

Telephone: 020 7066 9346
Email: enquiries@fs-cp.org.uk

Retail Banking Team
Competition and Markets Authority
Victoria House
Southampton Row
London
WC1B 4AD

9 June 2016

Dear Sir/Madam,

CMA Retail banking market investigation: provisional decision on remedies

This is the Financial Services Consumer Panel's response to the CMA's provisional decision on remedies. We share the view of many commentators that the proposed remedies represent a missed opportunity and place too much emphasis on consumers driving the market by switching.

The analysis carried out by the CMA into the personal current account (PCA) and business current account (BCA) markets has exposed the fact that the treatment of customers, whether good or bad, has little or no bearing on a firm's market share. This may be in part because consumers and small businesses do not view their banking services like commodities. They don't want to switch constantly; they just want better service from their existing bank. It is certainly the case that consumers regard all major banks' offerings as the same. In research the Panel commissioned last year¹ the phrase "all as bad as each other" cropped up frequently.

This lack of differentiation is exacerbated by the "free if in credit" model and we are frankly incredulous that the CMA has not sought to tackle this without even giving a reason for its inaction. It is impossible to gauge whether the current account market is competitive without knowing the cost and profitability of bank accounts and related products. Cross-subsidisation, coupled with murky pricing structures and contingent charges, obscures the true cost. The Panel commissioned research on cross-subsidisation² in 2014 which concluded that amongst the biggest losers in the PCA market were those with high balances not earning interest; and people who used overdrafts.

Switching is, of itself, not an indicator of a well-functioning market. However, if consumers do switch, it should be to a product or service that gives them better value for money. Hence it is not the volume of switching which should be targeted or measured, but the quality of consumers' switching decisions.

The CMA expects a level of consumer engagement that research consistently shows is simply not realistic.³ We do not believe that more disclosure and prompts will lead to more shopping around and better outcomes, just greater consumer confusion. We are sceptical that price comparison websites (PCWs) will exert competitive pressure on the market. In a 2014 thematic review on PCWs in the general insurance sector, the FCA

¹ https://www.fs-cp.org.uk/sites/default/files/fscp_banking_culture_-_report_-_final.pdf

² https://www.fs-cp.org.uk/sites/default/files/pca_literature_review_report_final_20140911.pdf

³ See for example, Lowe, J. (2015). *Consumer behaviour and attitudes when shopping around for multiple financial and household services*. Working Paper. Available at: <http://bit.ly/1QF4kLD>

found that PCWs encourage consumers to focus on headline price and brand, distracting from crucial product features such as policy coverage and terms, resulting in choices that were not appropriate for consumers' needs.

The Panel welcomes the proposed remedy that banks should provide information on service quality, and believe this should also include measures of firm behaviour: fines and other enforcement action; complaints etc. Even if consumers do not use this information, its existence in the public domain should encourage firms to behave better towards their existing customers. It is important that the FCA owns this remedy and the service quality information. It is also important to ensure that the chosen metrics are meaningful, and driven by consumers; not simply agreed by firms.

Consumers can find it difficult to understand how they use their current account, for example they underestimate their usage of overdrafts and may be over-optimistic about their ability to avoid them in the future. We believe the CMA should have recommended that unauthorised overdraft charges be capped at the net additional administrative costs incurred by the banks and that consumers be offered the ability to opt-out of having an unauthorised overdraft without being penalised.

Many firms already have a monthly maximum charge (MMC) for unauthorised overdrafts, so it is unclear how this remedy will make a difference to the majority of consumers. Allowing firms to implement their own caps means it is highly unlikely that any firm will restrict their charges to the marginal costs incurred by providing the facility. Moreover, firms are likely to see the MMC as an opportunity to increase charges elsewhere. In a well-functioning market, we believe all excessive charges should be competed away. If they don't fall, or if banks simply start increasing charges elsewhere to make up lost income, the CMA should revisit its remedies.

Finally, we think it is important for the CMA to articulate its vision of what success looks like in this market, and how it will be measured. The remedies should be tested against the success measures, and revisited if they do not achieve the intended outcomes.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S. Lewis', written in a cursive style.

Sue Lewis
Chair, Financial Services Consumer Panel

Comments on specific remedies

Foundation measures

Open API banking standard

We support the introduction of an open Application Programming Interfaces (API) standard that would allow consumers to access their information simply. However there are serious security and privacy issues, and the Panel supports the CMA proposal to allow sufficient time to work through these. Industry representatives have dominated the 'Open Banking Working Group', so we welcome the creation of a new entity, with an independent chair. We believe that the new entity should have a majority of independent members.

Service quality information

The Panel has published research⁴ and a position paper⁵ on 'Consumers as co-regulators'. We looked at why people don't switch away from firms that visibly behave badly, and asked how it would be possible to harness the power of the consumer to bring pressure to bear on miscreant firms. Our research found that consumers would find it helpful to have information about firms' behaviour and service quality. Therefore, we welcome the proposals for banks to display prominently a small number of core indicators of service quality. We agree the FCA should lead on these measures. We hope that meaningful metrics are developed, shaped by consumers, rather than firms, that highlight good and poor practices.

We would like to see a score for firm behaviour that gives people an insight into firm culture. Indicators could include, for example, penalties and redress paid out by firms, quality of service indicators, and customer feedback.

In March 2016, the Panel carried out research⁶ to provide an understanding of what an ideal, or positive, banking culture looks like from the perspective of personal and micro-enterprise customers, and how it might be measured. As a result, the Panel developed a set of indicators⁷ that could be used to measure a bank's culture from the perspective of personal and micro-enterprise customers, and to enable changes to be tracked over time. We urge the FCA to focus on the practical and transparent ways in which culture can be used to drive the right behaviours, for example, by monitoring these indicators to ensure that the consumer interest is taken into account when developing service quality metrics.

Customer prompts

We welcome the proposal for the FCA to carry out some randomised controlled trials into the effectiveness of prompts. However, we are sceptical as to whether more disclosure and prompts will lead to the (unquantified) levels of switching the CMA seems to desire.

Current account switching

CASS governance

We support the proposed reforms of CASS governance and the intention for the PSR to provide oversight.

Extended redirection

We support this proposal. We believe that indefinite redirection would remove the need to explore, and finance, account number portability (ANP). In the long run, APIs will allow single identifiers, which will also replace the need for ANP.

⁴ <https://www.fs-cp.org.uk/sites/default/files/consumers-coregulators-research-2015.pdf>

⁵ https://www.fs-cp.org.uk/sites/default/files/consumers_as_co-regulators_final_0.pdf

⁶ https://www.fs-cp.org.uk/sites/default/files/fscp_banking_culture_-_report_-_final.pdf

⁷ https://www.fs-cp.org.uk/sites/default/files/bank_culture_position_paper_final.pdf

Access to transactions history

Any sharing of transactional data history should be aligned with UK and EU data protection requirements.

Customer awareness and confidence

We accept that some consumers who wish to switch may be put off by the perceived complexity of the process. However, it is also important to bear in mind that, quite often, consumers don't want to switch. They want a relationship with their bank; they want an account and a service that works well for them and suits their needs, from a bank that will treat them fairly. They also want loyalty to be rewarded, by getting access to the best deals and sympathetic treatment if they run into difficulties.

PCA overdrafts

The Panel still believes that consumers should have to actively opt-in to unarranged overdrafts. We hope that the FCA considers this rather than just the potential for consumers to opt-out.

An alternative could be to make it compulsory for firms to offer consumers a sweep service that would automatically take funds from a linked savings account, rather than going into an unarranged overdraft. This would give a further option for consumers who want to have payments processed, but want to avoid high costs of unarranged overdrafts. For consumers who do not have savings, firms should proactively contact consumers at risk of incurring charges for unarranged overdrafts, using the transactional data they hold.

Overdraft alerts

We support automatic enrolment of customers into alert programmes. However, alerts will only help people who have funds elsewhere to transfer into their account. They will not help those who are digitally excluded or who do not wish to manage their finances in this way.

We believe that alerts will encourage some consumers to act and avoid charges where it is possible for them to do so. However, we are unconvinced that consumers will be prompted by alerts to shop around for another provider. Further consumer testing is important, as the CMA recognises.

Grace periods

Allowing breathing space for consumers who use an unarranged overdraft would be welcome. However, we believe that research is required to find out how grace periods may affect the ability of consumers to act.

Monthly maximum charge (MMC)

We question the CMA's view that implementing a centrally regulated MMC "might lead banks to become significantly more restrictive in allowing unarranged overdrafts, with the associated risk that some customers could lose access to this form of credit".

Unarranged overdrafts are supposed to be a 'last resort' for consumers who experience unexpected cash-flow problems, not a line of consumer credit. Lenders who repeatedly allow their customers to go into, or stay in, an unauthorised overdraft are not lending responsibly.

Unarranged overdrafts and the charges associated with them can be used to exploit financial difficulty and small errors from consumers which far exceed marginal cost. In some circumstances the cost of an overdraft can exceed the cost of a payday loan, which the FCA has capped at 0.8% interest per day.

All of the banks already operate a maximum limit on unarranged overdraft charges during a monthly billing or statement period. For the majority of banks, these limits are disclosed as part of their information provision on unarranged overdrafts, although in

some cases the clarity of information could be improved. Therefore it is not clear that this proposed remedy will make any difference or have any practical impact.

Account opening and switching process

The panel questions whether there is any evidence that banks want customers who use overdrafts to switch to them. A remedy to help overdraft users to switch will not be effective if there is no appetite from banks to compete for these customers.

SME banking

Loan rate transparency

Bank business loans account for 70% of funding for SMEs in the UK. Reduced availability of bank funding to micro and small businesses has the potential to stifle economic growth as the alternative sources of funding are either difficult to get (for example, most types of asset finance) or not provided in sufficient quantities (for example, peer to peer lending). Therefore, we support proposals to make information more transparent and for lenders to publish standard rates for unsecured loans and overdrafts. However, we would prefer it if all SME banking providers, and not just the largest, had to provide a facility for SMEs to get an indicative quote.

Loan eligibility indicator

We also support the proposal for SME banking providers to indicate loan eligibility on their online tools. However, it is hard to see how increased customer engagement alone will lead to the greater competition, product innovation, increased product choice and value that this important part of the banking market requires.

SME comparison tool

The Panel looks forward to seeing the results of the 'challenge prize'. It is clear there is no easy answer to this issue and therefore innovation is required and should be encouraged.

Standard BCA opening procedures

It is disappointing that the CMA is proposing an industry working-group to look at how BCA opening procedures can become standardised and less complex. As the Panel has said before, the CMA should learn from the previous experience of leaving implementation details of remedies to industry groups and trade associations dominated by the largest banks. There are a number of examples where this has led to delays, only partial consideration of the options, and the lack of independent cost-benefit-analysis. At the very least, representative bodies of SMEs should be members of the working group, to ensure it works in the interests of their members, not the big banks.

Sharing SME information

Increased data sharing, whilst having the potential to bring some benefits, also carries risks; more data can lead to more discrimination, for example.

'Soft' searches

We support this proposal.