
Anticipated acquisition by Nationwide Building Society of Cheshire Building Society

ME/3871/08

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. **Cheshire Building Society (Cheshire)** is also a building society incorporated under the Building Societies Act 1986. It also provides financial services to personal customers including savings, mortgages, bonds, credit cards, insurance, estate agency services (through its subsidiary, Cheshire Property Services Limited, which trades as Cheshire Estate Agency). It is also active in personal and commercial lending, conveyancing services and brokerage

services (through its subsidiary, Cheshire Mortgage Brokers Limited). Cheshire offers access to stakeholder pensions through its relationship with Norwich Union. Cheshire has a network of 45 building society branches and 13 estate agency branches, located throughout the North West of England. Cheshire's turnover for the previous financial year was [].

TRANSACTION

3. Nationwide is acquiring Cheshire 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 15 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 Derbyshire 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 Cheshire 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 Cheshire exceeds £70 million, so the turnover test in section 23(1) (b) of the Enterprise Act 2002 (the Act) is satisfied. The OFT

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.

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.

MARKET DEFINITION

7. The parties overlap in the supply of a range of financial services to personal customers, in particular savings, mortgages, credit cards, loans and insurance. They also overlap in the supply of long-term investment products, although Nationwide is only a distributor of these services. Finally, the parties overlap in the supply of commercial mortgages and commercial loans.

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

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 proposed 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).*

considered for the provision of mortgages, savings accounts, loans, insurance, credit cards and long-term investments to personal customers. In addition, the OFT considered the supply of commercial mortgages and commercial loans as separate frames of reference.

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 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 Cheshire branches.
14. In addition, since Cheshire is mainly present in the North West of England, the parties provided data of their market shares based on a regional basis.

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

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 anticipated transaction does not raise competition concerns at either the regional or local level, the OFT does not need to conclude on the precise geographic scope and has analysed each product market on a UK-wide, regional and local basis.

HORIZONTAL ISSUES

National level

Personal financial products: mortgages, savings, credit cards, loans, insurance, long-term investments

16. The anticipated transaction will result in an increment of less than one per cent to Nationwide's national share of mortgages⁶, savings, credit cards, loans, insurance⁷ and long-term investments. In all these products, the parties estimate that the merged entity will have a share of 10 per cent or less with the exception of personal savings where its share of existing deposits will be [less than 15] per cent and [less than 20] per cent for new deposits (based on value).

Commercial mortgages and commercial loans

17. Cheshire has a share of less than one per cent in the supply of commercial mortgages and commercial loans, and the parties estimate that the merged entity will have a share of less than 10 per cent.

Conclusion on national level

18. 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 and regional aspects

⁶ The parties also submitted that Cheshire does not have more than one per cent in any segment of mortgage products.

⁷ The parties submitted that they had less than 10 per cent in each of the areas of insurance where they overlap: home, life, buy-to-let insurance, critical illness, income protection and mortgage payment protection insurance products.

19. The OFT examined the data submitted by the parties and concluded that there are no locations in which there is a reduction in the number of fascia – on either a one mile or one and a half mile radius - to four (or less) and only one from six to five.
20. In addition, the OFT concluded that the transaction does not raise concerns on a regional basis (North West of England), given the small increments and the merged entity's relatively low market share post-merger in each of the overlapping products and services. In particular, Nationwide's market share is [5-15] and [5-15] per cent for mortgages and saving accounts respectively, whereas the corresponding market share for Cheshire is less than five per cent. For personal loans, the parties submitted that Nationwide's market share is [less than 5] per cent. While there was no available data for Cheshire's market share, the OFT ruled out competition concerns given Nationwide's [] share and the existence of a number of alternative suppliers. For insurance, credit cards, long term investments and commercial mortgages and loans the parties confirmed that the merged entity's market shares would not exceed 15 per cent.

Barriers to entry and expansion

21. 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

22. The OFT received comments and views about the merger from a number of third parties, including competitors and customers of the merging parties.
23. 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

24. Nationwide and Cheshire overlap in the supply of a range of financial services to personal customers, in particular mortgages, savings, loans, insurance and credit cards. They also overlap in supply of long-term investment products, although Nationwide is only a distributor of these services. Finally, the parties overlap in the supply of commercial mortgages and commercial loans.
25. For the purposes of this assessment, the OFT examined all these financial products on a UK-wide basis. In addition, the OFT examined information provided by the parties on local and regional areas in which the parties overlap.
26. Based on the evidence available to it, the OFT considers that no competition concerns will arise on any of these frames of reference. At the national and regional (North West of England) levels, the parties have a small combined market share of supply in relation to each of the product segments with minimal or small increments in all segments. At a local level, the OFT concluded that there are no locations in which there is a reduction of fascia to four (or less), and only one from six to five.
27. 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

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