and unfettered conversations with all parties.

EBR is demonstrably balanced

- Regulation should achieve a balance between all stakeholders in the Market – the customer, the wholesaler, and Licence Providers.
- Regulation should achieve a balance between the interests of the public and private sectors.

EBR facilitates Ethical Business Practice

- Regulation should set and enforce minimum standards to ensure a level playing field.
- Regulation should aim to elevate the Market well above the baseline.
- EBR should provide significant rewards for those organisations leading and demonstrating EBP.

Again, we noted a balance between responses describing principles and those focusing on the practical application of the concept. Fairness was identified as a core underpinning principle of EBR, but it was also embedded in the practical delivery of regulation. There was a strongly held view that for EBP to really work in a competitive Market, EBR needs to ensure that all parties abide by certain non-negotiable standards of behaviour. With this in place, it was suggested that aligning company interests with customer and environmental interests, participants would be motivated to drive the Market well beyond any minimums set by the regulator.

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Please send comments or questions to info@cmascotland.co.uk