

In this document, we (the Financial Conduct Authority – the FCA) respond to the Competition and Markets Authority’s (CMA) consultation on its draft Annual Plan 2015-16 and associated Strategic Assessment.

The FCA has an overarching strategic objective to ensure that financial markets work well, and an operational objective to promote effective competition in the interests of consumers. We also have a duty to promote effective competition when using our general functions to advance our other (consumer protection and market integrity) objectives. As such, the FCA’s competition mandate is well aligned with the CMA’s mission to promote competition to the benefit of consumers, aiming to make markets work well for consumers, businesses and the economy. This alignment in overarching mission and objectives is underpinned by the Memorandum of Understanding (MoU) between our organisations,¹ and through common membership of the UK Competition Network (UKCN) and the Consumer Protection Partnership (CPP).

We therefore welcome the opportunity to respond to the CMA’s consultation, and welcome also its references to effective working with relevant regulators. Our response identifies areas of common interest, highlights those issues where FCA has experience in a financial services’ context that may be of interest to the CMA more broadly, and identifies where coordination between both organisations is needed to ensure that CMA work draws on, rather than duplicates, FCA work and vice versa.

We are pleased that many of the themes identified by the CMA echo those underlying the FCA’s approach to competition and its strategy more generally. In particular, the emphasis on consumer empowerment and its role in enhancing competition resonates with the FCA’s approach to its competition mandate.

Moreover, the CMA’s suggested approach (including applying a consumer lens, reaching out to a more diverse network of consumer insights, and investing more in digital engagement capability) is well aligned with FCA’s own strategic approach to putting the consumer at the heart of what we do, and our shift towards data and intelligence-driven interventions. We have invested significantly in our capabilities for consumer and market intelligence, behavioural economics, and data and analysis.²

¹ See <https://www.gov.uk/government/publications/cma-and-fca-memorandum-of-understanding>, for further detail.

² See, for instance, ‘Applying Behavioural Economics at the FCA’, available at <https://www.fca.org.uk/static/documents/occasional-papers/occasional-paper-1.pdf>, and ‘Encouraging consumers to claim redress: evidence from a field trial’, available at <https://www.fca.org.uk/static/documents/occasional-papers/occasional-paper-2.pdf>.

Similarly, a number of the challenges highlighted by the CMA (most notably in relation to digital markets and technological developments, increased pressure on affordability and debt, and ageing society) mirror those identified by the FCA and underpinning our strategy.³

More specifically, the focus on understanding how real consumers behave and how firms adjust their behaviour accordingly has been central to FCA work. The FCA has been at the forefront of shaping the debate on how behavioural insights can be used in financial regulation, and ensuring that our interventions are properly informed by a realistic understanding of how consumers behave.⁴ Our experience in undertaking sophisticated customer lifetime profitability analysis, creating natural experiments with historical data and forecasting consumer outcomes under different scenarios at a high level of granularity has been crucial to work such as the price cap on payday lending, and our ongoing work on cash savings and credit cards. We will happily continue to discuss and share insights from this experience with CMA and other regulators.

In addition to those areas where the FCA has already built a degree of capability, the CMA draft Business Plan identifies a number of areas where the FCA is considering further work in a financial services context. We recognise that the remit of the CMA extends well beyond financial services. Nonetheless, there would be merit in early engagement between the FCA and the CMA to take advantage of potential synergies.

One such example is the FCA's work on online financial intermediaries (which can range from price comparison websites to those relying on more detailed personal data and/or credentials). This work ranges from horizon-scanning and analysis of potential impact, to interventions in specific sectors. Given the prevalence of online intermediaries in the financial sector, we should work together to ensure that the insights from FCA work inform any potential CMA work in this space.

Similarly, the FCA's interest in vulnerable consumers and access to financial markets resonates with a number of issues identified in the CMA's business plan. More specifically, the FCA has a fairly detailed understanding of the factors contributing to vulnerability, and aims to further analyse the challenges faced by consumers on low incomes, and/or with limited access to enabling products or services (such as access to internet, direct debit and/or a healthy credit rating).

Other areas mentioned in the draft CMA Business Plan where we would be keen to engage with the CMA include restrictions in competition in online markets, the role of gatekeepers and antitrust issues raised in internet ecosystems, and the sharing economy.

³ See, for instance, our 2014 Risk Outlook (available at <http://www.fca.org.uk/static/documents/corporate/risk-outlook-2014.pdf>) and the factors informing our 2014 Strategic Review (available at <http://www.fca.org.uk/your-fca/documents/reports/fca-our-strategy>).

⁴ Examples include our recent work in markets such as general insurance add-ons (see 'How does selling insurance as an add-on affect consumer decisions?' available at <https://www.fca.org.uk/static/documents/occasional-papers/occasional-paper-2.pdf>), cash savings, and overdrafts.

Besides the issues of common interest identified above, the CMA's draft Business Plan also expresses an interest in undertaking specific work with a financial services dimension, most notably in relation to wholesale financial markets and problem debt. Given the FCA's remit and expertise, we consider that the FCA is well positioned to continue leading on the promotion of competition and/or consumer protection in these areas, in partnership with the CMA and any other relevant bodies as appropriate.

Wholesale financial services are identified by the CMA as an area of recognised risks and of potential interest. As the CMA recognises, the FCA has been particularly active in this space, most notably through our key role of the 'Fair and Effective Markets Review'⁵ and our ongoing review of competition in the wholesale financial sector.⁶ Going forward, and drawing on these pieces of work, we intend to use our range of tools so as to ensure that wholesale markets function in a fair and competitive manner. As part of our competition review, we will be publishing the findings of our Call for Inputs in early 2015, to be followed by announcements on any follow-up interventions (such as market studies). We will also be acting on any recommendations arising from the Fair and Effective Markets Review (to be published in June 2015) and will ensure that its insights inform our strategy and work going forward.

Similarly, as recognised by the CMA in its report on problem debt,⁷ the FCA has been active in, and devoted considerable resources to, problem debt, both within and outside the CPP. We would like to reiterate our interest and expertise in these issues, as befits our role as primary regulator of consumer credit providers.

Our work on problem debt is underpinned by our approach to authorisation and supervision of credit providers, and by a range of related projects. Our approach to authorisations and supervision is holistic and risk-based, and includes the pro-active engagement with those firms perceived to potentially pose significant risks to consumers (focusing on the incidence of over-borrowing or under-repaying, and on the provision of unaffordable lending), raising cases and taking appropriate mitigation action, and engaging with firms to encourage compliance and best practice. Our work also encompasses policy interventions such as the (design and implementation of a) price cap on payday loans, and a range of market initiatives such as a (thematic) review into the debt collection practices of payday lenders; focused analysis (as part of our market study on credit cards) of unaffordable credit card debt; a thematic review on the quality of advice provided by debt management firms; and a think piece, to be published in early 2015, on consumer credit and consumers in vulnerable circumstances.⁸ As with wholesale financial services, the range and nature of our work means that we are well

⁵ For further details on the Fair and Effective Markets Review, including the terms of reference and FCA role, see <http://www.bankofengland.co.uk/markets/Pages/fmreview.aspx>

⁶ For further details on the FCA's review of competition in the wholesale sector, see <http://www.fca.org.uk/news/wholesale-sector-competition-review>

⁷ For further detail, see https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/362689/Problem_debt.pdf and <https://www.gov.uk/government/news/cma-concludes-review-of-problem-debt>

⁸ The think piece builds on primary research undertaken in 2014 (available at <http://www.fca.org.uk/news/consumer-credit-consumers-vulnerable-circumstances>).

placed to lead on problem debt in relation to the products that we regulate and supervise, working with partners such as the CMA as appropriate.⁹

In addition to the issues outlined above, we look forward to continue contributing to the CMA-led work on financial services, most notably in relation to retail banking, including through the analysis of the effectiveness of the Current Account Switching Service, a study on the costs and benefits of account number portability as a way of increasing competition in banking, and our work on drivers of consumer behaviour in relation to retail banking services. We would be happy to explore with CMA colleagues how to further contribute, within the terms of our MoU and in the spirit of promoting competition to the benefit of consumers.

In summary, we welcome the alignment in objectives, approach and areas of interest between the FCA and the CMA that the CMA's draft Business Plan indicates. As recognised by the CMA, effective working across the competition and consumer protection landscape is essential to the success of our respective objectives. It is with this in mind, that we hope and expect that the FCA and the CMA will continue to cooperate and coordinate with a view to making financial service markets work well for customers.

⁹ This might be particularly advisable on issues of interest across a range of sectors (beyond financial services) such as affordability, either on a bilateral basis or as part of the CPP.