

**Which?**

Which?, 2 Marylebone Road, London, NW1 4DF

Date: 17 September 2014 Response by: Louise Vergara

## Consultation Response

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

### Which? response to CMA Consultation: personal current accounts and banking services to small and medium sized enterprises

#### About Which?

Which? exists to make individuals as powerful as the organisations they deal with in their daily lives. We are now the largest consumer body in the UK with almost 800,000 members: we understand consumers and what makes them tick. We operate as an independent, a-political, group social enterprise working for all consumers and funded solely by our commercial ventures. We receive no government money, public donations, or other fundraising income. We plough the money from our commercial ventures back into our campaigns and free advice for all.

#### Executive Summary

Which? has long supported the view that the Personal Current Account (PCA) market should be subject to a Market Investigation Reference (MIR) and so we strongly support the CMA's provisional decision. We agree with the CMA's interim assessment that this market does not 'appear to be functioning in the way we would expect of effective competitive markets' and that this leads to 'poorer outcomes for consumers' and to the wider economy.<sup>1</sup> We argue that this is a result of a complex interaction between long standing demand-side and supply-side factors which have impeded genuine competition in the market.

We believe that an investigation of the competitiveness of the PCA market is required in order to determine what combination of interventions are required to remedy this situation. We believe the CMA is the most appropriate body to undertake this given its extensive powers. We are unconvinced at this stage that an alternative solution could be agreed by PCA providers in the form of Undertakings in Lieu of an MIR (UIL). We are sceptical about whether the significant undertakings necessary could be agreed in a timely way which could be a potential advantage over the CMA's conducting a MIR.

The CMA should ensure a coordinated response in determining what interventions are necessary to stimulate effective competition. We encourage the CMA to work together with other regulators, including the Financial Conduct Authority (FCA), the Payment Systems Regulator (PSR) and the Prudential Regulation Authority (PRA), to explore both issues on the supply side, including barriers to entry,

<sup>1</sup> CMA, Consultation: personal current accounts and banking services to small and medium sized enterprises, 18 July 2014, pg. 2

#### Which? Is a consumer champion

We work to make things better for consumers. Our advice helps them make informed decisions. **Our campaigns make people's lives fairer, simpler and safer.** Our services and products put consumers' needs first to bring them better value.

[www.which.co.uk](http://www.which.co.uk)

Which?  
 2 Marylebone Road, London, NW1 4DF  
 t 020 7770 7000 f 0207 7770 7600  
[www.which.co.uk](http://www.which.co.uk)



expansion and innovation in the market, and on the demand side, including factors which decrease customer engagement. This should include exploring barriers to entry and innovation created by the structure of, and access to, the payment system. The CMA should also explore interventions which make product comparison easier and clearer, and which increase consumers' ability to control their own overdraft usage. As part of this, we recommend that the CMA investigates the behaviour of 'real consumers' during the current account switching journey. We also underline that there must be an emphasis on ensuring better quality switching decisions, rather than a singular focus on increasing volumes of switching, in order to stimulate effective consumer-led competitive pressure on the market.

Please see the following supporting evidence in response to the questions posed by CMA outlined below.

**Do you consider that the CMA's analysis of the suspected features of concern in the market for PCAs is correct (see paragraph 3.6)?**

We agree with the features of the PCA market identified by the CMA which give rise to competition concerns, namely<sup>2</sup>:

- Persistent levels of concentration and relatively stable market shares among providers.
- Continuing high barriers to entry and expansion.
- Demand-side issues, including relatively low levels of switching and shopping around, which may be regarded as symptomatic of a 'sticky' market with relatively little incentive on providers to compete.
- Lack of transparency in charging structures, especially for overdrafts which are complex and increasingly varied, making it very difficult for customers to choose the best value account for their needs.

**Do you consider that the CMA's provisional analysis with respect to the exercise of its discretion to refer the PCA market is correct (see Chapter 4)?**

Which? broadly agrees with the CMA's analysis underlining the decision to refer the PCA market for a MIR. A truly competitive market is one where banks genuinely compete on the strengths of their product offerings and where consumers can make easy comparisons between products, and swiftly switch without hassle to one which offers them the best deal. We argue that this is currently lacking within the PCA market, leading to detrimental outcomes for consumers. We've set out our own tests of a competitive banking market and show here where we believe the market current fails against these tests.

*Test 1: Are firms competing genuinely with better quality, innovative products or are they exploiting consumers' behaviour?*

<sup>2</sup> CMA, Consultation: personal current accounts and banking services to small and medium sized enterprises, 18 July 2014, para 7, pg. 5



There have been some changes to products in the market, in particular since the introduction of the switching service. These include Tesco Bank's entry into the PCA market, and M&S's launch of its new current account. However, most of the changes to date have been similar to each other or to existing features in the market. The most significant changes we have observed include:

- Barclays amending its overdraft fee structure by introducing a per day fee for authorised overdraft usage, reducing the cap on unauthorised overdraft charges to £35 a month (from £110), reducing the cap on unpaid transaction fees from £40 to £8 per day, and removing paid item charges.<sup>3</sup>
- HSBC and First Direct announcing the introduction of a £5 daily usage fee (in addition to their current interest charge) for unauthorised overdrafts capped at £80 per month. This is in comparison to a previous overdraft set up fee of £25 and a cap of £150.<sup>4</sup>
- Lloyds launching 'Club Lloyds', a packaged account with a £5 monthly fee if less than £1,500 is deposited a month. It offers a variety of 'lifestyle' benefits, credit interest and 'tied' banking offers.<sup>5</sup>
- Metro Bank increasing its unpaid item charge to £10 (from £5) and reducing its paid item charge to £10 (from £15).<sup>6</sup>
- M&S launching a new free-if-in-credit account, offering an automatic £500 overdraft and incentives including an £100 M&S gift card for switching, points earned through the M&S loyalty scheme and preferential rates on selected M&S bank products.
- Nationwide removing their unauthorised overdraft fee of £20 per calendar month for transactions above £15 on their 'FlexAccount'.<sup>7</sup>
- Tesco Bank introducing a new current account which charges a monthly fee of £5 for accounts with less than £750 in deposits per month. This account offers consumers 3% AER on balances up to £3000 and extra Tesco Clubcard points.<sup>8</sup>
- TSB launching their 'Classic Plus' account which pays a headline rate of interest rate of 5% for balances up to £2,000 subject to the account receiving a minimum of £500 in deposits per month.<sup>9</sup>
- Santander increasing their usage fee for unauthorised overdrafts from £5 to £6 per day, as well as removing monthly caps (previously capped at 20 days per month) they had on these arranged and unarranged overdraft usage fees for their '123' and 'Everyday' current accounts. They have also removed their paid and unpaid transaction fees for their 123 accounts, and reduced these fees from £25 to £10 for their 'Everyday' current accounts.<sup>10</sup>

<sup>3</sup> <http://www.barclays.co.uk/CurrentAccounts/Changestooverdraftsandwaystoavoidfees/P1242663274269>

<sup>4</sup> [http://www.newsroom.hsbc.co.uk/press/release/hsbc\\_introduces\\_simplified\\_ove](http://www.newsroom.hsbc.co.uk/press/release/hsbc_introduces_simplified_ove)

<sup>5</sup> <http://www.lloydsbank.com/current-accounts/club-lloyds.asp>

<sup>6</sup> <https://www.metrobankonline.co.uk/Non-menu-pages/Fees--Charges/>

<sup>7</sup> <http://www.nationwide.co.uk/~media/MainSite/documents/products/current-accounts/shared/p6972-understanding-overdrafts.pdf>

<sup>8</sup> <http://www.tescobank.com/current-accounts/features.html>

<sup>9</sup> <http://www.tsb.co.uk/current-accounts/>

<sup>10</sup>

<http://www.santander.co.uk/csdlvtr/BlobServer?blobtable=MungoBlobs&blobkey=id&blobcol=urldata&blobheader=application%2>



While the reductions in overdraft fees and charges, in particular, will be welcome to current customers, many of these innovations simply imitate existing product features in the market rather than offering something significantly different. For example, we note the growth of PCAs with incentives to attract customers including higher rates of interest for in-credit accounts (e.g. Lloyds' 'Club Lloyds' account, Nationwide's 'FlexDirect' account, TSB's 'Classic Plus' account), changes in overdraft structures (for example recent movements of Barclays, HSBC and First Direct towards imposing daily overdraft charging structures), and adoption of cashback incentives (e.g. Halifax's 'Cashback Extras' feature, RBS/NatWest's 'Cashback Plus' feature and Santander's 123 account).

In addition to changes to PCA product features, we also recognise that there have been advancements in technological innovation present in the market. This includes the growth of online and mobile app banking, and developments in payment solutions (including PayM, contactless cards etc). However, we argue that this has not resulted in significant disruption and increased competition between providers. We agree with the CMA's own analysis which found some technological innovation 'is still centrally driven', that 'not all innovation has been the result of strong competition between PCA providers'.<sup>11</sup>

*Test 2: Are consumers getting a choice of products which meet their needs and offer value for money?*

Which? argues that, while PCA products are generally suitable for holding money and making payments, a number of recent market changes have had a detrimental impact on consumers. In particular, there has been an increase in the cost for those who use their authorised overdrafts as a result of changes to pricing structures. The average interest rate charged for authorised overdrafts remains close to a 20-year high, despite the historically low Bank of England base rate, while additional fees have been introduced concurrently by providers in the last few years.<sup>12</sup> The CMA's analysis shows that the distribution of overdraft revenues has changed since 2011, with authorised overdraft charges increasing by £161 million.<sup>13</sup>

Additionally, our research looking at the costs of overdrafts across different PCA providers has found consistent and significant price dispersion in the market. In November 2013, Which? surveyed 21 providers on the costs of their free-if-in-credit accounts based on five scenarios. The scenarios attempt to test the impact of foregone interest and using a debit card overseas for those who have accounts constantly in credit. We also tested the costs of utilising an authorised overdraft (both a modest amount for a short period of time, as well as a larger amount for the majority of the month), as well as using an unauthorised overdraft (over two days, and over five days with a number of rejected payments).

- The analysis for the in-credit scenario<sup>14</sup> showed that the cost ranged from £39 at worst and potentially earning the customer £43 at best, which amounts to a difference of almost £82 per year.
- For our modest authorised overdraft scenario<sup>15</sup> showed that the cost ranged from £110 at worst and potentially earning the customer approximately £10 at best, a difference of almost £120 per

---

[Fpdf&blobheadvalue1=inline%3Bfilename%3DBANK0455JUL14HT\\_LOW.pdf&blobwhere=1314014383238&blobheadname1=Content-Disposition](#)

<sup>11</sup> CMA, Personal current accounts: Market study update, July 2014, para 6.38, pg. 118

<sup>12</sup> For further analysis, please see our recent Credit Britain 2 report: <http://www.which.co.uk/documents/pdf/credit-britain-2---september-2014-378871.pdf>

<sup>13</sup> CMA, Personal current accounts: Market study update, July 2014, para 11, pg. 123

<sup>14</sup> A consumer has an average balance of £1500, and takes one four day trip to Europe making two £100 cash withdrawals and two £50 debit card payments. The cost of in-credit banking is defined as the difference between interest earned on an average balance of £1500 and what you would earn in a best rate instant access savings account.



year. For the heavier user<sup>16</sup>, this difference increased to almost £247 per year, with the most expensive account costing approximately £271 and least expensive £24 per annum.

- For our first unauthorised overdraft scenario<sup>17</sup> the cost of an account ranged between more than £12 per month (or around £149 per year) and more than £77 per month (or around £927 per year). This resulted in a difference almost £65 a month, or almost £780 per year.
- For our second authorised overdraft scenario (which included a number of rejected payments),<sup>18</sup> this difference increased to £184 a month, or almost £2,200 per year, with the most expensive account costing more approximately £211 a month (or approximately £2,526 a year) and least expensive costing more than £27 a month (or approximately £329 per year).

This dispersion was demonstrated again in our 'Real Cost of Current Accounts' article published in Which? August 2014 (attached). We collected three examples of three months' transaction data fitting three different usage profiles (constantly in credit, regular overdraft user and unauthorised overdraft user) from real consumers and sent this to 12 current account providers<sup>19</sup> to find out how much these real consumers would have been charged with their current accounts.

- In our regular overdraft example<sup>20</sup> the least expensive account would have charged just 6p for the three-month period while the most expensive would have charged £60.
- For our authorised overdraft user<sup>21</sup>, the most expensive account would have charged £150 as opposed to the least expensive which would not have charged the customer as they would have benefitted from a fee-free buffer.

We note that the CMA's own analysis into the costs of 'unarranged' overdrafts has also revealed the extent of price dispersion within the market.<sup>22</sup>

While dispersion can be a sign of competitive product offers, we argue that customers, particularly overdraft users, are not aware of the differences between accounts and how this impacts them directly on the basis of cost. The cost of a current account is very much dependent on a consumer's usage patterns,

<sup>15</sup> Builds on the in-credit scenario (this time assumes an average balance of £1000) but includes the annual cost of using an £200 overdraft for six days a month.

<sup>16</sup> Builds on the in-credit scenario (this time assumes an average balance of £1000) but includes the annual cost of using an £600 overdraft for 20 days a month.

<sup>17</sup> Builds on the in-credit scenario (this time assumes an average balance of £1000) but includes the cost of being overdrawn two days a month. On day 1 the credit balance is £114.13 and a £200 direct debit leaves you £85.87 overdraft. Day 2 a further £60.52 direct debit leaves you overdraft by £146.39.

<sup>18</sup> Builds on the in-credit scenario (this time assumes an average balance of £1000) but includes the cost of being overdraft for five days a month. On day 1 a payment of £50 takes you into an unarranged overdraft. Day two another payment of £50 is made taking you further into the unarranged overdraft. On day three two payments of £30 are rejected. On day four one further payment of £30 is rejected, and on day five one further payment of £30 is rejected.

<sup>19</sup> Barclays, The Co-operative Bank, First Direct, Halifax, HSBC, Lloyds, Nationwide, NatWest/RBS, Norwich & Peterborough, Santander, Smile and TSB.

<sup>20</sup> This usage profile of this customer was based on a planned overdraft limit of £300, a total of 40 days overdrawn with 38 days within their planned overdraft and two days within their unplanned overdraft. The most that the account was overdrawn by was £318, with an average of overdraft of £111. Their highest balance was £2860 and had an average balance of £110.

<sup>21</sup> This usage profile of this customer had no planned overdraft and spent 17 days overdraft by £52 at most, and £31 on average. They made 12 payments largest than the amount of money in the account. Their highest balance was £5148 (for one day) with an average balance of £49.

<sup>22</sup> CMA, Personal current accounts: Market study update, July 2014, para. 2.29, pg. 32



and currently consumers are unable to compare accounts easily and accurately on cost based on their own use (in conjunction with other factors) to find the most suitable product. As a result, it is extremely difficult for customers to know which cost structure, and whether incentives such as cashback or higher interest ultimately offset the costs of overdraft charges, will benefit them overall. As such, this constrains the ability for consumers to exercise competitive pressure on the PCA market and enables providers to exploit consumer behaviour.

*Test 3: Is there enough clear information about the product for consumers to compare easily?*

Which? has long argued that the proliferation of different overdraft charging structures (comprising a mixture of daily/monthly fees, item charges and interest) has made it extremely difficult for consumers to accurately and easily compare current accounts on the basis of cost. We note this complexity has been acknowledged and explored by the CMA in its updated PCA Market Study.<sup>23</sup>

This inability to compare has been demonstrated in our research from November 2013, referenced by the CMA, showing that consumers (which included a principal inspector of taxes and a retired head-teacher) could not easily calculate charges and compare accounts. What's more, they struggled to find details of overdraft charges on providers' websites, to identify information about overdraft charges and had difficulty finding the best deal.<sup>24</sup>

In addition, Which? behavioural research conducted as part of our 'Real Consumers' programme, also referenced within the CMA's updated market report, which followed 18 consumers through the current account switching journey found evidence suggesting that consumers are not always making well-informed decisions and can be subject to biases. This includes underestimating their overdraft usage, or using incentives as a short cut, or undertaking extremely limited research (including simply selecting the bank account that came at the top of the price comparison site or google page).<sup>25</sup>

Furthermore, many tools provided to customers to assist in comparing accounts are inadequate as they are unable to compare the potential costs and benefits of current accounts on the basis of previous usage. And some do not even give details of all current accounts – although this limited coverage is not always made clear to consumers. We agree with the CMA's analysis that while Money Advice Service's (MAS) current account comparison tool is a positive step in attempting to improve comparability by allowing consumers to filter current accounts on the basis of potential costs, this still requires consumers to be aware of their usage profile. As we have said before, people's understanding of this can be limited and can also be subject to behavioural biases which may lead them to a wrong estimate of their past or future usage.

We welcome the recent Midata initiative by HM Treasury and the six largest banking groups to provide customers with personal usage data to assist in enhancing the comparison of the cost of current accounts using bespoke comparison sites (in addition to other factors including, for example, branch access, customer service ratings etc.) However, as the CMA indicated in its report, this programme will not be introduced until Spring 2015 and will initially include only six major banks. The success of this programme will rely heavily on providers' properly promoting the availability of this data and on the development of new comparison tools that can make use of it. Furthermore, while Midata may go some way to addressing the demand-side constraints relating to increasing consumer engagement, this will not be

<sup>23</sup> CMA, Personal current accounts: Market study update, July 2014, para 3.31-3.40, pp. 61-65

<sup>24</sup> Which? Magazine, 'Bank Charges: calculation impossible', February 2014

<sup>25</sup> Which?, 'The Real Consumer experience of 7 day switch: summary research findings of the consumer PCA switching journey', March 2014: <http://www.staticwhich.co.uk/documents/pdf/real-consumers-7-day-switch-experience-364351.pdf>

enough to address the supply-side factors which constrict competition and innovation. Therefore, an extensive and detailed examination of all the factors constraining effective competition and innovation, as well as a coordinated response determining what additional interventions are necessary to overcome these barriers, is still required.

*Test 4: Are there enough engaged consumers to drive competitive pressure? Do consumers have everything they need to drive competitive pressure - are there barriers to switching?*

We agree with the CMA that, despite the investment of £750 million by providers to develop the new CASS, volumes of people switching have remained low as evidenced by recent statistics from the Payments Council. In support of this, we offer the following evidence:

- *Does the switching process work?*
  - Early reports showed that some consumers were experiencing delays in switching due to mis-match of personal details between receiving and transferring banks.
  - Our survey in November 2013 of consumers using the new switching service showed that two-thirds (65%) had problems with their switch and a quarter (27%) said the process had taken eight working days or more to complete.
  - However, we note that since this initial period, the Payment Council's self-reported analysis shows acceptance rate of customers using the service is over 90%, and that 99% of all switches that were accepted were completed within the seven working day timescale.<sup>26</sup>
- *Are more people switching?*
  - We note that growth in switching has been modest at best, with the Payments Council reporting an increase of 16% on the number of switches in the six-month period leading to the end of June 2014 compared to the same time period in 2013.<sup>27</sup>
  - However, we also recognise this increase stems from a low base. We note that CMA's analysis which reiterates the extremely low levels of switching in the market. CASS and its predecessor Transfer of Direct Debits and Standing Orders (ToDDaSo), switches to be approximately 1.8% of all active accounts between June 2013 and June 2014.<sup>28</sup>
  - According to our current account satisfaction survey conducted in August 2014, we still see large number of consumers not switching their accounts. More than half (57%) of consumers surveyed had never switched their main current account with just 11% of consumers had switched their main accounts in the last two years. Of these 6% switched before 16 September 2013, with 5% switching after 16 September 2014.<sup>29</sup> Of these, 53% elected to use the Current Account Switching Service, 29% having their provider

<sup>26</sup> CMA, Personal current accounts: Market study update, July 2014, para 4.23

<sup>27</sup> Payments Council, Current Account Switch Service Dashboard, 1 January-30 June 2014, Issue 3.

<sup>28</sup> CMA, Personal current accounts: Market study update, July 2014, para 4.23

<sup>29</sup> Main account was defined as the account that a participant used most regularly, and from which most (if not all) of their standing orders and direct debits are set up within.



manage the switch for them and 38% electing to 'manually switch' payments and direct debits.<sup>30</sup>

- Furthermore, according to our research in August 2014, almost six in ten (57%) customers have held their current account for over 10 years, with 35% holding their account for more than 20 years. Average tenure for current accounts is approximately 14 years.<sup>31</sup>
- *Has it led to new products and services?*
  - As addressed previously, there has been some change in the market, but very little that represents genuine innovation as a number of providers are imitating existing PCA product features.
- *Do people have more confidence in the switching process?*
  - While the Payment Council's CASS 'composite confidence' score has hovered between 61-65% in the last six months to June 2014, confidence that the process would be error free remains quite low at around 40%. Furthermore, has not significantly improved since the previous release of statistics in March 2014.<sup>32</sup>
  - It is unclear how this compares to the previous switching service as the Payments Council have not released any comparable statistics relating to the performance of the previous ToDDaSo switching service.
  - Our recent customer satisfaction survey showed that despite the introduction of CASS, 33% of 18-34 year olds said that they think switching bank account would be too much hassle, which is significantly greater than those over 51 (22%) and those over 60 (21%).<sup>33</sup>
- *Is this shaking up the market?*
  - Which? argues that competition within the PCA market still remains limited despite the introduction of CASS – we elaborate on this point further below.
- *What happens when things go wrong?*
  - Our survey in November 2013 of consumers using the new switching service showed that one in seven (15%) experienced delays with direct debits or standing orders not carried across to the new account. One in ten (12%) did not receive a PIN before their old account was closed. One in ten (10%) had the old account closed before the new one was opened.

<sup>30</sup> Which? spoke to 5002 respondents from the General Public about their Current account providers. Fieldwork took place from 31st July to 11th August 2014.

<sup>31</sup> Which? spoke to 5002 respondents from the General Public about their Current account providers. Fieldwork took place from 31st July to 11th August 2014.

<sup>32</sup> Payments Council, Current Account Switch Service Dashboard, 1 January-30 June 2014, Issue 3.

<sup>33</sup> Which? spoke to 5002 respondents from the General Public about their Current account providers. Fieldwork took place from 31st July to 11th August 2014.

- We note the CMA's analysis which shows that while errors are still occurring, the Payments Council and PCA providers have been working to improve acceptance rates, and have enacted a voluntary code to put in place a standard central process and defined maximum timescales for consumers to recover money sent to an incorrect account.<sup>34</sup>
- However, we note that the 13 month automatic redirection service will soon end for those who availed of CASS at its launch. This will provide another test of the robustness of the switching service from October onward. We recommend that should the CMA proceed with an MIR that this aspect of the switching service is also explored to ensure that customers are not experiencing detriment once the redirection service is ceased thereby compromising the effectiveness of the switching service.
- *Did people get a better deal and are they happy with their new provider?*
  - As we have outlined previously, comparison is currently complicated as consumers are not able to accurately project and compare the costs of PCA on the basis of past usage. This is shown through our 'Real Consumers' research which found that 59% of consumers that switched either agreed, or were unsure, that there was a current account on the market that better suited their needs.<sup>35</sup>

On balance while it appears that CASS is operating adequately, the service has not been sufficient in driving increased switching behaviour. We argue that this is due to limitations in accurate and comprehensive product comparison on the demand-side. Moreover, as mentioned previously, tools promoted to customers to assist with comparison have largely been inadequate to drive switching.

While switching has increased incrementally, it has not been the game changer that was anticipated by industry. The CMA's own analysis shows that the switching rate has only increased to 3% from 2.2% in 2008 from the when considering all methods of switching.<sup>36</sup>

*Test 5: Are consumers able to get quick and fair redress when things go wrong?*

We note that the volume of FCA reportable complaints for PCAs broke a declining trend since 2010 and increased by 8% in the second half of 2013.<sup>37</sup> Our engagement with banks suggests that some banks are making efforts to reduce their 'reportable' number of complaints by dealing with more of them before the deadline.

We also note that for the full year 2012/13 the uphold rate for current account complaints handled by FOS was 33%, a slight increase on the 31% reported in 2011/12.<sup>38</sup> Furthermore, there appears to have been a growth in complaints relating to packaged bank accounts, with number of complaints received rising to

<sup>34</sup> CMA, Personal current accounts: Market study update, July 2014, para. 4.22-4.24, pg. 79

<sup>35</sup> Research conducted by Populus UK on behalf of Which?. Populus is a member of the British Polling Council and abides by its rules. Survey conducted online over two waves between 9th and 25th November 2013. Respondents were UK adults aged 18+. Total sample: non-switchers = 1001; switchers = 192.

<sup>36</sup> CMA, Personal current accounts: Market study update, para. 4.39, pg. 85

<sup>37</sup> FCA, Latest aggregate complaints data, 9 September 2014: <http://www.fca.org.uk/firms/systems-reporting/complaints-data/aggregate-complaints-data>

<sup>38</sup> As cited in CMA, para 6.23, pg. 114

2853 in April to June 2014 compared to 736 complaints received in the same period in 2013.<sup>39</sup> For the year ending 31 March 2014, FOS received an increase of 248% complaints compared to the same period in 2013, and 77% of complaints upheld in favour of the consumer in the full year 2013/2014.<sup>40</sup>

Our own investigation of current account complaints handling in May 2013 found that ‘22% of complaints to Britain’s banks and building societies are not being resolved satisfactorily according to their customers, and account holders have told us that they’re not happy about it’.<sup>41</sup> Further, we note the diversification of ways for consumers to raise complaints with their providers, including a growth in online and social media alongside more traditional channels, which should improve the speed at which a complaint is resolved. However, our research into complaints handling of different providers (including one PCA provider, Nationwide) in March 2014 showed improvements are still to be made with regard to customer service levels and response times across the channels. For example, Nationwide had taken ten days longer to respond to a complaint via email compared to a letter (which took five working days).<sup>42</sup>

Our most recent research from August 2014 confirms that several of the biggest banks have relative poor customer satisfaction levels for their current account offerings with Santander performing the best at 64%, and RBS performing the worst of the largest providers at 53%. This is compared to the smaller providers, for example First Direct scoring 82% as the highest rated provider, Norwich and Peterborough Building Society coming second at 71%.<sup>43</sup> Despite this, incumbent banks still retain high levels of market share compared to smaller providers which we argue is symptomatic of a lack of effective competition in the market. Given the impediments to increased switching, it is unsurprising that there is limited incentive for incumbents, in particular, to improve their customer service provision.

*Test 6: Are new firms which offer a better deal to consumers able to enter the market and compete on a level playing field?*

We agree with CMA analysis that challenger banks have yet to make an impact, and note the enduring nature of concentration within the PCA market since the financial crisis. The concentration of the PCA market had been gradually decreasing in the lead up to the financial crisis as measured by the Herfindahl-Hirschman Index (HHI) which decreased from 1470<sup>44</sup> in 2000 to 1343 in 2008.<sup>45</sup> Post-crisis concentration has increased markedly, with the OFT observing that in 2009 HHI increased to 1820<sup>46</sup>. The CMA’s recently analysis shows that concentration remains despite gradual changes in market share between providers - HHI remained elevated at 1838 in 2013 (a slight decrease from 1853 in 2011).<sup>47</sup> We argue that it is unlikely that concentration will reduce to its pre-crisis level in the near future - the CMA has

<sup>39</sup> FOS, Ombudsman News, Quarterly Update, issue 110, June/July 2013, <http://www.financial-ombudsman.org.uk/publications/ombudsman-news/110/1stquarter-chart.pdf>; FOS, Ombudsman News, Quarterly Update, issue 118, July 2014, [http://www.financial-ombudsman.org.uk/publications/ombudsman-news/118/chart\\_issue118.pdf](http://www.financial-ombudsman.org.uk/publications/ombudsman-news/118/chart_issue118.pdf)

<sup>40</sup> Financial Ombudsman Service, the financial products involved in complaints to the ombudsman service in April, May and June 2014, [http://www.financial-ombudsman.org.uk/publications/ombudsman-news/118/chart\\_issue118.pdf](http://www.financial-ombudsman.org.uk/publications/ombudsman-news/118/chart_issue118.pdf)

<sup>41</sup> Which? Magazine, ‘Is your bank a good problem solver?’, May 2013

<sup>42</sup> Which? Magazine, ‘How to complain and get result’, March 2014

<sup>43</sup> Customer scores are based on a survey of an online panel of respondents from the general public, who were invited to take part in the bank account customer satisfaction survey - during August 2014. The final sample size was 5,002. Overall customer scores are worked out using a combination of overall satisfaction and how likely the respondents are to recommend their bank to a friend. Companies need at least 30 responses to be given a rating. Full table can be found: <http://www.which.co.uk/money/bank-accounts/reviews-ns/bank-accounts/best-banks-for-customer-satisfaction/>

<sup>44</sup> Independent Commission on Banking Standards, Interim Report, Figure 2.4, pg. 30-31

<sup>45</sup> OFT, Review of the personal current account market, January 2013. pg. 45

<sup>46</sup> OFT, Review of the personal current account market, January 2013. pg. 45

<sup>47</sup> CMA, Personal current accounts: Market study update, para. 2.22. 2.6, pg. 25

observed that it is still unclear what the impact mandated divestment of TSB on competition will be, and the W&G divestment is not predicted to have a significant impact on the PCA market.<sup>48</sup> Furthermore, we underline that the concerns relating to PCA comparability in the market were still present even during this period of reduced market concentration pre-financial crisis.

While action has been taken by the FCA and PRA to reduce barriers to entry and expansion related to the authorisation process and capital requirements for new entrants, additional barriers still remain. Anecdotally, challenger banks have shared concerns about the current structure and costs associated with the payment system, in particular ownership and access, acting as a barrier to entry and inhibiting competition and innovation. We acknowledge the potential impact of the introduction of the new Payments Service Regulator (PSR) in exploring and addressing the barriers to entry posed by the payment system, and the upcoming cost benefit analysis of bank account portability. However, the PSR's operational launch will not commence until April 2015<sup>49</sup>, and the new regulator is still in the process of consulting on its regulatory approach, design and early priorities for action. As a result, we agree that it is still unclear how the new regulator will address the competition concerns raised.

**Do you consider that the features which the CMA has identified that may prevent, restrict or distort competition, are capable of being effectively and comprehensively remedied by undertakings in lieu of an MIR (UIL) given by the banks (see the features in paragraphs 3.3 and 3.6)?**

Unlike the proposal put forward for a UIL in the SME market (published in the CMA consultation paper), Which? has not been made aware of any specific proposed UIL for the PCA market. Therefore we cannot comment as to whether specific proposals would result in effective and comprehensive remedies required to improve the competitiveness of the PCA market.

Which? argues that an investigation of the PCA market is needed before determining what combination of interventions is required. We note that CMA's guidance indicates that the use of UIL's in instances where "adverse effects on competition arise from market features involving several firms or industry-wide practices", as is the case with the PCA market, will make it difficult for the CMA to "be able to judge with any certainty whether particular undertakings will achieve as comprehensive a solution as is reasonable and practicable."<sup>50</sup> Furthermore, the guidance also suggests that there may be more scope to accept UIL in the case "where an adverse effect on competition arises from the conduct of a very few firms... provided the [CMA] is confident that they will achieve a comprehensive solution."<sup>51</sup> We argue the CMA is not yet in a position to be able to make this determination at such an early stage of investigation.

The CMA is in the unique position to be able to undertake a detailed and comprehensive PCA market investigation as per its remit 'to consider whether any feature, or combination of features, of a relevant market prevents, restricts or distorts competition in connection with the supply or acquisition of a product or service in the UK or a part of the UK – that is, whether any such feature has an adverse effect on

<sup>48</sup> CMA, Personal current accounts: Market study update, para. 2.25, pg. 85

<sup>49</sup>FCA, Payments System Regulation: call for inputs, 5 March 2014: <http://www.fca.org.uk/static/documents/psr-call-for-inputs.pdf>

<sup>50</sup> OFT, Market investigation references: guidance about the making of references under Part 4 of the Enterprise Act, March 2006, pg. 12

<sup>51</sup> OFT, Market investigation references: guidance about the making of references under Part 4 of the Enterprise Act, March 2006, pg. 12



competition'. We recognise that other regulators responsible for the PCA market, including the FCA and PSR, have a competition remit as part of their objectives. However, we believe that the CMA has an important role in coordinating the various levers of intervention that could be deployed to improve the competitiveness, and decrease consumer detriment, in the PCA market.

Lastly, we highlight the significant delays in roll out of transparency initiatives voluntarily agreed to by PCA providers as a result of the OFT's 2009 market study: "*The OFT expressed concern in 2013 that the transparency initiatives agreed with the major PCA providers in 2009 had not all been fully implemented. These have now been virtually rolled out in their entirety, but we note it has taken over a year since the OFT 2013 report, and five years since they were initially agreed, for this roll-out to be completed.*"<sup>52</sup> As a result, we are unconvinced at this stage that an alternative solution to the competition concerns present in the PCA market could be agreed by PCA providers in a timely manner which would put it at an advantage over the CMA conducting a MIR. However, this should not prevent providers continuing to address these issues themselves and do the best for their customers and the market – and we will continue to work with them during the investigation to encourage this.

Our view remains that the CMA should proceed with MIR for the PCA market.

**Do you consider that a potential solution to any competition concerns identified may need to consider alterations to the structure of the markets in addition to (or in place of) remedies focused on increasing customer engagement?**

It is clear that the PCA market lacks effective competition, and this is due to a complex range of demand-side and supply-side factors which have impeded consumer engagement, as well as created barriers for new providers to enter and drive innovation. Current measures aimed at addressing competition concerns, including the introduction of CASS, have resulted in limited success.

We believe that the time is right to address these concerns through a wholesale investigation of the competitiveness of the PCA market conducted by the CMA to expose the underlying barriers to competition and resulting detriment experienced by consumers. We believe the CMA is the most appropriate body to undertake this given its extensive remit and powers. As part of this, we strongly encourage the CMA to work together with other regulators, including the FCA, PSR and PRA, and lead a coordinated response to implement the interventions necessary to stimulate effective competition in the market.

#### *Structural intervention*

Given the underlying complexity of the barriers to effective competition in the PCA market, we believe it is relevant for the CMA to explore evidence showing the consumer detriment resulting from persistent market concentration. As part of this analysis, we also strongly encourage the CMA to continue to explore concentration alongside other barriers to entry within the PCA market. We underline the importance of ensuring that payment systems are structured to allow access for new providers to drive genuine innovation, and competitive pressure, in the market – rather than replicating existing product and business models. This could result in flow on effects for not just the PCA market, but also other retail banking products including cash savings. The recent FCA interim report on the competitiveness of the cash savings market highlights the strong link between the sale of PCAs and savings accounts,

<sup>52</sup> CMA, Personal current accounts: Market study update, para. 3.7, pg. 54-55



particularly easy access products. The FCA notes ‘this allows the providers with the largest share of the PCA market to retain in aggregate a significant easy access market share despite, on average, paying interest rates that are materially lower than those offered by the smaller PCA providers.’<sup>53</sup> We reiterate that while PSR has a competition objective, unlike the CMA, they do not have the capacity to undertake an in depth investigation of PCA market.

### *Behavioural initiatives*

Which? believes that the CMA should also consider intervention to encourage consumer engagement as part of its CMA’s MIR. We underline that there must be an emphasis on ensuring better quality switching decisions, rather than a singular focus on increasing volumes of switching, in order to stimulate effective consumer-led competitive pressure on the market.

Proposals that we would like to see the CMA explore include:

- *Making PCA comparison easier and clearer for consumers in order to prompt switching* – all PCA providers should be mandated to make downloadable usage data available to consumers to easily compare overdraft charges and cost of different accounts (alongside other features including for example customer satisfaction scores, branch access). Availability of Midata must be properly promoted to consumers by providers to allow better comparison of PCAs and improve the quality switching decisions.
- *Improving consumers control over use of overdrafts* - ensuring unauthorised overdrafts are provided only on an opt-in basis, that consumers can opt out at no extra cost and that they are notified through their preferred channel (for example text alerts or email) when approaching the point of an unauthorised or authorised overdraft.

Additionally, we recommend that CMA investigate "real consumer" behaviour during the current account switching journey, and any resulting detriment incurred. This includes investigating the way that consumers compare accounts (particularly the inability to compare on basis of costs); the impact of how offers and information are framed (especially the impact of incentives/cashback on the comparison process); how product design features and provider practices inhibit comprehensive comparison (i.e. structure of overdraft charges); how the tendency to underestimate use of overdrafts impacts on consumer choice; and the overall quality of switching decisions (e.g. did switching decisions result in a better outcome for the consumer?)

Any consumer remedies recommended by the CMA must undergo thorough behavioural testing. Consumer behaviour is notoriously unpredictable and affected by multiple social, environmental and individual factors; behavioural testing can help ensure the proposed solutions achieve the desired outcomes and avoid unwanted and unexpected side effects. Such testing should involve real-world, randomly assigned control groups that the outcomes of other groups exposed to the behavioural remedy can be tested against. The CMA should follow similar procedures to those of the FCA's behavioural unit within the chief economist's department. Other principles for effective behavioural testing that should be followed can be found in the Behavioural Insight Team's 'Test, Learn, Adapt' report.<sup>54</sup>

<sup>53</sup> FCA, Cash Savings market study: interim report, MS14/02, pg. 32

<sup>54</sup> L Haynes, O Service, B Goldacre & D Torgerson (2012) 'Test, Learn, Adapt: Developing public policy with randomised controlled trials, Behavioural Insights Team, Cabinet Office.



### *'Free-if-in-credit' banking*

A related argument which has been expressed by some is that this referral should result in end of 'free' banking in the UK. Which? strongly disagrees with this view; banking is not free for overdraft users and those holding positive balances who potentially forgo interest that otherwise would have been earned in a savings account. The OFT's assessment of the PCA market in 2012 outlined that the concept of 'free-if-in-credit' banking to be a myth which misrepresents the cost of these accounts to customers.<sup>55</sup>

Furthermore, the CMA's recent analysis showed that providers earn £8.1 billion annually, or about £125 per account in 2013.<sup>56</sup>

Given the current constraints on competition within the PCA market, it is unclear that introduction of an upfront fee would necessarily result in improved transparency in fees and charges (particularly in relation to overdrafts) or increase competitive pressure on these costs. This concern was also previously highlighted by the OFT.<sup>57</sup> We are unaware of any evidence, within the UK or internationally, which shows an upfront-fee model results in competitive pressure on fees charged for services attached to current accounts including overdrafts and foreign transactions. We argue that instead this could decrease transparency, and result in a perverse incentive of making it even more difficult for consumers to compare across products – as is the case in France.

We also restate the concern raised by the OFT about the risk associated with co-ordinated action by providers, in order to avoid any 'first-mover disadvantage', to change the prevailing free-if-in-credit business model in potentially breaching the 1998 Competition Act and Articles 101 and 102 of the Treaty on the Functioning of the European Union.<sup>58</sup>

---

<sup>55</sup> OFT, PCA Review Report, para. 3.6, pg. 27

<sup>56</sup> CMA, Personal current accounts: Market study update, July 2013, para. 1.1. pg. 18

<sup>57</sup> OFT, PCA Review Report, para. 4.46, pg. 27

<sup>58</sup> OFT, PCA Review Report, para. 3.15, pg. 29-30