



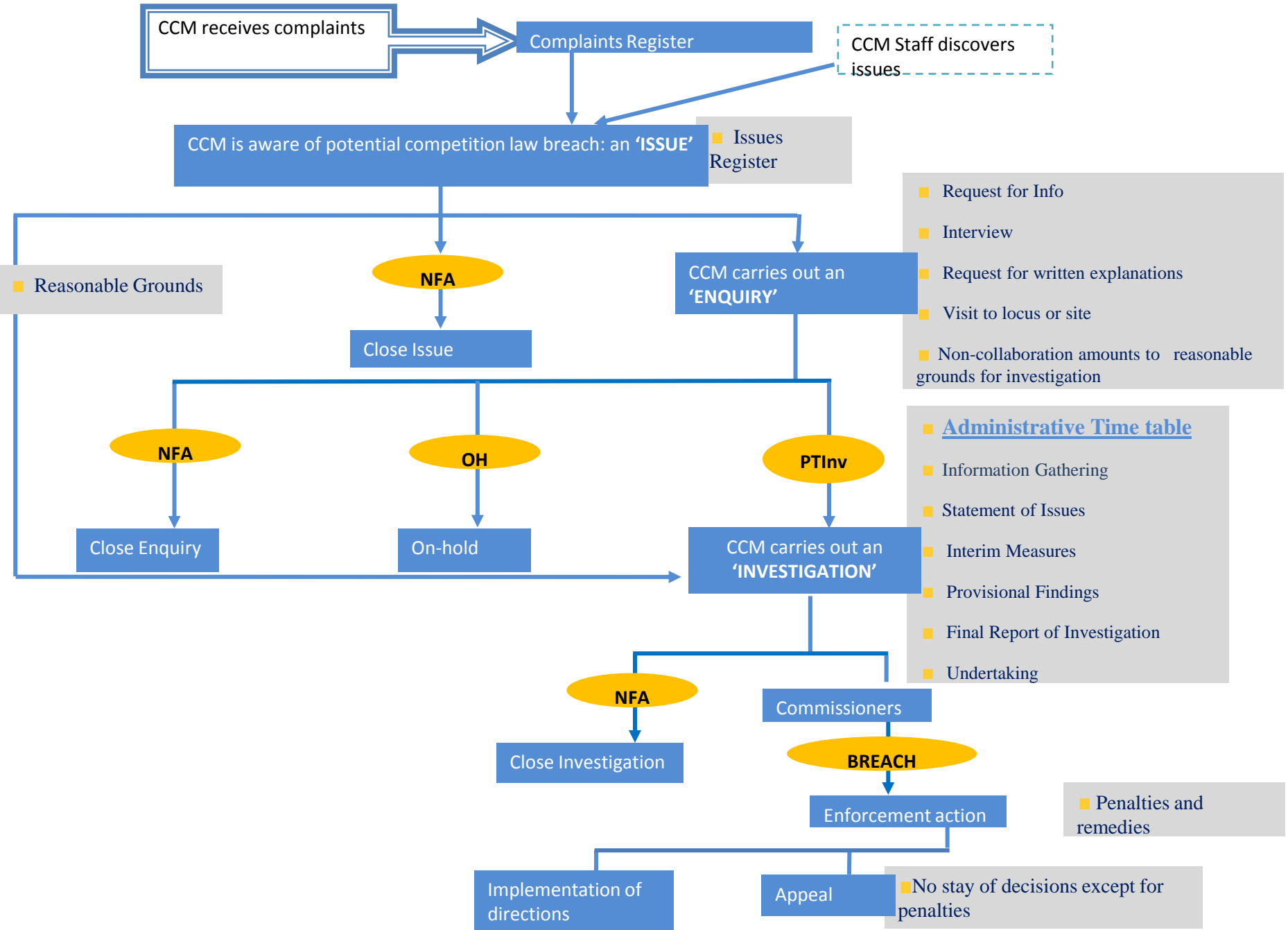
## The Investigation Process

*In fairness and transparency*

Kiran Meetarbhan, Deputy Executive Director,  
Director Legal

MCCI 28<sup>th</sup> May 2010

# The process



# Administrative Time Table



|   |  |
|---|--|
|  | Competition Commission of Mauritius<br>1 <sup>st</sup> Floor, GM Tower<br>7 Maupin Street<br>Port Louis<br>Tel. No. 211-2005<br>Fax No. 211-3107<br>email: info@ccm.mu |
|   | <b>Date:</b> 15 <sup>th</sup> January 2010   |
|   | <b>Investigation Ref:</b> CCM/INV/003  |

## TIMETABLE FOR INVESTIGATION

As per Section 9 of the CCM Guideline 1 (Rules of Procedure), the Competition Commission of Mauritius must publish a timetable for all Investigations.

The following timetable has been set for the investigation into potential restrictive business practices in respect of importation of live cattle and in the market for fresh beef.

|                                |   |
|--------------------------------|---|
| 21 <sup>st</sup> December 2009 | Investigation start<br><br>Information-gathering and initial interviews   |
| 19 <sup>th</sup> March 2010    | Statement of Issues<br><br>Continuing information gathering   |
| 28 <sup>th</sup> June 2010     | Notifying provisional findings:<br><br>Consideration of possible remedies and responses to draft provisional findings |
| 13 <sup>th</sup> August 2010   | Submission of report to Commission  |
| Mid- September 2010            | Commission Hearings   |
| Late October 2010              | Commission Decision and associated Directions   |
| (21 <sup>st</sup> June 2011    | Final deadline under CCM Rules of Procedure)  |

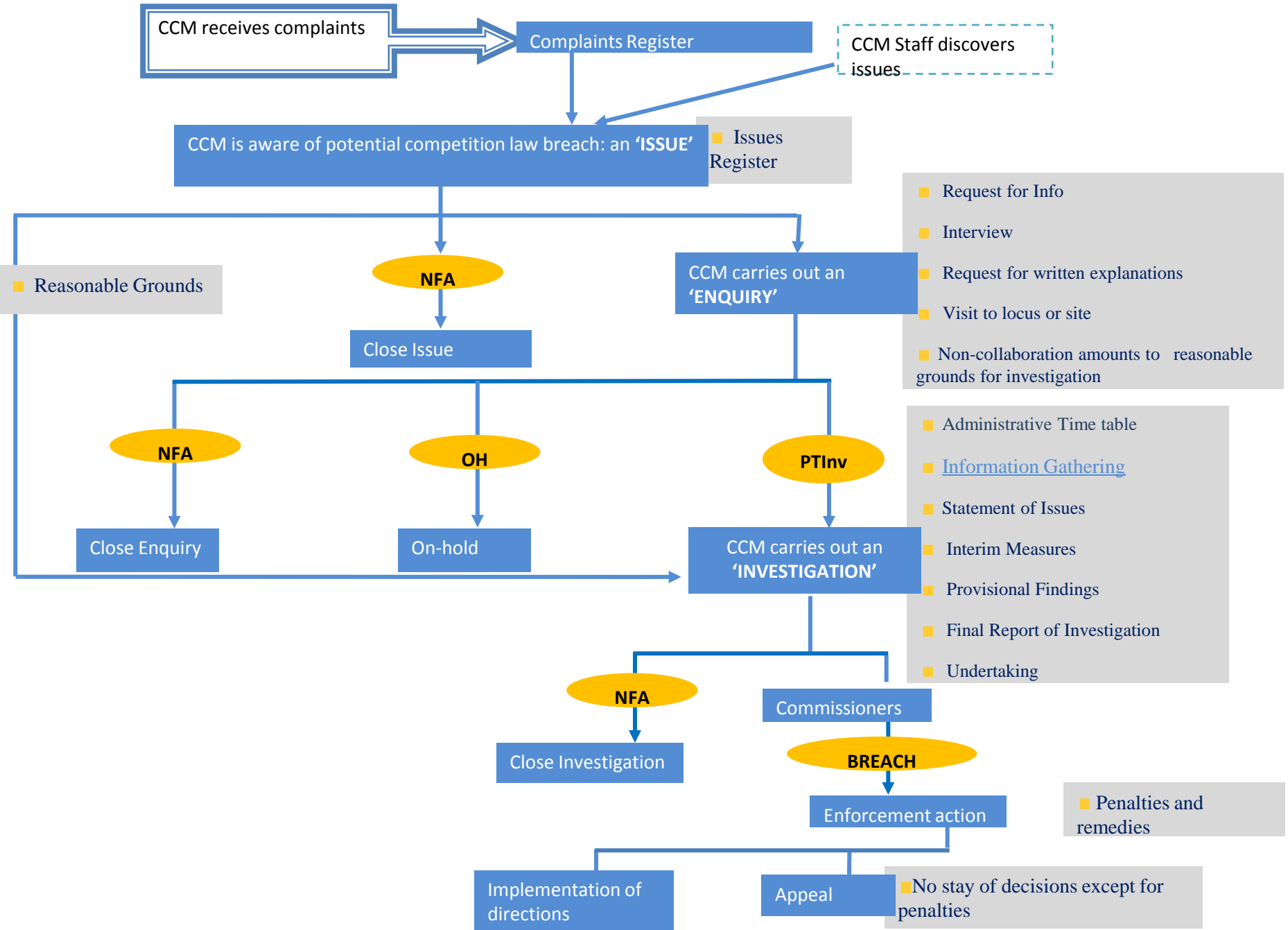
The CCM will be contacting several parties as part of its information gathering activities. Interested parties wishing to share relevant information are also welcome to contact the Commission.

# Administrative time Table



- Purpose
- Procedure followed
- Duration of investigation
- Changes and revised time table

# The process



# Information Gathering



- Extensive powers given under section 52 of the CA 2007 to the ED to gather information
- 4 ways:
  - (1) power to examine orally any person (on oath or without oath)
  - (2) Power to order production of documents/information
  - (3) Power to request written statement under oath or affirmation
  - (4) Entry and Search (Dawn Raid)

# Information gathering.../



- Procedure of giving notice in information gathering
- Content of Notice
- Service of Notice

# (I) Powers to examine orally any person



- Legal obligation to comply :
- The examination may be on oath or without oath
- Interview taped for purposes of notes of meeting
- Interview on oath taped for purposes of evidence also
- Non compliance at any steps amount to a criminal offence under the Competition Act

## (2) Power to order production of documents/information



- made to any person
- Information may be prior or post the proclamation of the Act,
- Information in electronic format must be given in a legible and visible form
- Non compliance is a criminal offence

### (3) Power to request written statement under oath or affirmation



- Option to ask for a written statement from any parties under investigation or third party on oath or affirmation
- Non-compliance is again a criminal offence
- Lying would amount to perjury

# (4) Entry and Search



- Application made to a Magistrate
- Documents may be:
  - Taken in original
  - Copies
  - Seized and detained

# What do we do with the information?

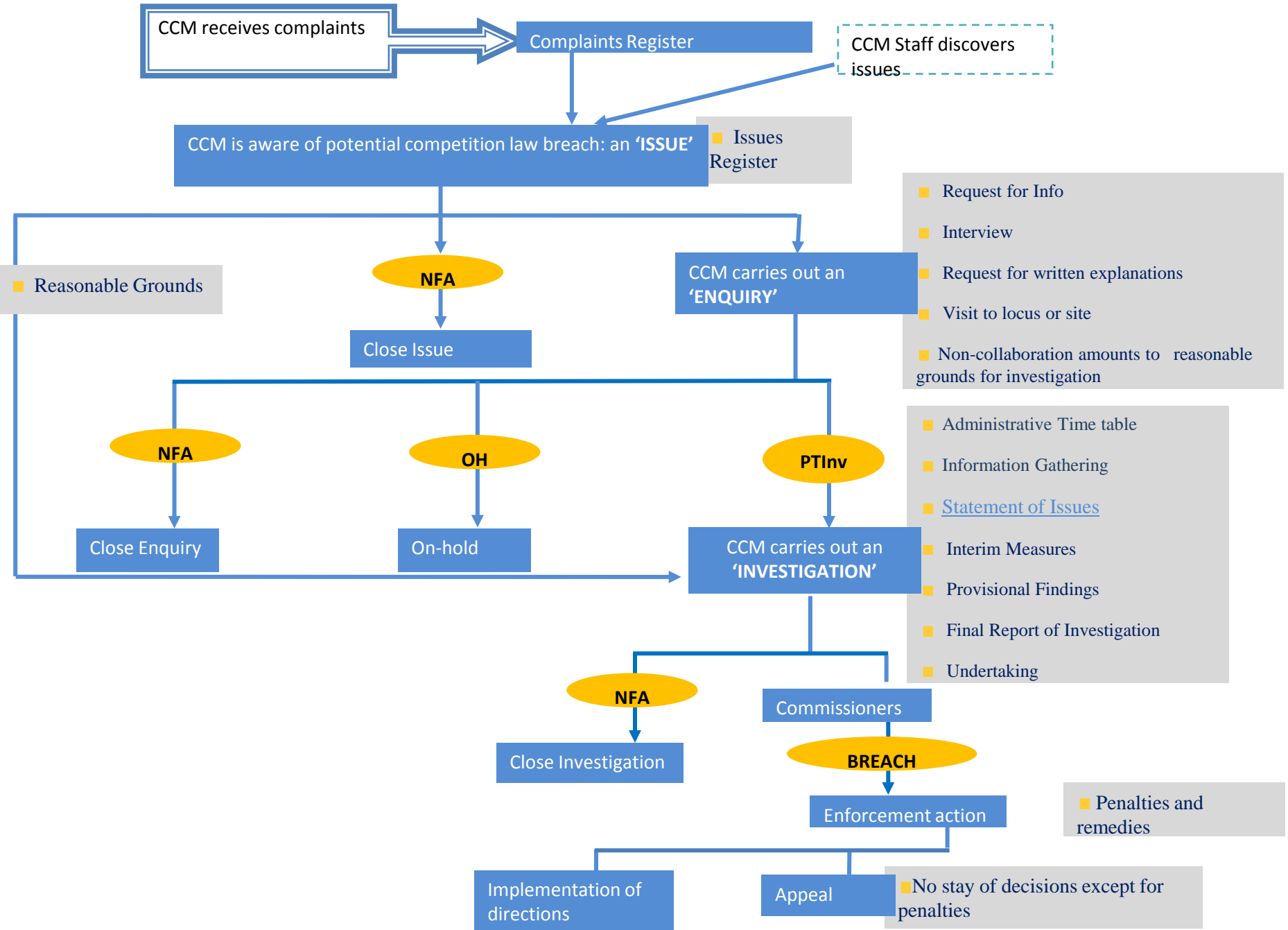
# Market Definition and Market Power



- We define the market and determine market power
- CCM will then identify the breaches committed by the enterprise:
  - Whether the agreement was collusive
  - Whether it involved resale price maintenance
  - Whether there has been abuse of a position of dominance
  - Whether there is substantial lessening of competition in the case of merger

# REPORT STAGE

# The process

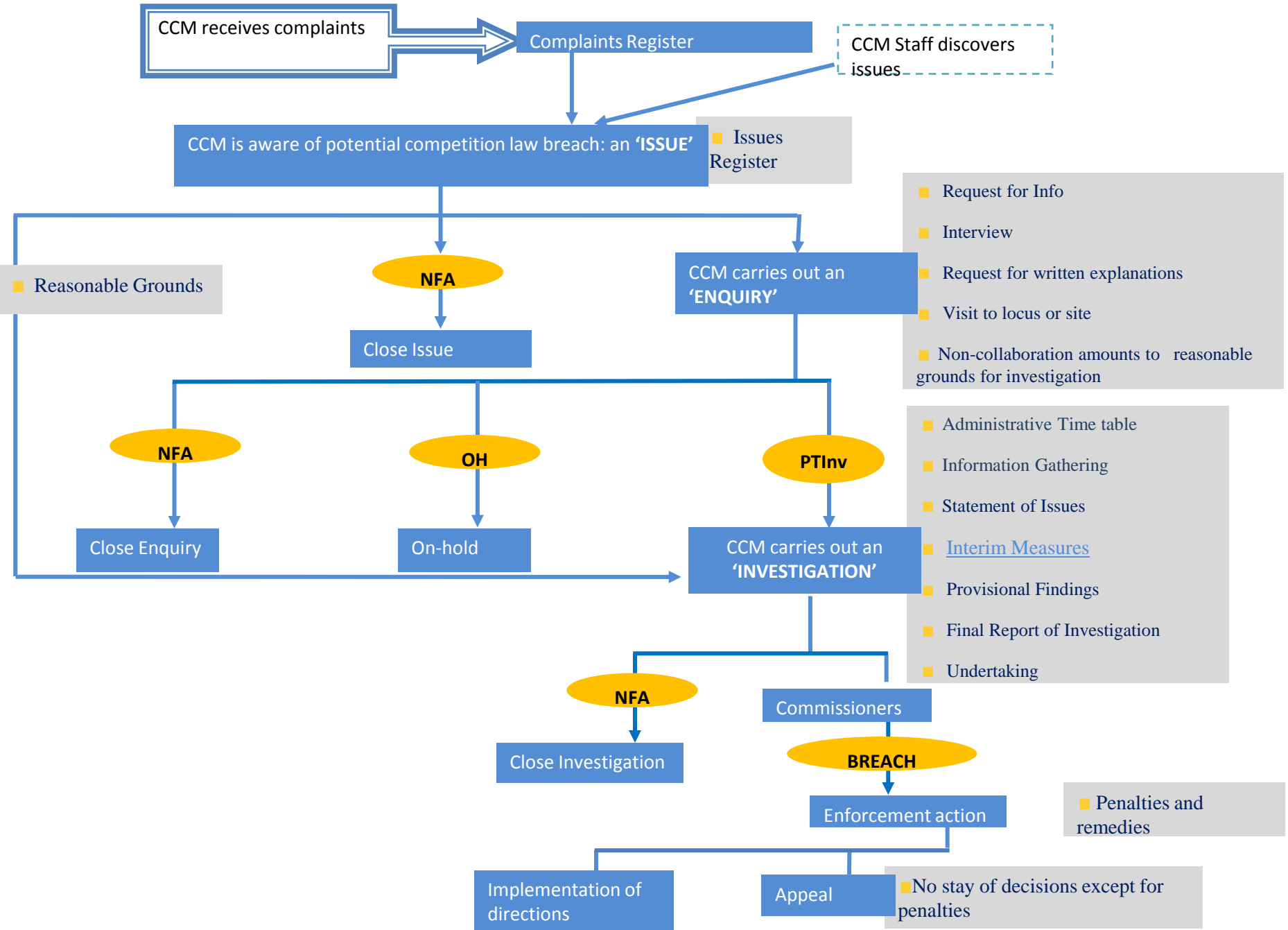


# Statement of Issues



- a document which sets out the main areas the Commission identifies as being **possible** breaches of the Act.
- Sharing of SOI with the party(ies) under investigation out of fairness so as to enable them to comment at an early stage as to whether the Commission is manifestly wrong
- No obligation on the party to comment

# The process

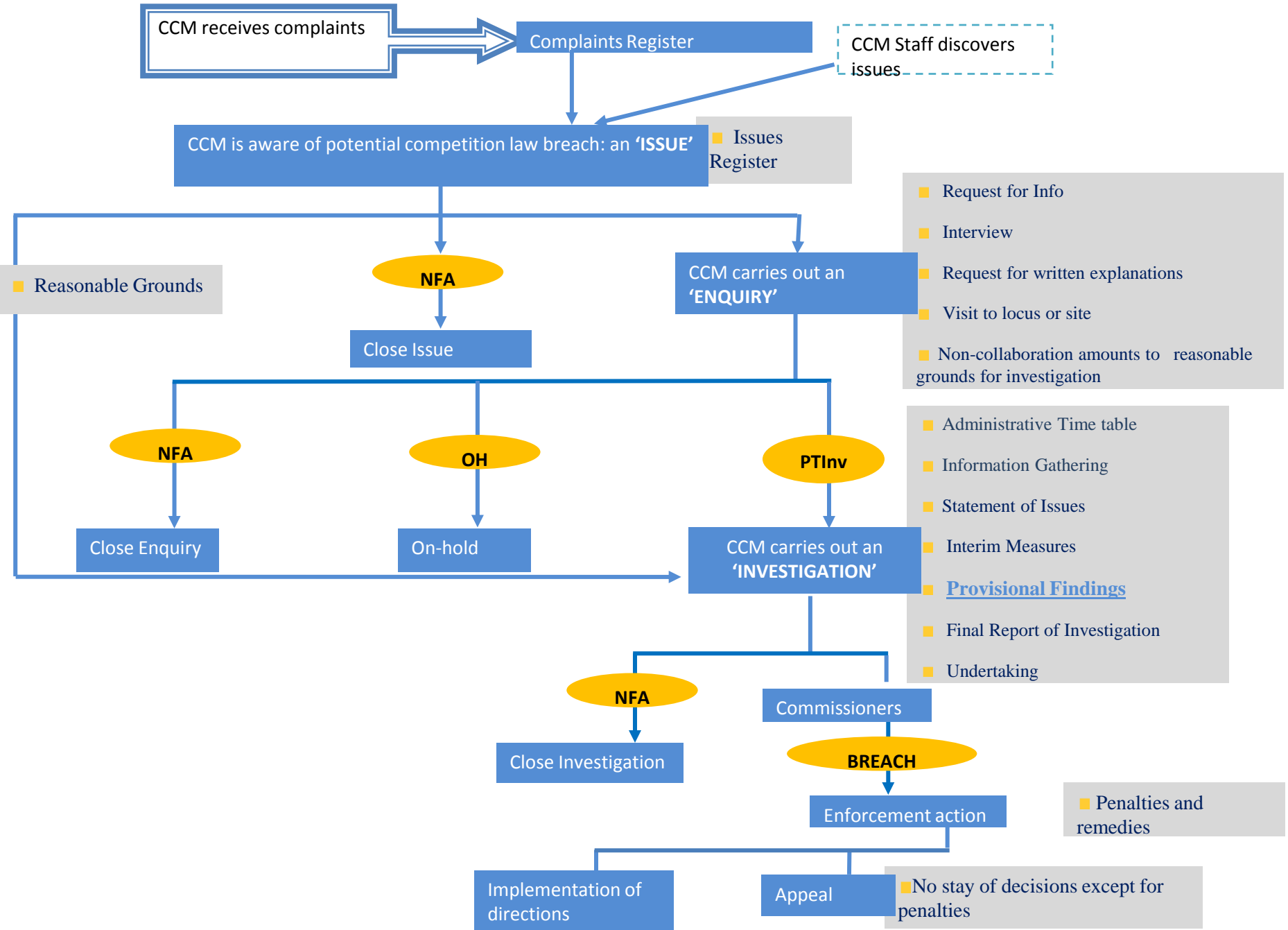


# Interim Measures



- The Executive Director may if an examination of a matter has not been completed, take interim measures in defined circumstances
- A report is made to the Commission for decision

# The process

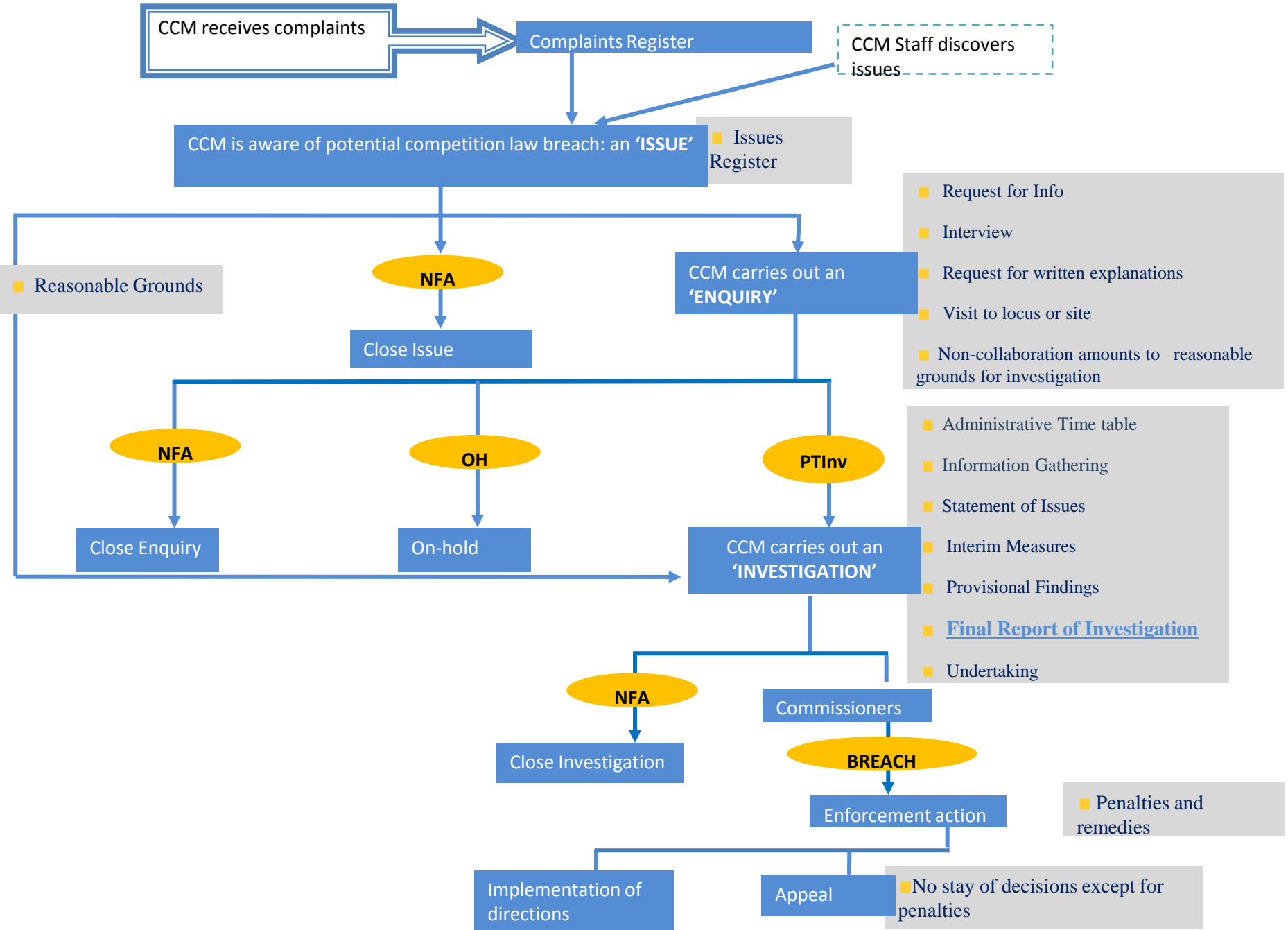


# Provisional Findings



- When an investigation is completed, the Executive Director will make his provisional findings produced in a provisional report.
- Shared with parties for comments and identification of confidential information

# The process



# Final Report of Investigation



- The Executive Director takes account of comments made on the provisional findings
- Report is finalised and submitted to the Commission and to parties
- The final report of investigation shall contain:
  - Possible remedies or penalties in that may be applied in the case



## Discussion