Sustainability First: Fair for the Future Project
Fresh Insights on Purpose #2 – April 2019

This is the second of our Fair for the Future project research round-ups, to help in the development of a 'Sustainable Licence to Operate' and a framework for mapping political and regulatory risk in terms of fairness and the environment in energy and water. Our 'Fresh Insights on Purpose' signposts key recently released, relevant research and thinking in these areas.

Competition & Markets Authority – *Letter from Andrew Tyrie, Chairman to Greg Clark, Secretary of State for Business, Energy and Industrial Strategy*

The Chairman of the CMA, Andrew Tyrie, wrote to Greg Clark in February proposing wider powers be granted to the body in order to allow it to better 'safeguard the interests of consumers and to maintain and improve public confidence in markets.' Proposals include placing a new 'overriding "public interest" duty' on the CMA in addition to its competition remit, and new tools and powers to encourage more swift and robust intervention in the interest of the consumer. The letter's proposals are in response to the challenges associated with the growth in the digitalisation of the economy, but also 'increasing signs' and 'well-founded' concerns that 'the public doubt whether markets work for their benefit.'

Centre for Competition Policy, University of East Anglia – *Why the CMA is wrong in its proposals for reform and what should be done instead*; *"Facts" from thin air in the CMA Chairman's letter requesting greater powers?*

Responding to the CMA's proposals, Bruce Lyons of the Centre for Competition Policy at the University of East Anglia has released two blogs, the first of which argues that while the 'spirit' of Andrew Tyrie's diagnosis is correct, the proposed solutions may not have the intended effect. Rather, two alternative suggestions are proposed in order to bring about an 'independent system that cannot be accused of caving into either political pressure or institutional groupthink': one, the adoption of explicit principles of unfair pricing; and two, an independent expert panel system to decide all cases, with the Competition and Appeal Tribunal to apply judicial review.

European Centre for Development Policy Management – *The sustainability dilemma in competition law; Seven principles for effective and healthy multi-stakeholder partnerships*

In the most recent edition of ECDPM's *Great Insights* magazine, Anna Gerbrandy and Giancarlo Piscitelli take a look at how collaborative stakeholder partnerships aimed at fulfilling Sustainable Development Goals (SDGs) can often seem to collide with competition law. Noting that no consensus for tackling this problem has yet been reached, the authors propose three possible avenues for integrating sustainability with competition law: 1) An integrated approach, whereby sustainability is reduced to monetary standards; 2) Clarification of the law through soft law instruments; 3) Re-interpretation of the pervasiveness of economic analysis in competition law.

Elsewhere in the magazine, Herman Brouwer, Minu Hemmati, and Jim Woodhill present seven principles for effective and healthy multi-stakeholder partnerships, which include embracing systemic change, promoting collaborative leadership, and fostering participatory learning. These pieces of work are clearly relevant to the second pillar of Sustainability First's 'Sustainable Licence to Operate' strawman on 'making best use of capital: collaboration and competition'.

Fair Trade Advocacy Office – *EU Competition Law and Sustainability in Food Systems: Addressing the Broken Links*

The FTAO commissioned a report on similar themes released in February addressing what it calls the 'broken links' between EU competition law and food sustainability. While acknowledging that there are instances where competition law is best-placed to 'balance economic and non-economic factors related to competitive distortions in the agri-food sector', the report also concludes that 'mainstream economics and mainstream competition law often fail to see society, the planet, and the household as relevant components of the economy.' It therefore proposes a series of interpretative, institutional, and regulatory changes to the existing system. Again, these are conclusions clearly relevant to the energy and water sectors, as highlighted in the discussion during Sustainability First's recent Pillar 2 workshop on barriers – perceived or real – hindering collaboration between utilities companies.

Institute for Innovation and Public Purpose (UCL) – *Lecture series: Rethinking Capitalism; Innovation and the Welfare State*

The Institute for Innovation and Public Purpose led out of University College London by Professor Mariana Mazzucato has now published the entirety of its lecture series on the key policy challenges facing modern capitalist economies. These include talks on: 'The firm, competition and the sources of productivity growth'; 'Governing the digital economy'; and 'The economics of climate change and sustainability'. Building on this series, IIPP is hosting a second set of lectures on 'Innovation and the Welfare State' in which it will probe 'the relationship between artificial intelligence, big data and the transformation of modern-day public services', and how this relationship may be 'co-designed to result in inclusive growth'.