
Completed acquisition by Nationwide Building Society of parts of Dunfermline Building Society

ME/4108/09

The OFT's decision on reference under section 22(1) given on 18 May 2009. Full text of decision published 22 May 2009.

Please note that the square brackets indicate figures or text which have been deleted or replaced in ranges at the request of the parties or third parties for reasons of commercial confidentiality.

PARTIES

1. **Nationwide Building Society** (Nationwide) is a mutual building society incorporated under the Building Societies Act 1986. It has a network of around 900 branches located throughout the UK (in addition to its Internet and telephone banking services) providing financial services to personal customers including savings, current accounts, mortgages, loans, credit cards and insurance services and distributes long-term investment and pension products on behalf of Legal & General. It provides residential mortgages through intermediary channels under its specialist lending brands, UCB Home Loans Corporation Limited and The Mortgage Works (UK) plc, and is also active in the commercial lending sector.
2. Nationwide owns and operates The Derbyshire Building Society (Derbyshire) and The Cheshire Building Society (Cheshire). In addition to the products/services supplied by Nationwide, Derbyshire also provides independent financial advice to personal customers, and Cheshire operates an estate agency and provides brokerage services.
3. **Dunfermline Building Society (Dunfermline)** is a building society incorporated under the Building Society Act 1986. It has a network of 34 branches and 37 agencies, all located in Scotland, and provides mortgages,

personal savings, insurance (underwritten by AXA Insurance plc), long-term investments and bonds, pensions, financial planning and foreign exchange currency to personal customers. It also provides commercial lending services and social housing loans.

TRANSACTION

4. On 30 March 2009 Nationwide acquired Dunfermline's retail and wholesale deposits, branches, head office and originated residential mortgages (excluding social housing loans and related deposits) (the Transaction).¹
5. Nationwide notified the Transaction to the Office of Fair Trading (OFT) on 27 April 2009. The administrative deadline for the OFT to decide whether to refer the merger to the Competition Commission (CC) is 24 June 2009.

JURISDICTION

6. As a result of the Transaction Nationwide and Dunfermline have ceased to be distinct enterprises. Both parties achieve more than two-thirds of their aggregate Community-wide turnover within the UK. Therefore, the Transaction does not have a Community dimension under the EC Merger Regulation. The UK turnover of Dunfermline exceeds £70 million, so the turnover test in section 23(1)(b) of the Enterprise Act 2002 (the Act) is satisfied. The OFT therefore believes that it is or may be the case that a relevant merger situation has been created.

MARKET DEFINITION

7. The Transaction creates an overlap in a range of financial services to personal customers and, in particular, in the supply of mortgages, personal savings and insurance products. Since products for business customers and wholesale banking are not included in the Transaction, the OFT has not found it necessary to consider these in its merger examination.

¹ The Transaction was effected by way of the Dunfermline Building Society Property Transfer Instrument 2009.

Product scope

8. With respect to financial services to personal customers, the CC in its report into Lloyds/Abbey National² concluded that financial products sold to personal customers include eight separate markets:
- PCAs (personal current accounts)
 - deposit accounts and similar savings accounts
 - mortgages
 - other loans
 - credit cards
 - insurance (life and other)
 - other long-term investments, and
 - pensions.
9. The same approach was adopted by the OFT in its decision in Nationwide/Portman³ and in its report to the Secretary of State in Lloyds/HBOS,⁴ and most recently in Nationwide's acquisitions of Cheshire and Derbyshire.⁵
10. The OFT did not receive any evidence suggesting a departure from that market definition. Moreover, the exact product market definition does not affect the outcome of the OFT's competition assessment in this case. The OFT has examined this merger on the basis of the products defined by the CC in Lloyds/Abbey National listed in paragraph 8 above.

Geographic scope

11. Nationwide submitted that the relevant geographic frame of reference for the supply of financial products to personal customers is the UK. In particular, they argued that the same financial products are generally supplied throughout the UK, and that national pricing policies are adopted without local price flexing.

² Competition Commission Lloyds TSB Group plc and Abbey National plc: A report on the proposed merger, July 2001, section 2, page 13.

³ OFT decision on the anticipated acquisition by Nationwide Building Society of Portman Building Society, OFT decision of 21 November 2006.

⁴ OFT report to the Secretary of State on the anticipated acquisition by Lloyds TSB Group plc of HBOS plc, 31 October 2008.

⁵ Anticipated acquisition by Nationwide Building Society of Cheshire Building Society, Case ME/3871/08, OFT decision of 19 November 2008; and Anticipated acquisition by Nationwide Building Society of Derbyshire Building Society, Case ME/3872/08, OFT decision of 19 November 2008.

12. At an individual branch level, Nationwide submitted that both parties offer the same products, pricing and service quality across all their branches. In addition, Nationwide argued that investment decisions are made according to centrally-determined criteria. In addition, Nationwide submitted that customers selecting the types of products affected by the Transaction, which are typically long-term in nature, are mainly concerned with the features of the product and its pricing, and will pay limited or no regard to the proximity of a local branch.
13. While the parties consider that the geographic market is the UK, they did provide local area analysis for three branches in Glasgow (where competition concerns were most likely to arise) to the OFT. The data in this case show that 80 per cent of its new savings accounts customers lived within at least three miles from the branch (although it varied between branches to over five miles).⁶
14. In Lloyds/Abbey, the CC concluded that the geographic market for all affected products was Great Britain, with Northern Ireland constituting a separate market. In addition, in Northern Irish Personal Banking,⁷ the CC found that no bank in Northern Ireland operated any policies on a local basis, and customers had access to banks from several locations, which would weaken any notion of local markets. However, because customers in Northern Ireland appear to attach significance to the availability of branches and familiarity with the supplier's brand when choosing a PCA and they do not switch to banks present only in Great Britain, the CC concluded that Northern Ireland formed a separate geographic market from Great Britain.
15. In Lloyds/HBOS, Nationwide/Derbyshire and Nationwide/Cheshire, the OFT could not rule out the possibility that there was a local aspect to competition and the OFT considered evidence on the basis of a one mile and one-and-a-half mile radius around the branches.

⁶ The OFT has considered from time to time that the figure of 80 per cent used in this analysis, while not determinative, provides a good rule-of-thumb indication of the competitive dynamics between suppliers and the choices available to customers in this case. For example, Case ME/3978/08 Completed acquisition by Aggregate Industries UK Limited of Atlantic Aggregates Limited and Stone Haul Limited (March 2009); Case ME/3427/08 Completed acquisition by Home Retail plc of 27 leasehold properties from Focus (DIY) Ltd (April 2008); and Anticipated merger between Co-operative Group (CWS) Limited and United Co-operatives Limited (July 2007).

⁷ Competition Commission, Personal current account banking services in Northern Ireland, Market investigation, 15 May 2007, paragraph 3.36.

16. However, in this case, the OFT has not found it necessary to conclude on the precise geographic scope since it does not affect the outcome of the competition assessment, and has analysed each product market on a UK-wide and local basis, as well as a Scotland-wide basis.
17. In line with previous decisions, and without prejudice to the exact geographic scope of competitive constraints at the local level, the OFT has analysed each local overlap on the basis of a one mile and a one-and-a-half mile radius around Nationwide and Dunfermline branches.

HORIZONTAL ISSUES

18. The Transaction creates an overlap in the supply of mortgages, savings accounts (that is, deposit accounts and similar savings accounts), insurance, financial planning and foreign currency exchange. The parties' share of supply of financial planning and foreign currency exchange services is low, and therefore these services are not considered further in this decision. Furthermore, overlaps are not created by the Transaction in PCAs, credit cards, personal loans, pensions⁸ or long-term investments.

National level

19. At the national level, the parties estimated that their shares of supply are as set out in table 1.

⁸ Although both parties distribute pensions on behalf of third parties.

Table 1: Estimated shares of supply, 2007, per cent

	Mortgages		Savings accounts	Personal insurance
	Balance	Gross mortgage lending		
Nationwide	[5–15]	[5–15]	[5–15]	[5–15]
Dunfermline	[0–5]	[0–5]	[0–5]	[0–5]
Combined	[5–15]	[5–15]	[5–15]	[5–15]
Lloyds	[20–30]	[20–30]		
Abbey National	[10–20]	[10–20]		
Northern Rock	[5–15]	[5–15]		

Note: Shares attributed to Lloyds include HBoS and shares attributed to Abbey include Alliance & Leicester. The parties did not supply share of supply estimates for competitors for savings accounts or personal insurance.

Source: Parties' submission based on data from the Council of Mortgage Lenders.

20. In light of the low combined market shares accompanied by very small increments for mortgages, savings accounts and personal insurance, and the absence of any third party concerns, the OFT does not believe that the Transaction raises any competition concerns at the national level.

Scotland

21. Dunfermline only operates branches in Scotland. Within Scotland, Dunfermline operates 34 branches and 37 agencies,⁹ and Nationwide operates around 40 branches. In comparison, The Lloyd's Banking Group, The Santander Group, The Royal Bank of Scotland and Clydesdale Building Society each have over 100 branches in Scotland. Nationwide estimates that it and Dunfermline's combined market share in any of the overlap products does not exceed [10–20] per cent in Scotland, and that Dunfermline's share of supply would not exceed [0–5] per cent in relation to any particular product. In light of the low market shares and small increments, the number of alternative providers present in Scotland, and in the absence of any third party concerns, the OFT does not believe that the Transaction does not raise competition concerns at a regional level.

⁹ Third parties who sell Dunfermline products.

Local aspects

22. In line with past cases, the OFT has adopted a fascia counting approach to examining competition at the local level.¹⁰ In the past, the OFT has generally not found it necessary to undertake a detailed local area investigation if there are at least three competing fascia in a local area.
23. In this case, there are no local areas (defined as a one-and-a-half mile radius around the relevant branch) where the number of remaining competitors would be below three. On a one mile measure, there is one area (Anniesland in Glasgow) where the parties do face fewer than three competitors. However, Nationwide submitted that there is a further competitor located just outside the one mile radius and a significant number of further competitors located in central Glasgow which, while three to four miles away, is directly accessible via a main road.
24. Furthermore, Nationwide conducted an analysis of where its new savings accounts customers live (discussed in paragraph 13 above). Data for the Anniesland agency showed that only [45–55] per cent of new savings accounts customers live within one-and-a-half miles of the branch and the radius has to be extended to three miles in order to capture 80 per cent of these customers. Thus, the evidence indicates that banks and building societies located in central Glasgow may be a credible alternative for some Anniesland branch customers.
25. Given that the Transaction results in a reduction in fascia of five to four on a conservative one-and-a-half mile basis, and in the absence of any third party concerns, the OFT does not believe that the Transaction does give rise to competition concern in this local area.
26. In all other local overlap areas at least three competing fascia (and in most areas many more) will remain to constrain the merged entity with regard to any local aspects of competition.

¹⁰ For example, Nationwide/Cheshire; Nationwide/Derbyshire; and Anticipated merger between Skipton Building Society and Scarborough Building Society, Case ME/3987/09, OFT decision of 2 March 2009.

Barriers to entry and expansion

27. The parties submit that barriers to entry/expansion in local markets are low, since branches are typically located in relatively small premises. The parties argue that such premises are readily available, for example by taking over from similar businesses wishing to dispose of their premises.
28. Given that no competition concerns arise from the Transaction, it is not necessary to conclude on the issue of barriers to entry.

THIRD PARTY VIEWS

29. The OFT contacted a number of banks, building society and consumer groups in the course of its investigation. No third parties were concerned about the competitive effects of the Transaction.

ASSESSMENT

30. Nationwide and Dunfermline overlap in the offering of financial services sold to personal customers and in particular in the sale of mortgages, savings, and insurance.
31. For the purposes of this assessment, the OFT examined all these financial products on a UK-wide basis as well as on local and Scotland-wide bases.
32. On the evidence available to it, the OFT considers that no competition concerns will arise on any of these geographic frames of reference. At a national level, the parties have a small combined market share of supply in relation to each of the product segments with negligible increments in all segments. In Scotland, the Transaction does not raise competition concerns, given the small increments and the parties' combined market share.
33. Finally at a local level, fascia-based analysis does not reveal any areas of possible concern.
34. Consequently, the OFT does not believe that it is or may be the case that the Transaction may be expected to result in a substantial lessening of competition within a market or markets in the United Kingdom.

DECISION

35. This merger will therefore **not be referred** to the Competition Commission under section 22(1) of the Act.