
Anticipated acquisition by Nationwide Building Society of the
Derbyshire Building Society

ME/3872/08

The OFT's decision on reference under section 33(1) given on 19 November
2008. Full text of decision published 25 November 2008.

**Please note that square brackets indicate figures or text which have been
deleted or replaced at the request of the 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 provides 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. Nationwide has a network of around 900 branches located throughout the UK and also provides internet and telephone banking services.
2. **Derbyshire Building Society (Derbyshire)** is also a building society incorporated under the Building Society Act 1986. It also provides financial services to personal customers including savings, mortgages, insurance and independent financial advice. Derbyshire has a network of 50 branches, the majority of which are located in and around Derbyshire. Derbyshire's turnover for the year ended 31 December 2007 was £434.8 million.

TRANSACTION

3. Nationwide is acquiring Derbyshire through a statutory transfer of engagements. In particular, the FSA and the parties have agreed to expedite the transaction by structuring it as a directed transfer under section 42 B(3) of the Building Societies Act 1986,¹ enabling it to proceed on the basis of board resolutions by the parties and without member votes. It is anticipated that the transfer of engagements will become effective on 1 December 2008.
4. The parties notified the transaction to the Office of Fair Trading (OFT) on 24 September 2008. The administrative deadline for the OFT to decide whether to refer the merger to the Competition Commission (CC) is 19 November 2008.
5. In the same time period, the OFT also reviewed the anticipated acquisition by Nationwide of the Cheshire Building Society. Given that the increments to the market shares in all relevant markets in both cases are very small, the OFT did not deem it necessary to consider whether to assess each transaction on the assumption that the other transaction would complete, as this would not have changed its assessment of either case.

JURISDICTION

6. As a result of this transaction Nationwide and Derbyshire will cease to be distinct. Both parties achieve more than two-thirds of their aggregate Community-wide turnover within the UK. Therefore, the merger does not have a Community dimension under the EC Merger Regulation. The UK turnover of Derbyshire 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 arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.

¹ Under Section 42B(3) the FSA has power to direct a building society to transfer all of its engagements to one or more other building societies where it considers it expedient to do so to protect the investments of shareholders or depositors.

MARKET DEFINITION

7. The parties overlap in the offering of a range of financial services to personal customers and in particular in the supply of mortgages, personal savings and insurance products.

Product scope

8. In Lloyds/Abbey National,² the CC concluded that the financial services sector may be broadly categorised as follows:
 - a) markets for financial products sold to personal customers
 - b) markets for financial products sold to small and medium-sized enterprises (SMEs)
 - c) markets for financial products sold to large firms, and
 - d) wholesale banking (for example, money market and foreign exchange dealing).
9. The CC also determined 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'. This same approach was adopted by the OFT in its decision in Nationwide/Portman³ and in its report to the Secretary of State in Lloyds/HBOS⁴.
10. The OFT did not receive any evidence suggesting a departure from that market definition. Therefore, separate frames of reference will be considered for the provision of mortgages, savings accounts and insurance.

Geographic scope

11. The parties 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

² *Competition Commission Lloyds TSB Group plc and Abbey National plc: A report on the proposed merger, July 2001, section 2, p. 13 (Lloyds / Abbey).*

³ *OFT decision on the anticipated acquisition by Nationwide Building Society of Portman Building Society, 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 (Lloyds/HBOS).*

supplied throughout the UK and that national pricing policies are adopted, creating no differentiation between regions. In addition, the parties argued that investment decisions are made according to centrally determined criteria and that customers selecting the types of long-term products are mainly concerned with the features of the product and pricing and will pay limited or no regard to the proximity of a local branch.

12. The CC in Lloyds/Abbey concluded that the geographic market for all of the products was Great Britain, with Northern Ireland constituting a separate market. In addition, in Northern Irish Personal Banking⁵, 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.
13. Although the parties submitted that the relevant geographic market for the supply of retail banking services is national in scope, Nationwide provided data of local areas in which the parties overlap, based on one mile and one and a half mile radii around Nationwide and Derbyshire branches.
14. In addition, since Derbyshire is mainly present in Derbyshire, the parties provided data of their market shares based on a regional basis, that is, East Midlands in this case.
15. In Lloyds/HBOS, the OFT could not rule out the possibility of competition concerns arising at the local level. However, in this case, given that the transaction does not raise competition concerns at either the regional or local level, the OFT does not need to conclude on the geographic scope and has analysed each product market on a UK-wide, regional and local basis.

⁵ *Competition Commission, Personal current account banking services in Northern Ireland, Market investigation, 15 May 2007, para 3.36.*

HORIZONTAL ISSUES

National level

Personal financial products: mortgages, savings, insurance

16. The parties overlap in the sale of personal mortgages, personal savings and personal insurance. The combined market share of supply of each of these products, according to the parties' estimates, is [5-15] per cent with an increment of less than one per cent for mortgages (measured by value of balance outstanding)⁶, [5-15] per cent with an increment of less than one per cent for personal savings (based on the total value of deposits)⁷ and no more than ten per cent for home and mortgage payment protection insurance.
17. In light of the low combined market shares and very small increments, and in the absence of any third party concerns, the OFT does not believe that the merger raises any competition concerns at the national level.

Local aspects

18. There were two local areas (Derby Littleover and Derby Borrowash) where the overlap between Nationwide and Derbyshire would reduce the number of fascia in the local areas from two to one on the basis of a one mile radius. On a one and a half mile radius the fascia reduction in the two local areas would be from four to three.
19. The parties submitted that Littleover is very close to Derby City Centre and that there were good road connections to the city centre. In addition, two competitors have branches located just outside the one mile radius around the branch of Littleover, and considerably more just outside the one and a half mile radius. Furthermore, given the evidence submitted to the OFT, the catchment area for the branches in Littleover seems to be wider than one

⁶ Based on gross mortgage lending in the year, the combined market share is less than [15] per cent ([]) with an increment of less than one per cent. In addition, the parties submitted that in no segment of mortgage products does Derbyshire have a market share of greater than one per cent.

⁷ By value of new deposits, the combined market share is [10-20] per cent with an increment of less than [5] per cent.

and a half miles. In particular, less than [80] per cent of Nationwide customers and less than [80] per cent of Derbyshire customers who opened a savings account in the last two years live within a one and a half mile radius.⁸

20. Given that the evidence available suggests that the catchment area for branches in Littleover is wider than one and a half miles, and no competition concerns arise on this wider basis, the OFT concludes that the merger does not give rise to competition concerns in this local area.
21. The parties submitted that Borrowash is also reasonably close to Derby City Centre, connected to it by the A52 and a railway service, which allows customers to use branches located in the city centre. There are at least two competitors not far out from the one and a half mile radius. In addition, given the evidence submitted to the OFT, the catchment area for the branches in Borrowash seems to be wider than one and a half miles. In particular, less than [80] per cent of Nationwide customers and less than [80] per cent of Derbyshire customers who opened a savings account in the last two years live within a one and a half mile radius⁹.
22. Given that the evidence available suggests that the catchment area for branches in Borrowash is wider than one and a half miles, and that there are a number of alternative suppliers not far out from the one and a half mile radius, the OFT concludes that the merger does not give rise to competition concerns in this local area.

Regional aspects

23. On a regional basis, the East Midlands in this case, the OFT concludes that the transaction does not raise competition concerns, given the small increments and the combined post-merger market share in the region. In addition, other national suppliers are active in the East Midlands and provide constraints on the merging parties. In particular, Nationwide's market shares are [5-15] and [5-15] per cent for mortgages and saving accounts respectively, whereas the corresponding market shares for Derbyshire are [less than 10] per cent and less than ten per cent. For personal loans, the parties submitted that Nationwide's market share is

⁸ This percentage is [lower] for Derbyshire customers who took a mortgage in the last two years. The Nationwide branch in Littleover does not sell mortgages.

⁹ This percentage is [less than 80] per cent of Derbyshire customers who took a mortgage in the last two years. The Nationwide branch in Borrowash does not sell mortgages.

[less than 10] per cent. Although the parties did not provide market share data for Derbyshire, the OFT has received no evidence to indicate the proposed acquisition would raise significant competition concerns in this respect on a regional basis.

Barriers to entry and expansion

24. 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.
25. Given that no competition concerns arise from the merger, it is not necessary to conclude on the issue of barriers to entry.

THIRD PARTY VIEWS

26. The OFT received comments and views about the merger from a number of third parties, including competitors and customers of the merging parties.
27. No third parties expressed any concerns about the transaction to the OFT. However, two customers raised concerns about how the merger would affect their deposits under the Financial Services Compensation Scheme. These concerns were not related to the competitive assessment that the OFT makes in order to decide whether to refer the merger to the Competition Commission.

ASSESSMENT

28. Nationwide and Derbyshire overlap in the offering of financial services sold to personal customers and in particular in the sale of mortgages, savings, and insurance.
29. For the purposes of this assessment, the OFT examined all these financial products on a UK-wide basis. In addition, the OFT examined information

30. provided by the parties on local and regional areas in which the parties overlap.
31. Based on the evidence available to it, the OFT considers that no competition concerns will arise on any of these 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 minimal increments in all segments. At a regional level (East Midlands) the merger does not raise competition concerns, given the small increments and the parties' combined market share. Finally at a local level, there are two local areas, where the transaction could raise competition concerns because it results in a reduction in the number of competitors from two to one on a one-mile radius and from four to three on a one and a half mile radius. However, the evidence available suggests that the relevant catchment area is likely to be wider than one and a half miles, on which basis there would be a greater number of alternative fascias post-merger. Therefore, the OFT concludes that the merger does not give rise to competition concerns at a local level.
32. Consequently, the OFT does not believe that it is or may be the case that the merger may be expected to result in a substantial lessening of competition within a market or markets in the United Kingdom.

DECISION

33. This merger will therefore not be referred to the Competition Commission under section 33(1) of the Act.