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Analysis

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Lloyds Banking Group has breached the Small and Medium-sized Enterprise (SME) Banking Behavioural Undertakings 2002 in relation to loans offered under the Bounce Back Loans Scheme

I am writing to you on behalf of the CMA concerning Lloyds Banking Group, specifically Lloyds Bank and Bank of Scotland having breached the above undertakings which has affected around 30,000 of your customers.

The breach

In 2002, Lloyds undertook not to require customers to open and retain a business current account as a condition of receiving, servicing or maintaining a loan, a process known as bundling.

The UK Government launched the Bounce Back Loans Scheme on 4 May 2020 to enable smaller businesses to access finance more quickly during the Coronavirus (Covid-19) pandemic. Lloyds started to provide loans under the Scheme on 8 May 2020 and notified the CMA of the breach on 12 May 2020.

The CMA found that Lloyds had breached the undertakings in the way it set up its process for issuing Bounce Back Loans for those customers who were operating a business through their personal current accounts. In particular, SME customers using a personal current account were required by Lloyds to open a Lloyds business current account as part of their application process for a loan under the Bounce Back

Loan Scheme. Lloyds considered this to be the most robust solution for it to meet the know your business and fraud check requirements of the scheme.

The CMA's concerns

These undertakings prohibit bundling of loans and business current accounts for small businesses. This helps prevent large banks from restricting competition. They preserve choice for small businesses about the banking services they use, enabling small firms to select their preferred business account provider independently of any lending relationships. Lloyds' recent actions have resulted in around 30,000 small and medium-sized businesses opening business current accounts they may not have wanted or needed, in order to obtain finance at a critical time. It is therefore of concern to the CMA that Lloyds has breached these undertakings in this way.

I note that customers will not initially be charged by Lloyds for holding these business current accounts. However, the process of bundling loans and business current accounts restricts competition and limits choice leading ultimately to worse outcomes for customers. This is why the undertakings were originally put in place in 2002 and retained after a further in-depth assessment in 2016.

I recognise the speed with which the Bounce Back Loans Scheme was established, and the emphasis at that time on getting funding to customers as quickly as possible. However, I also note that from our enquiries, other banks that are subject to the undertakings have been able to offer Bounce Back Loans in a compliant manner. There are a number of ways in which Lloyds could have offered these loans which would have been compliant with the undertakings. We are always available to provide advice and guidance regarding compliance matters, and it is unfortunate that this opportunity was not taken before Lloyds began offering loans to its customers under the scheme.

Lloyds will take voluntary action to end the breach

Following discussion, I am pleased that Lloyds has committed to bring the breach to an end by voluntarily taking the actions set out in the Action Plan as published with this letter. The breach, and consequently Lloyds' remedial actions, apply only to loans provided under the Scheme and not to other existing or future SME lending by Lloyds.

During September, Lloyds will write to customers that were required to open a business current account with Lloyds when applying for a loan under the Scheme. The communication will inform customers that:

- they are not required to maintain a business current account with Lloyds for the purposes of a loan under the Scheme and can therefore switch to another provider at any time while keeping the loan; and
- they will be offered the option to switch to a fee-free loan servicing account.

Lloyds will also write to those customers that keep a business current account with it informing them, with two months' notice, of any business current account charges being introduced.

In order to be compliant with the undertakings, all future applicants under the Scheme will be offered the choice of either a fee-free loan servicing account or a business current account.

CMA assessment and next steps

In assessing this breach, the CMA has been mindful of the very challenging circumstances related to the Coronavirus (Covid-19) pandemic in which this breach occurred, and the vital support these loans have provided to smaller businesses in the UK.

Given the comprehensive nature of the voluntary action being taken by Lloyds, the CMA does not consider it appropriate to take formal enforcement action at this time. The CMA will monitor the resolution of this breach closely. We reserve the right to take formal enforcement action where Lloyds fails to adhere to its Action Plan.

Yours sincerely,

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