

Retail banking market investigation

Notice of possible remedies

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Introduction

1. On 6 November 2014, the Competition and Markets Authority (CMA) board in exercise of its powers under sections 131 and 133 of the Enterprise Act 2002 (EA02), made a reference for a market investigation into the supply of retail banking services to personal current account (PCA) customers and to small and medium-sized enterprises (SMEs) in the UK.
2. The CMA, acting through a group of independent members constituted from its panel, is required to decide whether any feature or combination of features of each relevant market prevents, restricts or distorts competition in connection with the supply or acquisition of any goods or services in the UK or a part of the UK.¹ If the CMA decides that any feature or combination of features prevents, restricts or distorts competition, it will have found an 'adverse effect on competition' (AEC).²
3. In its provisional findings, a summary of which was published on 22 October 2015, the CMA has provisionally found AECs. The CMA identifies those features that give rise to the AECs and the resulting detrimental effects on customers in the Notice of Provisional Findings.
4. Where the CMA finds that there is an AEC, it has a duty to decide whether it should take action itself and/or whether it should recommend others to take action to remedy, mitigate or prevent the AEC or any resulting detrimental effects on customers.³ If the CMA decides that such action is appropriate it must also decide what action should be taken and what is to be remedied, mitigated or prevented. In deciding these questions the CMA has a duty to achieve as comprehensive a solution as is reasonable and practicable to the AEC and any resulting detrimental effects on customers.⁴
5. This Notice of possible remedies (Notice) sets out our evolving thinking on possible remedy approaches, on the basis of our provisional findings. It invites comments on possible actions which the CMA might take or recommend others take in order to remedy, mitigate or prevent the AECs or any resulting detrimental effects on customers including but not limited to those that we have indicated we are minded to pursue further.
6. Prior to deciding what, if any, action should be taken and by whom, the CMA will take into account all comments received in response to this Notice and consult further. The parties to this investigation and any other interested

¹ See EA02, section 134(1).

² As defined in EA02, section 134(2).

³ See EA02, section 134(4).

⁴ EA02, section 134(6).

persons are requested to provide any views that they wish the CMA to consider, by 20 November 2015.

Criteria for consideration of remedies

7. When deciding whether any remedial action should be taken and, if so, what that action should be, the CMA will consider how comprehensively the possible remedy options – whether individually or as a package – address the AEC and/or its resulting detrimental effects on customers, and whether they are effective and proportionate.⁵
8. The CMA will assess the extent to which different remedy options are likely to be effective in achieving their aims, including whether they are practicable and the timescale over which a remedy is likely to have effect.⁶ The CMA will generally look for remedies that prevent an AEC by extinguishing its causes, or that can otherwise be sustained for as long as the AEC is expected to endure. The CMA will tend to favour remedies that can be expected to show results within a relatively short time.
9. In line with our guidelines, we will consider whether or not to limit the duration of individual remedies by including sunset provisions in their design. This may be done, for example, if the relevant competitive dynamics of a market are likely to change materially over the next few years or if the measure in question is intended to have a transitional impact, while other longer-term measures take effect.⁷
10. The CMA will be guided by the principle of proportionality in ensuring that it acts reasonably in making decisions about remedies. The CMA will therefore assess the extent to which different remedy options are proportionate, and in particular it will be guided by whether a remedy option:
 - (a) is effective in achieving its legitimate aim;
 - (b) is no more onerous than needed to achieve its aim;
 - (c) is the least onerous if there is a choice between several effective measures; and
 - (d) does not produce disadvantages which are disproportionate to the aim.⁸

⁵ *Guidelines for market investigations: Their role, procedures, assessment and remedies (CC3)*, paragraph 329.

⁶ *CC3*, paragraphs 334 & 337.

⁷ *Market studies and market investigations: supplemental guidance on the CMA's approach (CMA3)*, paragraphs 4.14–4.25.

⁸ *CC3*, paragraphs 344.

11. The CMA may have regard to the effects of any remedial action on any relevant customer benefits (RCBs) arising from a feature or features of the market concerned.
12. In the event that the CMA reaches a final decision that there is an AEC, the circumstances in which it will decide not to take any remedial action are likely to be rare but might include situations in which no practicable remedy is available, where the cost of each practicable remedy option is disproportionate to the extent that the remedy option resolves the AEC, or where RCBs accruing from the market features are large in relation to the AEC and would be lost as a consequence of any appropriate remedy.⁹

Possible remedies on which views are sought

13. In this Notice we describe the remedy options that we have considered so far and which we believe could be effective in addressing the AECs or their detrimental effects on customers. We describe each of these remedy options in turn, explaining the AECs they are meant to address and how they are intended to work.
14. We have distinguished in this Notice between those remedies that we currently believe may be effective and proportionate and those that we currently believe are not likely to be. In paragraphs 29 to 167 we invite views on the effectiveness and proportionality of those measures that we are currently minded to consider further and on the most effective means of specifying and implementing them.
15. In paragraph 173, we set out our reasoning regarding some remedies that we currently believe are not likely to be effective and/or proportionate. This is a provisional view and we will be prepared to consider these remedies further if parties are able to provide relevant evidence and reasoning as to why we should do so.
16. Similarly, we would welcome parties' suggestions of any remedies that we have not considered along with a description of how and why these could be effective and any supporting evidence.
17. For each of the remedies set out in this Notice, we invite submissions on:

⁹ [CC3](#), paragraphs 354.

- (a) how effective the remedy is likely to be in remedying, mitigating or preventing the AEC it is intended to address in each of Great Britain (GB) and Northern Ireland (NI);**
- (b) whether there are any alternative remedies that would be as effective as the proposed remedy, or more so, in addressing the AEC and that would be less costly and/or intrusive;**
- (c) whether the design of the remedy should be adapted to take account of the requirements of different customer groups, for example consumers and SMEs or particular subgroups within these categories;**
- (d) whether the remedy or a variant would overlap or conflict with any other regulatory intervention planned or in contemplation, including EU directives (for example, the first or second Payment Services Directive (PSD), the Payment Accounts Directive (PAD) or Consumer Credit Directive);**
- (e) whether the remedy may give rise to unintended consequences and, if so, what these might be and how they could be prevented or mitigated;**
- (f) whether the CMA should seek to implement the remedy itself via an order or by seeking undertakings, or whether it should make a recommendation that another body, such as the Financial Conduct Authority (FCA), Prudential Regulation Authority (PRA), Payment Systems Regulator (PSR), or HM Treasury (HMT), implement the remedy;**
- (g) the appropriate duration of the remedy and whether a ‘sunset’ clause should be included as part of the remedy design;¹⁰ and**
- (h) any RCBs to which we should have regard as being affected by the proposed remedy.**

18. In addition to seeking views on the effectiveness and proportionality of each of the remedies set out in this Notice, we invite submissions on how the remedies may function in combination with one another. For example, would certain remedies only be effective in combination with other remedies? Alternatively, would the effectiveness of certain remedies be undermined by the adoption of other remedies set out in this Notice?

¹⁰ [CMA3](#), paragraphs 414–425.

19. As noted in the [updated issues statement](#), we will consider whether any proposed remedies, if taken forward, would constitute a change of circumstances such that any of (i) the 2002 SME Undertakings need to be varied, superseded or parties can be released from; or (ii) the NI Order needs to be varied or revoked. We therefore also invite submissions on whether any of the proposed remedies would constitute a change of circumstances in relation to any of the 2002 SME Undertakings or clauses in the NI Order.

The adverse effects on competition

20. We have provisionally found, pursuant to section 134(1) of EA02, that there are features of the relevant markets, which alone or in combination, prevent, restrict or distort competition in the supply of PCAs and in the supply of certain retail banking services to SMEs in GB and NI such that there are AECs within the meaning of section 134(2) of EA02.
21. The separate AECs that we have provisionally found in PCAs, business current accounts (BCAs) and SME lending are described in the Notice of Provisional Findings.
22. We first set out possible remedies to the AECs found in PCAs and BCAs and then to the AECs in SME lending.
23. The measures we are considering to address the AECs fall into two broad categories:
 - (a) In paragraphs 24 to 131 we consider measures to promote engagement and prompt searching, and switching between current account providers;
 - (b) In paragraphs 132 to 167 we consider measures to make it easier for SMEs to shop around between lenders.

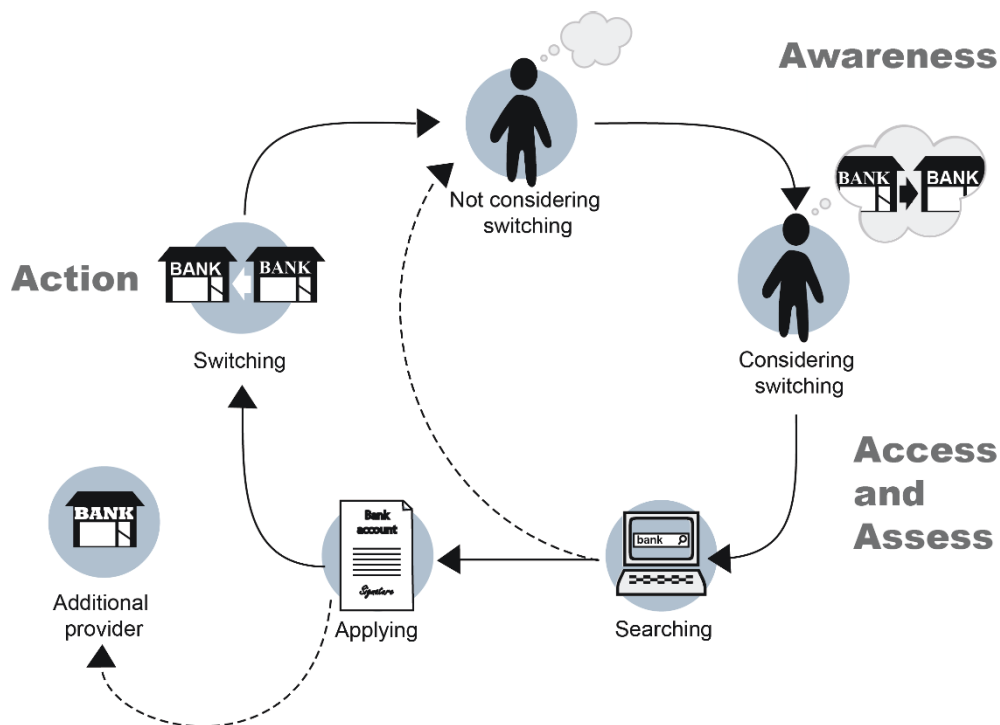
Measures to promote engagement and prompt switching between current account providers

Framework for considering switching remedies: the customer journey

24. We have provisionally found a combination of features of the markets for PCAs and BCAs in both GB and in NI that give rise to AECs including: barriers to accessing and assessing information on PCA and BCA charges and service quality, barriers to switching PCAs and BCAs, barriers to opening BCAs and low levels of customer engagement.

25. We have characterised the switching of current account provider not as an event but as a process or ‘journey’¹¹ comprising a sequence of steps. At its simplest, the journey would consist of the following stages, as illustrated below.

Figure 1: The customer journey – switching current account provider



26. The switching journey begins when customers who have not previously considered a change of provider become engaged in the market. They start to consider the potential benefits of switching and, having done so, seek information on what products are available from different providers. If they find a sufficiently attractive product/provider they may make an application to open an account. Alternatively, if they do not find a sufficiently attractive provider or if the application process is difficult, they may abandon the journey and stay with their current provider. If they do decide to go ahead, and their application to the new provider is successful, they may initiate the switching process, either closing their former account (‘full switching’) or keeping both the old and the new account open (‘part switching’ or ‘multi-banking’).
27. Drawing on the evidence collected to date, we have considered what might prompt customers to start the journey and what obstacles they might face that may lead them to abandon it. We reasoned that if measures could be devised

¹¹ Our analysis was informed by the UK Regulator’s Network [Statement on Engagement and Switching](#) and the FCA’s report on the effectiveness of CASS (March 2015), *Making current account switching easier: The effectiveness of the Current Account Switch Service (CASS) and evidence on account number portability* (‘FCA CASS qualitative research’).

that effectively addressed these obstacles at each step then, taken together as a mutually reinforcing remedies package, they would have the potential to address these AECs comprehensively. This might happen through incremental improvements to the existing switching process and by facilitating the development of new business models and mechanisms through which customers can identify a preferred provider (see paragraphs 129 to 130 below).

28. We now consider remedies aimed at the obstacles encountered by customers at each stage of the switching process, noting that some remedies may address more than one stage.

Measures to increase customer awareness of the potential benefits of switching and prompt further investigation of other providers

29. We provisionally found that a lack of trigger points, because PCAs and BCAs have no contract end date, means that customers are not required to periodically consider if their PCA or BCA is best for them.

Remedy 1 – Prompt customers to review their PCA or BCA provider at times when they may have a higher propensity to consider a change.

How the remedy would work

30. The remedy would prompt customers to consider making changes to their banking arrangements, and explain how to do so, at points when there is a greater prospect of them doing so. Its four main design parameters are:

- (a) the timing of messages, or prompts, to customers;
- (b) the content of these messages;
- (c) their source; and
- (d) the medium of their delivery.

- *Timing*

31. In certain situations or following certain events, current account customers may be more disposed to consider a change of provider than at other times. We refer to these as 'trigger points'.
32. Trigger points may arise from events connected with the customer's relationship with its bank, for example a dispute over service or the imposition of certain charges that the customer was not anticipating. They may also arise

from changes in the circumstances of the customer, for example starting their own business.

33. This remedy is intended to provide customers with information about the ease and potential rewards of switching at such trigger points.
34. Potential trigger points could include:
 - (a) a serious or widespread loss of service to a provider's PCA or BCA customers arising from an IT breakdown;
 - (b) a major dispute between a provider and an individual customer;
 - (c) a material change in the bank's terms and conditions pertaining to a BCA or PCA product used by the customer;
 - (d) a PCA customer's transition from a young person's or student account to an adult account;
 - (e) closure of a customer's branch;
 - (f) the actual or imminent imposition of overdraft charges (arranged or unarranged);
 - (g) the opening of a BCA for the first time; and/or
 - (h) the expiry of an SME customer's free banking period.
35. At this stage we are minded to focus mainly on situation or event-based prompts. However, there may be merit in messages periodically highlighting particular or persistent patterns of account usage giving rise to potentially avoidable bank charges.
 - *Content*
36. The nature of the messages delivered via prompts could vary: guiding, reminding or warning, for example. They might point customers towards sources of comparative information or they might, on the basis of the customer's account usage, identify specific, better-value products available from rival providers and how to switch to them.
37. At the end of the free banking period, for example, which could represent a significant trigger point for SMEs and at which they may be naturally inclined to consider alternative BCA providers, the remedy could require that banks provide SMEs with a warning that they are approaching the end of their free

banking period together with an estimate of their likely charges for the coming year based on their account usage during the free banking period.

38. In the case of PCAs, and given the level of complexity of overdraft terms we have described in our provisional findings, providers might, for example, be required to warn customers who were at risk of incurring overdraft charges that this was the case and how to avoid them.

- *Source*

39. In most of the situations we have set out above, other than those such as major service breakdowns which may become public, or complaints that are serious enough to be passed on to the Financial Ombudsman Service (FOS), only the customer's current account provider will be aware of their occurrence or imminence.

40. However, the provider will often have an incentive to try and lessen the impact on it of this remedy by, for example, framing messages in a way less likely to prompt switching. While the regulator or another party may be given the responsibility for overseeing the remedy, the volume of messages or prompts involved may make monitoring complex and/or expensive. We would therefore need to consider who should bear these costs.

41. We considered whether this circumvention risk could be addressed by, for example, allowing the regulator, or third parties such as intermediaries, access to lists of relevant customers, to allow them to communicate with prospective switchers at a time when they may be receptive to changing their banking arrangements. We invite views on the practicability and proportionality of such a measure below.

- *Medium*

42. Messages can be delivered through a variety of media or channels, alone or in combination. They may be sent through the mail, texted, emailed or notified through a mobile banking application. They may be delivered through mass media, for example press advertising.

43. The choice of medium will affect the lead time required for the communication, the extent to which it can be personalised, its graphic design, any functionality that can be incorporated into it, for example interactivity, and its cost. It will therefore also determine whether messages to individuals could be delivered shortly before the time at which a decision may be needed by them.

Issues for comment – remedy 1

44. We invite comments (distinguishing between PCAs and BCAs where relevant) on the following issues in addition to the questions set out in paragraph 17:
- (a) Is the general approach of this remedy (making use of ‘trigger points’) likely to be effective in prompting customers to consider changes in current account provider?**
 - (b) Is there, nonetheless, merit in requiring periodic reminders or messages in respect of particular patterns of account usage, for example to bring to customers’ attention the cumulative costs to them of unarranged overdrafts?**
 - (c) Do the occasions or situations identified in paragraph 34 represent points at which BCA and PCA customers are likely to be receptive to messages prompting them to consider changing their banking arrangements?**
 - (d) Are there any other trigger points at which customers would be especially disposed to consider changing their current account provider?**
 - (e) To what extent should messages advise customers to actively consider an alternative provider? Should they, for example, draw attention to specific better-value accounts available from other providers? Should they link to sources of comparative information such as price comparison websites (PCWs)?**
 - (f) What types or combinations of customer communication, for example letters, texts, emails, are most likely to be effective in prompting customers to consider changing their banking arrangements? Is this likely to vary with the nature of the event or the type of customer?**
 - (g) Who should determine when a ‘serious or widespread loss of service’ had taken place?**
 - (h) In situations where the provider is responsible for sending the message/prompt, should the content and presentation of the messages concerned be standardised, specified or approved by a regulator?**

- (i) **Alternatively, would it be practicable and proportionate to require providers to facilitate access to relevant customers by the regulator(s), intermediaries or others?**
- (j) **What obligations should be placed on firms to support, including financially, compliance monitoring, for example through mystery shopping or the procurement of third party compliance auditing? Would the FCA or the CMA be the most appropriate body to do so? If not, who? Who should monitor compliance?**
- (k) **What, if any, are the practical, technical or regulatory barriers (given the potential overlap with, for example, the PAD and PSD to the implementation of this remedy?**

Remedy 2 – Increase public awareness of the potential savings or rewards that could be obtained by changing one’s current account provider and of the benefits of using the Current Account Switch Service to do so in terms of security and convenience

45. We provisionally found that barriers to switching accounts still remain despite the introduction of the Current Account Switch Service (CASS) and that awareness of and confidence in CASS is low. We noted that [Bacs](#), which operates and manages it, had responded positively to the FCA review of the switching service and had increased its advertising budget in 2015/16. However, we considered that further efforts to promote the service would form an important part of our remedies package.

How the remedy would work

- 46. The remedy could be implemented most straightforwardly through increased and sustained levels of advertising by Bacs of the potential savings and/or rewards of changing current account provider and the speed, ease of use and security of CASS. Any such advertising would be designed to complement, and make customers more receptive to, the targeted messages described in remedy 1.
- 47. In addition, it could oblige current account providers to include, and give due prominence to, references and links to the CASS service in its marketing communications to customers.
- 48. Design parameters for this remedy would include the scale of promotion to be undertaken, the groups at which it should be targeted, its funding and the choice of entity to be responsible for planning and implementing campaigns.

- *Scale of promotion*

49. It is currently not clear to us on what scale such a campaign would need to be to have sufficient impact on public awareness of and confidence in the ease and benefits of switching but there may be lessons that can be learnt from analogous activity in, for example, the energy market as well as from analysis of the effectiveness of CASS advertising in 2014 and 2015. In addition, the work that Bacs is currently undertaking in response to the FCA report on CASS on the methodology of measuring awareness of and confidence in CASS will be relevant.

- *Target audiences*

50. To be effective, campaigns would need to target audiences who are not aware of CASS and its benefits but who could benefit from switching.
51. Both our own research and that of the FCA¹² found that SMEs are relatively uninformed about CASS, for example, and less likely to switch BCAs using CASS. Other customer groups who might specifically be targeted since they could benefit substantially from switching current account provider would include regular overdraft users and those with large credit balances in their accounts.

- *Funding*

52. As regards funding, options might include that contributions be based on providers' current market share of PCAs or BCAs or that it be related to the benefits that they derived from it in terms of switched accounts, ie their net gain/loss of accounts.

- *Choice of entity to manage campaigns*

53. In terms of planning and managing awareness campaigns, this remedy could, for example, require that Bacs undertakes or procures a sustained series of appropriately funded advertising campaigns aimed at promoting switching through CASS.
54. Alternatively, other measures that would modify the governance and oversight of the CASS process might themselves incentivise Bacs to undertake more effective promotional activity, without the need to mandate specific promotional activity. These could include changes to the composition or voting

¹² [FCA CASS qualitative research](#).

arrangements of the CASS Management Committee, for example, or the introduction of a stronger independent element in its governance (see paragraph 124).

Issues for comment – remedy 2

55. We invite comments on the following issues (distinguishing between PCAs and BCAs where relevant) in addition to those set out in paragraph 17:
- (a) **On what scale and over what period would it be necessary to conduct promotional activity to sufficiently increase awareness of the potential benefits of switching and confidence in the switching process?**
 - (b) **What indicators should be used to evaluate the effectiveness of CASS promotional activity?**
 - (c) **What specific obligations should be placed on current account providers in terms of including references to CASS in their marketing communications to customers?**
 - (d) **Are there lessons we can learn from other sectors where switching rates have been low and where generic advertising has been undertaken to try to increase customer engagement?**
 - (e) **Are there particular customer segments or trigger points that should be targeted by such campaigns, in addition to those mentioned here?**
 - (f) **How should an increase in promotion be funded? If from current account providers, on what basis should they be expected to contribute? Should, for example, contributions be based upon current market shares of PCAs and BCAs or the net gains by each bank through CASS or a mixture of the two?**
 - (g) **Who should undertake such campaigns and who should be responsible for ensuring that they were effective, targeting appropriate customer groups, at relevant times with effective communications?**

Measures to facilitate comparisons between providers

56. We provisionally found that there are barriers to accessing and assessing information on current account charges and quality and that while the Midata

initiative is a very positive development it is not straightforward to use and its usage remains very low.

57. In this subsection we propose three possible remedies. The first aims to facilitate price comparisons between current account (BCAs and PCAs) providers by providing pricing information based on a customer's transaction history. The second sets out additional measures that are intended to facilitate price comparisons by SMEs between BCAs. The third proposes a remedy to facilitate comparisons between current account providers (BCAs and PCAs) on the basis of their service quality.

Remedy 3 – Facilitate price comparisons between providers by making customer-specific transaction data more easily available and usable, including by PCWs

58. For some customers comparing current account providers is not straightforward. We found in particular that comparing overdraft charges between providers could be complex. Further, since BCAs are generally charged for on a per transaction basis, to compare providers an SME would need access not just to a tariff but also be aware of its likely usage of each type of service or transaction.
59. The [Midata](#) initiative described below represents a significant step forward in this regard. However, we found that it currently has a number of shortcomings, including that it does not cover BCAs, and are therefore considering what improvements to it might be appropriate.

How the remedy would work

60. We set out below two examples of possible enhancements to Midata. These are the adoption of common application programming interfaces (API) standards between banks and the extension of the project's scope to include BCAs.
61. We are also considering the desirability of ancillary measures to complement these enhancements, including the promotion of the service once extended in the ways we envisage here and interim measures it may be desirable to adopt alongside them.
- *Improvements to the Midata features and functionality*
62. Midata is a government initiative which aims to enable consumers to have better access to and make greater use of their data. Part of this initiative, led by HMT, in collaboration with the larger banks and technology suppliers, applies to PCA usage.

63. This element of the initiative is intended to allow consumers to use their historical transaction data on PCWs to estimate likely future charges from different PCA providers. Although past usage may sometimes be an imperfect indicator of future usage, for customers whose account usage is likely to remain similar in future it provides a much more accurate, and potentially easier to use, guide to the level of future charges for PCAs and BCAs than is currently available in most PCWs.
64. As currently provided, the service entails consumers locating their (Midata-formatted) transaction data on their online banking website and downloading it, then uploading it to a PCW where accounts can be compared.
65. The current execution of Midata for PCAs has a number of disadvantages for customers, for example its incompatibility with the operating systems of Apple mobile devices and the difficulty of locating the relevant customer files on providers' websites.
66. Further, some of the transaction data downloaded is currently redacted to address confidentiality concerns arising from the technology being used. This, for example, prevents the PCW's systems from identifying payments, such as to utility companies, which would qualify for rewards from some current account providers.
67. It would be unnecessary for customers to download data in this way if banks adopted a common standard for APIs¹³ to which PCWs had access. This would enable PCWs, with the customer's permission, to access their transactions and would thus make the service easier for consumers to use.
 - *Extension to SMEs*
68. The scope of the Midata initiative, as regards banking services, is currently limited to consumers and PCAs. While the benefits to consumers of a transaction-based price comparison service like Midata are significant, they may be greater still for SMEs wishing to compare BCAs.
69. Banks are not, and will not under the PAD,¹⁴ be required to present a tariff of transaction prices in a standard format in order to facilitate comparisons for BCAs. Even if SMEs are able to access a tariff of transaction prices they may find it difficult to convert this into an estimate of annual charges because they may be unaware how often they will use each transaction type. The remedy

¹³ For a description of APIs and their potential use see Deloitte (2015), *The Impact of Innovation in the UK Retail Banking Market*.

¹⁴ See the FCA website for [a description of the PAD](#).

would reduce this obstacle by allowing SMEs to estimate the comparative costs of alternative BCA providers using their own transaction history.¹⁵

- *Awareness and usage of Midata*

70. Since its launch on a PCW in March 2015, the Midata service has experienced very low usage in terms of data downloads. We will therefore consider whether, to be effective, in addition to enhancing its content and functionality, this remedy should be accompanied by measures to increase awareness of the service, similar to those we have proposed for CASS (under remedy 2).

- *Timing and implementation*

71. Further to a consultation in early 2015, HMT has committed to deliver an open API standard in UK banking, and will set out a detailed framework for the design of the open API standard by the end of 2015. The Open Banking Working Group (OBWG) has been tasked with taking this work forward, bringing together a range of stakeholders across government and the banking and FinTech industries in order to do so.¹⁶

72. We noted respondents' views in response to HMT's consultation that an open API standard might reasonably require a time frame of one to two years to develop, and note that Payment Services Directive 2¹⁷ (PSD2) implementation is expected to occur within a similar time frame (two years). We therefore considered whether it would be possible to accelerate the implementation process or if it would be desirable to adopt additional remedies in the interim.

73. We are also considering the desirability of interim measures to help customers compare current accounts (BCAs and PCAs) while the Midata service is developed. These could include mandating standard formats for presenting current account charges such as overdraft fees, and the use of illustrative and standard usage profiles. We include questions on such measures below.

Issues for comment – remedy 3

74. We invite comments (distinguishing between PCAs and BCAs where relevant) on the following issues in addition to those set out in paragraph 17:

¹⁵ We note that although start-up businesses will have no transaction history, in most cases they will enjoy free banking for their first year or so. Even though charges will have been waived, their (free) transaction history could still be used to estimate the bank charges that will apply once the free period ends.

¹⁶ See the [Open Data Institute's website](#) for further details of the OBWG.

¹⁷ See the FCA website for [a description of the PSD](#).

- (a) How quickly could the proposed enhancements for Midata, including agreement on a common API standard, be implemented? To what extent, if at all, would this be constrained by other legislation, in particular the payment services directives?**
- (b) Are the proposed improvements to the features and functionality of Midata set out here those most likely to be helpful to potential users? Are there other improvements which would be as or more helpful and if so, what are they? Could, for example, Midata be used to highlight aspects of an account holder's usage which are likely to vary significantly between providers but which are particularly difficult to compare, such as overdraft charges?**
- (c) What technical or regulatory obstacles, if any, are likely to be faced by PCWs wishing to host the Midata service? Are, for example, banks' terms for SMEs sufficiently transparent for PCWs to be able to populate their systems? Are there improvements to the current format and content of Midata files that would facilitate more effective use by intermediaries such as PCWs?**
- (d) For the remedy to be effective, would it be necessary to adopt supporting measures to ensure that the benefits of using Midata on PCWs were promoted? Who should be responsible for raising awareness of the benefits of using Midata for account comparisons?**
- (e) Is it necessary to require providers to make customers' Midata files easier to locate on their online and mobile banking websites or would this be unnecessary if banks adopted common API standards?**
- (f) What technical difficulties, if any, would arise from adopting the Midata data standards for BCA transaction histories? In what respect do they differ from those associated with PCA information? Does this differ between SMEs?**
- (g) Should Midata be available for all SMEs? Should there be an upper turnover limit for SMEs with access to Midata? If so, where should this be set?**
- (h) Are there other approaches to facilitating price comparisons between BCA and PCA providers that would address our concerns but be implementable sooner? Could existing measures to address some of these concerns, for example the use by the larger banks of**

standard scenarios to present unarranged PCA overdraft charges,¹⁸ be improved or extended and if so how? Are there other elements of bank charges that should be made easier to understand through the introduction of new, or the enhancement of existing, measures?

- (i) How could it be made easier for customers who lack internet access or IT skills to make price comparisons between providers?**

Remedy 4 – A PCW for SMEs

75. We provisionally found that while price information is available, it is difficult for SMEs to compare fees across banks because of the complex tariff structures and multiplicity of charges for BCAs, the variability in usage, and the lack of effective price comparison tools, including ones that are able to use SME usage data to calculate which BCA offered the best prices.
76. Despite a number of initiatives aimed at making it easier for SMEs to compare the price of banking services, including but not limited to BCAs, the quality of information available to SMEs remains more limited and harder to access than that available to consumers.
77. In addition, we noted that some initiatives aimed at facilitating comparisons between providers by consumers have not been extended to SMEs. We have already referred to the scope of Midata. PAD similarly does not apply to BCAs, including its requirements on the standard presentation of terms to SME customers.

How the remedy would work

78. We are considering a number of possible approaches to this problem, the most straightforward of which would be to require providers to facilitate the establishment of a PCW on banking services for SMEs covering, but not being limited to, BCAs, including overdrafts, and loans.
79. We envisaged that such a website would eventually have access to SME transaction data in Midata format, as described earlier. We also considered whether additional ways of facilitating comparisons between providers could be made available sooner, for example measures that could apply provisions equivalent to those contained in PAD, for example as regards the presentation of PCA terms, to BCAs.

¹⁸ Provisional findings, Appendix 7.2 (PCA Transparency).

Issues for comment 4

80. We invite comments on the following issues in addition to those set out in paragraph 17:
- (a) What products should a PCW for SMEs include? What content, features and functionality should it provide?**
 - (b) As well as including standard BCA tariffs should it also offer indicative pricing of loans and overdrafts where these are bespoke? If so, how could these best be presented?**
 - (c) Would the creation of an effective SME PCW be contingent on the extension of the Midata project to SME data? If not, given the transactional pricing models used by most banks for their BCAs, how best could comparisons be made? Would standardised business profiles offer a practicable alternative and how could these be derived for start-ups with no transaction history?**
 - (d) If providers were to create a PCW what financial arrangements would be appropriate for its funding? Could support be restricted to the provision of, for example, some form of seed funding or temporary extra support until the PCW became commercially viable? Alternatively, would it be necessary for the industry to support it longer term?**
 - (e) Are there arrangements that could be put in place to provide commercially operated PCWs with the incentive and the ability to extend their coverage to SME banking services? What might these entail?**
 - (f) Were such a PCW to be established, what form of oversight would be necessary to ensure that its information was accurate and up to date?**
 - (g) What technical or regulatory obstacles, if any, would arise from this remedy? How could they be overcome?**
 - (h) What would be a reasonable timetable for the creation and launch of a PCW for SMEs?**
 - (i) In advance of, or in addition to, the creation of a PCW for SMEs, what requirements should apply to the disclosure of charges and terms made available by providers of SME banking services? Should their charges and terms for loans, for example, be presented in**

standard format? More generally, would it be practicable to apply some or all of the requirements equivalent to those of PAD to BCAs and, if so, which?

Remedy 5 – Enable consumers and SMEs to make comparisons between current account providers on the basis of their service quality

81. Service quality is an important factor in overall customer satisfaction with current account providers, both for SMEs and consumers.
82. According to the GfK PCA consumer survey the two most important features of a bank account were ‘quality of staff and customer service’, which 83% said was essential or very important, and ‘quality and speed of handling problems’ (82%).¹⁹
83. In the 2014 Charterhouse survey of SMEs the reason most frequently cited by switchers for selecting their current main banking provider was good or better overall service.²⁰ In our follow-up survey, 37% of SMEs said that, with hindsight, they would have focused more on providers’ service quality when choosing a BCA.²¹
84. The major providers themselves continuously monitor and benchmark their performance against competitors in terms of, for example, net promoter scores.
85. Some measures of service quality, such as the extent of local branch opening hours, are readily available to customers. Others, such as the time taken to open a current account, the reliability of transaction services and speed of complaint handling, are not.
86. Organisations such as Which? periodically report on the service quality of PCA providers. The only source of service quality information for SMEs that we are aware of is [Business Banking Insight](#), a website²² operated by ICM and TMW, which assists SMEs to collect and compare information on banks’ quality of service. It allows SMEs to leave comments as well as rate service quality on a number of aspects.

¹⁹ [GfK PCA consumer survey](#).

²⁰ Charterhouse Business Banking Survey 2014.

²¹ [SME follow-up survey results](#), slide 21.

²² Jointly driven by the FSB and British Chambers of Commerce (BCC), Business Banking Insight was originally initiated by HMT and is supported by an advisory group that includes the British Bankers’ Association, Royal Bank of Scotland and the Department for Business, Innovation & Skills.

How the remedy would work

87. The remedy would require the collection and dissemination of data on the service quality of PCA and SME banking services providers in a form that would enable customers to make valid comparisons between them. The design parameters for this remedy are principally which facets of service quality should be included, how information should be made available to customers and who should be responsible for undertaking or procuring its collection and dissemination.

Issues for comment – remedy 5

88. We invite comments (distinguishing between PCAs and BCAs where relevant) on the following issues in addition to those set out in paragraph 17:
- (a) **What are the key facets of service quality for consumers and SMEs? Are these likely to differ between subsets of these groups and if so in what way?**
 - (b) **How should performance in respect of these facets be measured? Are these facets currently measured by or for most providers and, where they are, do they employ common or standard measures?**
 - (c) **Is the demographic and geographic scope of current commercially available satisfaction surveys adequate? Are sample sizes sufficient to adequately reflect satisfaction with newer or smaller banks, for example, or in particular parts of the UK?**
 - (d) **How should quality information be disseminated? For example, by providers publishing service quality data on their websites, within communications to customers and/or at branches? To what extent would such requirements overlap or be in conflict with PSD2?**
 - (e) **In addition, or alternatively, would there be merit in providers funding and procuring a third party to undertake and disseminate comparative service quality data? What are the relative merits of these different approaches?**
 - (f) **What monitoring and oversight arrangements would be necessary in order to ensure that service quality data provided by banks was accurate, up to date and not misleading? Who should provide this oversight and how should it be funded?**

Measures to make BCA opening easier

89. We provisionally found that the account-opening process can be lengthy and onerous for SMEs, particularly because of banks' processes for undertaking anti-money laundering (AML) compliance and Know Your Customer (KYC) checks.

Remedy 6 – Standardise and simplify BCA opening procedures

90. The remedy would aim to facilitate the account-opening process. For instance, firms could agree to adopt a common form and common data and evidence requirements during the account opening process. This would standardise the essential customer due diligence (CDD) requirements, such as KYC and 'Know Your Business' (KYB).

How the remedy would work

91. Common account-opening forms could be required to be made available online for downloading and printing, along with clear instructions as to what was required for verification, either in person at a bank branch, or online or via the telephone.

Issues for comment – remedy 6

92. We invite comments on the following issues in addition to those set out in paragraph 17:
- (a) If common standards were promoted what form should these take and what data requirements would be appropriate?**
 - (b) Would it be practicable or desirable to require providers to accept a 'CDD data pack' which enabled the customer to 'recycle' AML checks carried out by the customer's current bank?**
 - (c) Should a distinction be made between different types of SME with, for example, smaller SMEs or those comprising a particular business entity, such as sole trader, being liable to less onerous checks?**
 - (d) To what extent, if any, could measures to streamline the account application process cut across AML or KYC requirements?**
 - (e) To what extent could this remedy give rise to unintended consequences, for example blunting banks' incentives to compete on how quickly they can process a BCA application?**

- (f) Are there other measures that would reduce the time it takes to open a BCA? Would an outcome measure, such as the average or minimum time it took BCA providers to process an application, be appropriate as the basis for a remedy?**

Remedy 7 – Make it easier for prospective PCA customers to find out, before initiating the switching process, whether the overdraft facilities they were seeking would be available to them from another provider

93. We provisionally found that overdraft charges are particularly difficult to compare across banks, due to both the complexity and diversity of the banks' charging structures but also customers' difficulties in understanding their own usage. There are also additional barriers to switching for overdraft users due to uncertainty surrounding the acceptance and timing of an overdraft approval. Heavy overdraft users were in particular less likely to switch.
94. We also found that in some circumstances a customer who had applied to a new provider would not know whether they would be granted overdraft facilities until the late stages of the switching process, by which time their old account may have been closed.
95. While not all customers may require overdraft facilities, obstacles to discovering in advance what may be available from the prospective provider may constitute a barrier to switching for those who do.

How the remedy would work

96. This remedy would enable potential customers to ascertain whether or not they would be able to obtain the required overdraft facilities prior to closing their old account. We have identified two possible variants of this remedy:
- (a) Requiring providers to make available on their website a tool to help potential customers assess whether they would be likely to be granted an overdraft facility of a particular size/for a particular period.
- (b) Requiring providers to arrange their application process in such a way that customers were given a firm decision on overdraft facilities before closing their original account.
97. The first approach may not provide customers with a sufficiently clear-cut answer since it would of necessity be an 'in principle' offer and subject to qualifications. The second approach would offer a more comprehensive solution though may be more complex to implement.

Issues for comment – remedy 7

98. We invite comments on the following issues in addition to those set out in paragraph 17:
- (a) Is it practicable to require banks to provide a definitive answer on overdraft applications early on in the account-opening process? Would doing so be likely to extend the length of the process?**
 - (b) Would a tool such as we describe, while not providing customers with a definitive answer, nonetheless be useful in identifying possible lenders?**
 - (c) Are there other approaches to making the application process easier or more transparent for customers who require overdraft facilities?**
 - (d) Would partial switching (see remedy 11) lessen the problem by at least permitting customers to retain their existing overdraft facilities in the event that the new provider did not grant them the required facilities? Alternatively, if a customer made a partial switch, would this affect the overdraft facilities available to them?**
 - (e) What technical or regulatory obstacles, if any, would arise from this remedy? How could they be overcome?**

Measures to improve the switching process

99. We provisionally found that even where customers had decided that opening an account with a new provider could be advantageous, some may nonetheless refrain from doing so because they lacked confidence in the (CASS) switching process. We considered that confidence in the reliability of the switching process could be increased if the following four aspects of the service were improved:
- (a) That the period during which it was guaranteed that payments into old accounts would be credited to the new one was extended further.
 - (b) That providers, for a specified period after a customer had closed an account, made their transaction history available to them.
 - (c) That the switching service be extended to include continuous payment authorities (CPAs).
 - (d) That all providers were required to support the partial switching service and to provide an equivalent guarantee to that offered by the full switching service.

100. As well as these technical improvements to the switching service we will also consider whether it would be desirable to modify the governance of CASS to ensure that its management had the incentive and the ability to, for example, invest in promoting awareness in the service and developing new products.
101. We discuss each of the remedies intended to enhance the service and the possibility of changes to CASS's governance in paragraphs 102 to 127 below.

The length of the redirection period

Remedy 8 – Require payments into the old account to be redirected to the new one for a longer period than at present

102. Under current arrangements, CASS guarantees that payments made into the old account of a customer using the full switch service will be redirected to the new account for a period of 36 months. Customers, however, may be deterred from initiating the switching process because of the risk that payments made into their old account after the end of that period would be lost.

How the remedy would work

103. This remedy would address the actual and perceived risk that payments made into an account that had been closed as part of the switching process would go astray.²³ We considered two potential ways in which this could be achieved: an extension of the CASS redirection period and account number portability (ANP).
104. An extension to the current redirection period would be relatively straightforward though it would be necessary to specify what length of extension would be appropriate, including for an indefinite period. It would also be necessary to identify any technical or regulatory obstacles to increasing the redirection period and any unintended consequences that might arise. An extension might, for example, blunt the incentives of payors to amend the payment details of payees who had switched accounts.
105. ANP would ensure that future payments into closed accounts would not go astray and the same kind of approach has been successfully adopted in the mobile phone sector. It would therefore be likely to be effective in addressing

²³ We note that the [FCA CASS qualitative research](#) made the following recommendations regarding the redirection service (paragraphs 9.13 & 9.14): (a) Bacs should develop a proposal to mitigate the risk of the end of the redirection service undermining confidence in CASS; and (b) Bacs should consider the technical feasibility of an unlimited extension to the redirection service. Bacs told us that it was working on ways to address these recommendations, including a solution that gives all customers a minimum of 36 months' redirection, and they will continue to be supported by the redirection service until they no longer require it for regular payments coupled with a range of activities to minimise the risk of payments being made to the old account.

this particular risk. Most estimates, however, suggest that ANP would be a relatively costly and intrusive measure.

106. We are currently of the view that the improvements to the switching process (extension of the redirection period) proposed here have the potential to address the AECs we have provisionally found and would be less costly and more proportionate than ANP. We have not ruled out ANP in the event that, for example, our proposals prove not to be practicable or have insufficient impact on customer confidence. This being so we have also invited comments on ANP in this section of the Notice.

Issues for comment – remedy 8

107. We invite comments (distinguishing between PCAs and BCAs) on the following issues in addition to those set out in paragraph 17:
- (a) If the current 36-month redirection period were to be extended, how long should it be? Would it be practicable to extend it in perpetuity, for example?**
 - (b) Are there technical or regulatory obstacles to extending the redirection period further? If so, how could these be overcome?**
 - (c) Would extending the redirection period give rise to unintended consequences? Would it, for example, lessen the incentive of payors to amend their payment details?**
 - (d) Would ANP be more likely than a longer redirection period to increase customers' understanding of and confidence in the switching process? Would it particularly be of benefit to some customer groups?**
 - (e) If a longer redirection period was adopted, would further remedies be needed to improve confidence in and uptake of CASS, for example compensation for errors arising from redirection?**

Remedy 9 – Require banks to retain and provide ex-customers, on demand, with details of their BCA and PCA transactions over the five years prior to their account closure

108. Customers may be deterred from initiating the switching process since, once their old account has been closed, they may no longer have access to their transaction history. Transaction histories may be required as part of, for example, a mortgage application and while in the past customers may have

retained hard copies of bank statements, as they are increasingly accessed online, fewer customers may retain them.

How the remedy would work

109. Under this remedy banks would be obliged to hold transaction histories and make them available to customers on demand for five years after they had closed their accounts.

Issues for comment – remedy 9

110. We invite comments on the following issues (distinguishing between PCAs and BCAs) in addition to those set out in paragraph 17:
- (a) **For how long after closing their account should a customer be able to obtain details of their past transactions from their previous provider?**
 - (b) **Should providers be permitted to charge for this information?**
 - (c) **For what period should past transaction data be available? Is five years' worth of data sufficient?**
 - (d) **Would the purpose of the remedy be achieved by banks automatically providing customers with their transaction history when they closed their account?**
 - (e) **What role, if any, would it be appropriate for Bacs/CASS to play in this process?**
 - (f) **Are there any technical or regulatory obstacles in implementing this remedy, for example from PSD2 or Regulations under the Small Business Enterprise and Employment Act (the SBEE Act)? If so, how could these be overcome?**

Remedy 10 – Require Bacs to transfer continuous payment authorities on debit cards when switching through CASS

111. While CASS deals with the transfer of standing orders and direct debits between the old and the new bank account, it does not transfer regular payments taken from a customer's debit card.
112. Customers may be deterred from switching because of the prospect of having to change these arrangements themselves.

How the remedy would work

113. The remedy would require debit card CPAs to be included in the switching service, would thus make the switching process more convenient for customers and may therefore increase their propensity to switch.

Issues for comment – remedy 10

114. We invite comments on the following issues (distinguishing between PCAs and BCAs where relevant) in addition to those set out in paragraph 17:
- (a) Is the remedy practicable? Can Bacs reliably identify and distinguish CPAs, for example?**
 - (b) If, for technical reasons, Bacs could not guarantee that all CPAs would be transferred, would a target of less than 100% or a 100% guarantee limited to payments in excess of a particular monetary value be adequate to address this risk?**
 - (c) Is the remedy of more relevance to consumers than SMEs? Do SMEs use CPAs as a payment (as opposed to a billing) process?**
 - (d) What technical difficulties, if any, would be involved in its implementation and how could these be overcome? Would, for example, providing the acquiring bank with the customer's transaction history make it easier for them to identify CPAs? How long would it take to implement the remedy?**
 - (e) To what extent would the purpose of the remedy be achieved if customers with CPAs were advised or warned not to close their old accounts until the CPAs had been set up on their new debit cards?**

Remedy 11 – Require all banks to support the partial switching service and to provide an equivalent guarantee to that offered as part of CASS

115. Two types of account switching service are supported by Bacs: the full switch and the partial switch service.
116. The full switch service entails customers transferring all payments in and out of their old account to their new one and closing their old account. It guarantees that all payments associated with the old account will be switched to the new one and be ready for use with effect from a pre-agreed switch date.

117. The partial switch service does not automatically close the customer's existing account and, although it can transfer payments to the new account, it does not offer a guarantee comparable to that available with the full switch service.
118. The partial switch service has some advantages over the full switch service and addresses three of the problems that we have identified in our analysis.
119. First, the customer's ability to experience the service quality of a new provider before closing down the old account may increase confidence in the switching process and encourage more people to switch.
120. Second, retaining the old account, provided sufficient funds are left in it, may solve the difficulty of CPA transfers since the debit card from which they are paid will remain linked to an active account.
121. Third, customers wishing to retain their existing overdraft facilities may do so and are able to retain these until it is clear that a new provider will offer them an equivalent facility.

How the remedy would work

122. This remedy would require providers to offer a guarantee to partial switching customers in respect of:
 - the ability to choose a switch date;
 - the ability to transfer all or selected payment arrangements automatically;
 - the completion of the switch within seven working days;
 - the option for the customer to ask for automatic redirection of incoming payments accidentally sent to the old account (in place for 36 months);
 - the option to ask for transfer of balance in the old account to the new account on the date of the switch; and
 - the refunding of any interest paid or lost and any charges made on either the old or new account if anything goes wrong with the switching process.

Issues for comment – remedy 11

123. We invite comments on the following issues (distinguishing between PCAs and BCAs where relevant) in addition to those set out in paragraph 17:
 - (a) **How effective is this remedy likely to be in encouraging additional customers to switch given that the inducements that providers are**

likely to offer to those closing their existing current account will be greater than those offered to those not doing so?

- (b) Would the attractiveness of partial switching differ between customer segments? Would overdraft users find it particularly attractive, for example, or would the bank at which they had retained their account be likely to vary the overdraft facilities that it was willing to provide?**
- (c) Is the list of features that should be included in the proposed partial switch guarantee comprehensive? If not, what should be added?**
- (d) What would the consequences be, commercially and in regulatory terms, if customers were to switch all their payments to a new account, but leave the old one open?**
- (e) Would the remedy lead to more multi-banking with customers switching usage according to the incentives offered by banks with which they held accounts? What would the consequences of this be?**
- (f) Is the seven-day switching period under the proposed partial switch guarantee appropriate, including for the larger SMEs? If not, what would be an appropriate switching period?**
- (g) Are there any regulatory, technical or other obstacles to implementing this remedy, for example as regards any overlaps with PAD? How could these be overcome?**
- (h) Would it be necessary to include any ancillary measures with this remedy? For example, if providers offered different, and lesser, rewards to customers who only execute a partial switch would it be necessary to require that this is made prominent in advertising and marketing material?**

Remedy 12 – Changes to CASS governance

124. The current balance of influence between providers who are likely to be net winners and those that are likely to be net losers from the switching process may not fully align with Bacs' objectives of promoting awareness of and confidence in CASS. Providers who are likely to be net losers may be able, for example, to dilute or frustrate attempts to improve and promote CASS or develop new products.

125. A potential benefit of changing CASS's governance would be that it might remove or reduce the need to adopt certain remedies or mandate particular conduct (such as promoting the current services available or developing new ones). If well designed, the governance structure would provide those managing the service with suitable incentives to operate and develop the service in the interest of customers. More importantly, it would also have the benefit of motivating CASS's management to continue to seek out new ways to improve the switching process over the long term.

How the remedy would work

126. The remedy would address the size or composition of CASS's management committee, its voting arrangements or its higher-level oversight.

Issues for comment – remedy 12

127. We invite comments on the issues below in addition to those set out in paragraph 17.
- (a) **Does the current membership and voting structure of the CASS Management Committee blunt its incentives to promote switching between current account providers?**
 - (b) **In what ways, if any, should the membership of the Management Committee be changed? Is its size or composition appropriate?**
 - (c) **Does the 75% voting majority required on the Management Committee permit the banks likely to be net losers from switching to exert material influence over CASS policies, for example the amount to be spent on promoting the service? Does it permit a small number of members to veto desirable proposals?**
 - (d) **Would it be desirable to introduce an element of independent oversight of CASS? If so, how could this be done?**

The PCA and BCA switching package as a whole

128. The remedies we have set out here could each individually have a beneficial impact on the AECs we have provisionally found in the PCA and BCA markets. However, we believe their impact in combination, as a package, is likely to be greater than their effect in isolation.
129. Further and in particular, were Midata to be enhanced in the ways we have set out here, when taken together we believe that the remedies have the

potential to facilitate the growth of commercial intermediaries who would have the incentive and ability to build their businesses by helping customers find more attractive providers.

130. We envisage this remedies package facilitating the creation of websites/portals where the customer journey may be undertaken in one session, with the customer moving seamlessly between price comparison tools (using, for example, Midata) and provider quality ratings, to account application and then to a full or partial switching service.

Issues for comment

131. We invite views on the likely effectiveness of this package of measures overall, on additional measures that might be included or if there are particular remedies currently contemplated as part of the package that should be removed or modified.

SME lending

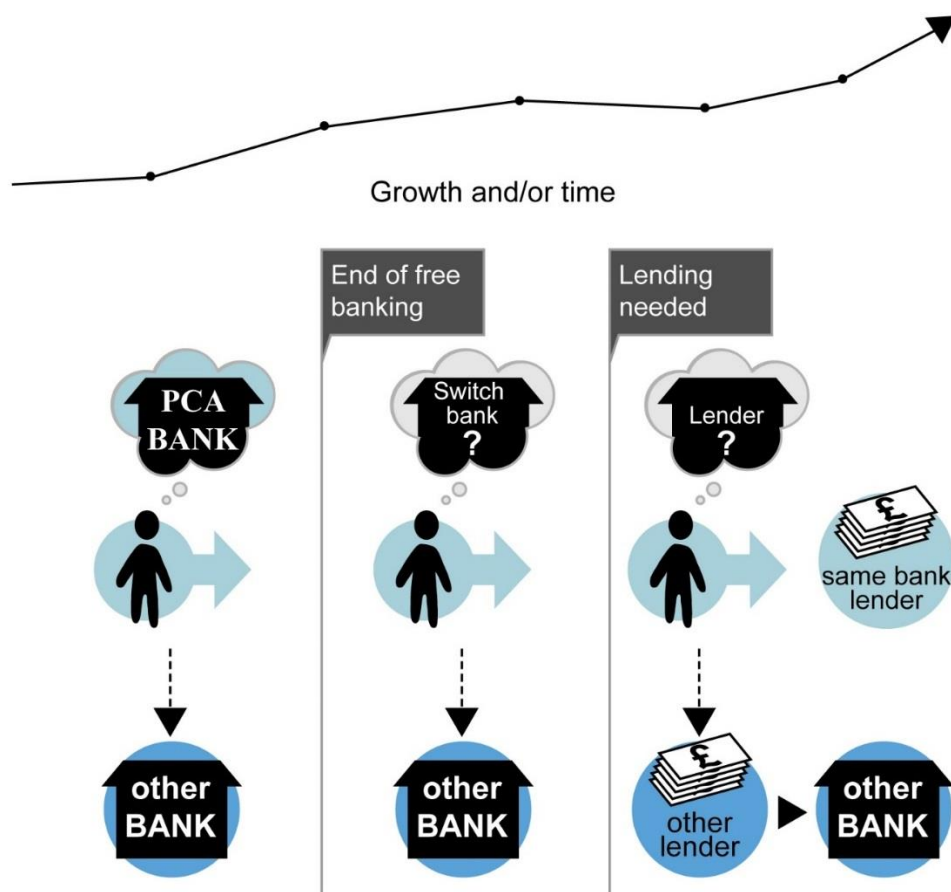
The adverse effect on competition

132. We have provisionally found that a combination of features in the provision of SME lending in each of GB and NI respectively give rise to AECs. These features comprise strong linkages between BCAs and SME lending products; barriers to comparing lending products; the nature of demand for SME lending products; information asymmetries between an SME's BCA provider and other providers of lending products; and incumbency advantages.
133. Some of the remedies we have already set out, while included in a package of measures to address AECs in BCA and PCA markets, may also address the AECs in SME lending in relation to the linkages between PCAs, BCAs and SME lending. In addition, remedy 4, for example, and the proposal to introduce a PCW, will aid SMEs in the choice of loan products as well as of BCAs.
134. In this section we set out remedies that are focused on the SME lending AEC in each of GB and NI.

Framework for remedies analysis

135. We have adopted a similar approach to the analysis of remedies intended to address this AEC as we used in respect of the PCA and BCA AECs. We first looked at the process or 'customer journey' which SMEs typically undertake in obtaining business loans.

Figure 2: The customer journey – obtaining a business loan



136. We have characterised this journey as beginning with a PCA customer opening a BCA, noting that almost 50% of SME customers opening a BCA did so with their PCA provider. That customer may then seek a loan and we found that around 90% of BCA customers obtaining a general business loan did so from their BCA provider, often without investigating alternative providers.
137. We next considered what obstacles hindered or prevented customers from choosing an alternative lender to their current account provider, how and when their effect could be lessened, including by identifying ‘trigger points’ in the process.

Choice of BCA provider

138. The first ‘trigger point’ in the process we have described is the choice of BCA provider. We considered what factors might restrict or prevent customers opening a BCA for the first time from identifying and selecting a provider other than their PCA provider.
139. Customers opening a BCA for the first time may have only a weak incentive to shop around since it is likely that the account, whether provided by their PCA

provider or another, will – although free banking periods differ – be free of bank charges for a year or more. Opting for their existing (PCA) provider may be easier and more convenient than identifying alternatives and selecting a preferred provider.

140. On the supply side potential providers may find it difficult to identify customers of other banks who are contemplating opening a BCA for the first time and target them with marketing communications. Requiring providers to identify, for example to the regulator or third parties, PCA customers who had enquired about opening a BCA could address this point and we have posed some questions about this type of approach under remedy 1.

Choice of lender

141. We next considered the subsequent stages of the process and the obstacles that customers may face at each stage of it.
142. SMEs may not be aware whether more attractive terms are available elsewhere or may be deterred from seeking an alternative lender because of the difficulties of accessing or assessing price information.
143. We have considered measures to address these obstacles under two headings:
- (a) Measures to reduce information asymmetries between an SME's BCA provider (the incumbent) and other providers of lending products in relation to customers' transaction and credit history.
 - (b) Measures to promote engagement and make it easier for SMEs to compare the cost of loans.
144. We consider each in turn, noting the extent to which remedies we are proposing in respect of our first AECs, for example as regards switching BCA and PCA provider and accessing information regarding loans, will address our competitive concerns over SME lending.

Measures to reduce banks' incumbency advantages

145. An SME's existing current account provider possesses two main advantages over rival lenders. They are convenient for the SME and they are well informed as to the credit risk it represents.
146. The provider of an SME's BCA will know more about the SME's creditworthiness than other potential lenders because it will have access to the SME's transaction and credit history and, depending on the relationship between

provider and customer, may also be informed as to its future business plans and prospects. Were a rival lender to have similar access to the SME's transaction history the playing field would, at least to an extent, be levelled.

147. If the Midata initiative was extended to encompass SMEs (see paragraphs 68 to 74), then BCA providers' incumbency advantage would be eroded since rivals could have access to an SME's transaction history, at least indirectly, through intermediaries such as PCWs. However, since the Midata initiative may not be so extended, and as we have an obligation to consider the timescale over which remedies may be adopted, we are considering other measures that could be implemented more quickly.
148. Several inquiries into the banking industry have taken place relatively recently, giving rise to a mixture of proposed measures pursued to varying stages of completion. We considered whether some of these, if they were given additional impetus and pursued actively, might add to the effectiveness of the package of remedies we are considering.
149. We identified two such initiatives. The first entails the sharing of bank and HMRC data with credit reference agencies (CRAs) and the second is the possible application of the Government's Open Data Initiative to this sector.

Remedy 13 – Data sharing with credit reference agencies

150. We noted initiatives enabled by the SBEE Act that would result in the provision of additional information to CRAs.
151. Under the SBEE Act, HMT may make regulations that impose:
 - (a) a duty on designated banks to provide information about their small and medium-sized business customers to designated CRAs; and
 - (b) a duty on designated CRAs to provide information about small and medium-sized businesses to finance providers.
152. The intention of this measure is to provide CRAs with data that will enable them to provide more accurate and reliable credit ratings of SMEs, which will in turn enable providers to approve loans that may otherwise be turned down on the basis of insufficient creditworthiness information on the applicant.
153. In addition the SBEE Act enables the sharing of non-financial HMRC VAT registration data with CRAs. The intention of this measure is to enable providers to more accurately match applicants to CRA data and thus authenticating their identity.

How the remedy would work

154. The remedy would take the form of recommendations to HMT that it uses the powers it has under the SBEE Act to require banks to pass to CRAs such SME transaction data as will enable them to provide reliable credit assessment information in respect of loan applications. We note that draft regulations are currently being considered by Parliament and are therefore subject to change.²⁴

Issues for comment – remedy 13

155. We invite comments on the following issues, in addition to those set out in paragraph 17:
- (a) **SMEs will have to consent to the sharing of bank data with CRAs. Are there obstacles to doing so, for example on grounds of data confidentiality?**
 - (b) **To be effective, would this measure need to be accompanied by other remedies, for example to prompt SMEs to seek alternative sources of lending or make it easier to access or assess lenders' terms?**
 - (c) **This remedy is focused on the information asymmetry advantages enjoyed by incumbent banks. Are there other advantages they enjoy that could be shared, for example customer access? Would it be feasible or desirable, for example, to expose all loan applications made to an incumbent to a wider market, rather than just those that were refused, as envisaged in the SBEE Act?**

Remedy 14 – Commercial open data and data sharing proposals

156. The report for HMT on [Open Data and Data Sharing for Banks](#) set out the benefits to competition in the lending market of data sharing, pointing out that accurate data that contextualises a potential borrower means that only a small amount of customer-specific data is needed to make a very customer-specific decision. It noted that if additional aggregated data was available lenders could plug these into their existing risk models to help refine them further.²⁵
157. The relevance of this initiative to our consideration of remedies is that it would allow SMEs to submit, or give others permission to access, a wide range of

²⁴ The Small and Medium Sized Businesses (Credit Information) Regulations 2015, and the Small and Medium Sized Businesses (Finance Platform) Regulations 2015.

²⁵ [Open Data and Data Sharing for Banks](#), paragraph 4.3.1.

data in support of a loan application in a standard format, thus obviating the need for multiple applications using different supporting material and application forms. The data concerned could include not just the SMEs' transaction or credit history but extend to other relevant data, for example business plans and forecasts.

158. While such initiatives may provide a technical solution to the problems SMEs face in arranging loans with providers other than their BCA bank, it would not necessarily increase the incentives of stakeholders to make use of the tools provided. Even were lenders better equipped to appraise the creditworthiness of SMEs, SMEs might still be unaware that they may enjoy better terms if borrowing from a lender other than their BCA provider or that there were simple, convenient and risk-free ways of making loan applications.
159. We encountered the same issue when considering remedies to make switching PCA or BCA providers easier and concluded that in order to encourage customers to use the processes and tools that we are proposing to put in place it would be desirable to publicise and promote their benefits. In the case of CASS, we considered that Bacs would be the most appropriate entity to undertake this programme. There is no immediately obvious candidate for the role in the context of SME lending.

How the remedy would work

160. The remedy would build on existing HMT initiatives to establish commercial networks through which commercial information could be shared between SMEs and financial services providers.

Issues for comment – remedy 14

161. We invite comments on the following issues in addition to those set out in paragraph 17:
- (a) **Over what timescale are services arising from the Open Data Initiative likely to evolve into an effective means of sharing business data?**
 - (b) **What technical or regulatory obstacles do they face and how can these be overcome?**
 - (c) **Even were the technical and regulatory obstacles overcome what incentives would providers have to use such services?**
 - (d) **What incentives would SMEs have to use such services? Would it be necessary or desirable to promote them to SMEs and intermediaries**

and, if so, who should be responsible for doing so and how should this be funded?

Promoting engagement and making it easier for SMEs to compare the cost of loans

162. We provisionally found low levels of customer engagement and that there are barriers to comparing SME lending products. Charges are opaque and lending terms, including early repayment and penalty clauses, can also be complex. There is a lack of effective comparison tools, which may particularly affect smaller SMEs.
163. Our proposed remedy 4 is intended to make it easier for SMEs to compare the cost of banking services, including loans, and as such would address this aspect of the AECs. We are considering one other measure that may be implementable more quickly than this though would welcome further suggestions for remedy approaches which parties believe are likely to be effective and proportionate in addressing this AEC.

Remedy 15 – Require banks to provide a loans price and eligibility indicator

How the remedy would work

164. Loan providers would be required to make available on their websites a tool that would permit SMEs to enter the amount they wished to borrow and over what period, together with either their credit rating or questions which would enable the provider to assess their creditworthiness, and for the provider to give an indication as to whether, and if so on what terms, they would be willing to make the loan.

Issues for comment – remedy 15

165. We invite comments on the following issues, in addition to those set out in paragraph 17:
- (a) **Are there any technical or regulatory obstacles to the adoption of this remedy and, if so, how could they be addressed? How quickly could this measure be implemented?**
 - (b) **To which lending products should the remedy apply?**
 - (c) **Should the format of such a tool be standardised or should banks be free to develop their own with, for example, certain minimum requirements?**

- (d) How valuable would an ‘indicative’ offer be to SMEs? Would it be necessary to impose any obligations on providers as to the circumstances in which an indicative offer could be varied or withdrawn if the SME went forward with a loan application?**
- (e) Should banks also be required to set out, in standard form, the terms on which they are willing to make loans, including arrangements for early repayment?**
- (f) What incentives would SMEs have to use such services? Would it be necessary or desirable to promote them to SMEs and intermediaries and, if so, who should be responsible for doing so and how should this be funded?**
- (g) What monitoring and enforcement arrangements would be needed for this remedy? Who should be responsible for overseeing it?**

The SME lending package as a whole

- 166. As with our remedies designed to address the AECs in BCA and PCA markets we consider that the individual remedies set out here will tend to reinforce each other and be more effective if adopted as a package. In addition, this package would work well with remedies 1, 3 and 4 to the extent that these also address the SME loans AECs and, taken as a whole, may enable a re-engineering of the process whereby SMEs seek and acquire loans.
- 167. If the package as a whole was adopted it could enable the development of intermediary businesses that would allow SMEs not just to access data to compare alternative loan products and perhaps make an application on one site, but also to post their loan requirements on that site. Potential providers could then, with the permission of the SME, access their transaction data, credit histories and other information referred to here, for example business plans, and make a loan offer through the site’s operator.

Customer testing of possible remedies

- 168. The effectiveness of several of the possible remedies set out here is likely to be affected by the manner in which they are implemented; for example the content, timing and delivery media of ‘prompts’ are likely to influence the response of customers to them and hence their impact on competition. In addition to considering views and evidence from parties about our possible remedies, we also propose to undertake customer research to help inform our

judgements about whether to take forward particular remedies as well as how they might be designed.

169. Such research could include qualitative and quantitative research and, though this would be more challenging given our time constraints, field testing, potentially including the use of randomised control trials (RCTs). A number of parties have already offered to assist us in testing possible remedies, and in order to further explore possibilities of such trials, we have invited all interested parties to submit to us if they wish to express an interest in assisting with the testing of potential remedies.
170. To inform our final report customer research would need to produce results with sufficient time before our statutory deadline to enable us to reflect on their implications for remedies. We recognise that field trials in particular can be complex to design, organise and implement, and may sometimes suggest variations in the approach to be tested rather than provide a conclusive answer within a single trial. As such, field trials may be more suitable for an iterative rather than a one-off research process.
171. We are therefore engaging actively with market participants about the practicalities of conducting effective field trials within our statutory timetable. At this stage, we have not made a final decision about whether to conduct this form of research during this investigation. One option would be to focus our customer research on remedies up to the publication of our final report on developmental research (eg preliminary qualitative and/or quantitative studies) with a view to either conducting or recommending further testing of remedies – potentially including RCTs – during the remedy implementation stage. An alternative might be to conduct the first iteration (or iterations) of field trials during this investigation while leaving open the possibility of further research on the detailed implementation of remedies at a later stage.
172. In addition to responses to the issues for comment set out above, views are therefore also sought as to which of the remedies that we are minded to pursue may be amenable to market research or field testing and whether it would be possible to conduct such research in time for us to take proper account of the findings in our final report, due to be published by 5 May 2016. If we were to conclude that certain remedies should be subject to RCTs, but that there was insufficient time to do so within our statutory timetable, we would consider making recommendations to regulators in respect of which remedies we thought should be tested and how.

Remedies we are minded not to consider further

173. We set out below remedy options that we have considered but currently do not intend to pursue, together with our reasoning.
174. Although we are minded not to consider these further we will do so if the parties to the investigation or other interested persons provide us with evidence or reasoning as to why we should take these remedies forward.

Measures to control outcomes

175. We have considered but are minded not to pursue further measures to control outcomes such as a remedy which would impose a price control on unarranged overdraft charges or which would create an obligation to offer minimum interest rates on outstanding balances in current accounts.
176. Our initial assessment is that the combination of remedies proposed here has the potential to address our competition concerns comprehensively at source without a significant risk of unintended consequences. As such, we took the view that it was unnecessary to consider measures to control outcomes further. However, if we receive submissions that lead us to reassess the effectiveness, including the practicability, of the remedies we have proposed, we may need to reconsider measures to control outcomes.

Measures that would address perceived distortions arising from the widespread use of free-if-in-credit accounts

177. It was put to us by some parties that the prevalence of the free-if-in-credit (FIIC) model for PCAs distorted competition and reduced customers' propensity to change provider as customers saw little reason to switch away from a product that they mistakenly believed 'cost them nothing.' We were also told that with FIIC as the predominant pricing model for PCAs, individual providers might find it difficult to gain market acceptance for products not using the FIIC model.
178. We saw no convincing evidence to suggest that this was the case. While it is possible that FIIC has some impact on the lack of customer engagement, in that it provides fewer prompts to customers in respect of the costs they are incurring/rewards they are foregoing, it is not at all clear that this factor reduces switching behaviour. We noted, for example, that switching rates in countries such as the Netherlands, where FIIC is not the prevailing model, are very similar to those in the UK and that switching rates among BCA holders in the UK, where pricing is mainly transaction based, were also low. In addition we noted that many banks have devised accounts which, because of the

rewards they offer, were able to differentiate themselves successfully from FIIC products.

179. Moreover, even had we taken a different view of this matter, it was not clear to us what specific remedies might be proposed in order to prohibit or restrict FIIC. Mandating a minimum monthly fee for PCA would effectively be to set a price floor – not normally considered to be a means of increasing competition. Requiring the payment of interest on PCA balances would raise questions about how the level of such an interest rate would be initially set and then changed over time. Such remedies would require a high degree of intrusion into the relationship between banks and their customers and might have the effect of chilling product innovation.
180. We therefore took the view that seeking to restrict the use or availability of FIIC accounts, which meet the requirements of many customers, was unlikely to get to the root cause of the problems we have identified in the market for PCAs and could impose unnecessary costs on many customers.

Structural remedies

181. We considered whether it was appropriate or necessary to adopt structural remedies to address the AECs we provisionally found.
182. Our analysis found that longer-established banks, with larger market shares, tended on average to charge higher prices and/or provide lower quality than newer banks with lower market shares. We considered, however, that this was more likely to be explained by weak customer engagement and these banks having a larger base of established customers and a higher proportion of inactive customers. Consequently, we could not conclude that high market shares led directly to higher prices.
183. From this it follows that breaking up a large bank which has a high proportion of inactive customers paying relatively high prices might simply create two smaller banks, each with a high proportion of inactive customers paying relatively high prices. The disruption caused by a break-up, as customers were transferred between banks, might have a positive effect of increasing customer engagement during a transitional period but we did not consider this to be a sufficiently strong rationale for proposing such an intrusive remedy.
184. There is thus no obvious reason why the impact of one or more new banks would materially increase engagement across the market as a whole. In a market characterised by low levels of customer engagement, as we have provisionally found, it seems to us unlikely that creating a new ‘challenger’ bank through structural break-up is the most effective way to increase

customer engagement; and that measures directly targeted at improving the customer journey and engagement as discussed above are more likely to have the desired effect and at lower cost.

185. There is the further risk that divested banks as new providers would face greater operational challenges than established providers. The evidence of the TSB divestment suggests that the high cost of operating a legacy IT system in divested banks may restrict the amount a divested firm, with its smaller customer base, could afford to invest in new customer acquisition. We also noted the cost, complexity and lengthy implementation time of such divestments.
186. Given the intrusive nature of such a remedy, the disruptive effects on customers, the cost and complexity of achieving effective divestitures in retail banking markets and the lack of certainty that it would have the desired effect, we did not consider that structural remedies were likely to be effective or proportionate.

Relevant customer benefits

187. In deciding the question of remedies, the CMA may have regard to the effect of any action on any RCBs of the feature or features of the market concerned.²⁶
188. RCBs are limited to benefits to relevant customers in the form of:
- (a) lower prices, higher quality or greater choice of goods or services in any market in the UK (whether or not the market to which the feature or features concerned relate); or
 - (b) greater innovation in relation to such goods or services.
189. EA02²⁷ provides that a benefit is only an RCB if the CMA believes that:
- (a) the benefit has accrued as a result (whether wholly or partly) of the feature(s) concerned or may be expected to accrue within a reasonable period as a result (whether wholly or partly) of that feature or those features; and
 - (b) the benefit was, or is, unlikely to accrue without the feature or features concerned.

²⁶ CC3, paragraphs 355–369.

²⁷ Section 134(8).

190. In considering potential RCBs, the CMA will therefore need to ascertain that the market feature or features with which it has been concerned results, or is likely to result, in lower prices, higher quality, wider choice or greater innovation, and that such benefits are unlikely to arise in the absence of the market feature or features concerned. RCBs may include benefits to customers in the market in which the CMA has found an AEC and to customers in other markets within the UK.
191. If the CMA is satisfied that there are RCBs deriving from a market feature that has resulted in an AEC, the CMA will consider whether to modify the remedy that it might otherwise have imposed or recommended. When deciding whether to modify a remedy, the CMA will consider a number of factors including the size and nature of the expected RCB and how long the benefit may be sustained. The CMA will also consider the different impacts of the features on different customers.
192. It is possible that the benefits are of such significance compared with the effects of the market feature(s) on competition that the CMA will decide that no remedy is called for. This might occur if no remedies can be identified that are able to preserve the RCBs while remedying or mitigating the AEC and/or the resulting customer detriment.

Next steps

193. The parties to this investigation and any other interested persons are requested to provide any views in writing, including any suggestions for additional or alternative remedies that they wish the CMA to consider, **by 5pm 20 November 2015** either by email to retailbanking@cma.gsi.gov.uk or in writing to:

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