

RETAIL BANKING MARKET INVESTIGATION

Invitation to comment on additional remedy suggestions

Introduction

1. The CMA has recently consulted on its provisional findings and notice of possible remedies for its retail banking market investigation into the supply of personal current accounts (PCAs) and of banking services to small and medium-sized enterprises.
2. Responses to this consultation have been wide-ranging and helpful. We are considering all responses. Alongside this process, we are publishing this notice to highlight a number of areas on which we would be interested in any additional views you may wish to provide. These areas are set out in more detail below.

PCA overdraft customers

3. Several respondents to this consultation raised some concerns regarding the extent to which the proposed remedies may address difficulties faced by PCA overdraft customers, who may face greater challenges in engaging with the market, and whom we have provisionally found to have a lower propensity to switch. As a result, it was argued that these customers may remain inactive and providers may continue to have limited incentives to compete for these customers even if our proposed remedies are implemented.
4. There was especial concern for PCA customers using unarranged overdrafts, who may have limited to no ability to avoid unarranged overdraft charges at the point at which they are incurred, given that such charges are to some extent unpredictable and only their current provider can offer the unarranged overdraft facility.
5. We note that the proposed remedies already envisage solutions tailored to overdraft users. For example, our notice of possible remedies refers to:
 - (a) the possibility of sending prompts to customers alerting them when they are about to incur or have incurred overdraft charges;

- (b) remedies aimed at facilitating comparisons between providers that could assist to increase the transparency of overdraft charges, but these would not address all concerns related to unarranged overdrafts; and
 - (c) remedies aimed at making it easier for prospective PCA customers to find out whether the overdraft facilities they were seeking would be available to them from another provider that could facilitate switching by overdraft users. These again, however, would not be relevant to concerns related to unarranged overdrafts.
6. Some respondents also suggested alternative remedies or further variants on the proposed remedies that may address issues faced by overdraft customers. While this notice is not intended to provide an exhaustive list of these suggestions, for illustration they include the following:
- (a) Which? suggested several options, including that PCA providers should be prohibited from differentiating their charging structures for arranged and unarranged overdrafts; should cease applying unpaid item charges; and should be required to further clarify overdraft terms and conditions. See [Which?'s submission](#).
 - (b) The Financial Services Consumer Panel suggested that unarranged overdrafts should be considered a form of high-cost short-term credit and hence made subject to the price cap for high-cost short-term credit that was introduced by the Financial Conduct Authority and has been in force since 2 January 2015.¹ See the [Financial Services Consumer Panel's submission](#).
 - (c) First Trust Bank suggested a UK-wide extension of the requirement on certain Northern Ireland banks under the Northern Ireland PCA Banking Market Investigation Order 2008 (as varied in 2011) (the NI Order) to provide customers with relevant information including information about charges and interests. See [First Trust Bank's submission](#). The CMA notes, for example, paragraph 6 of the NI Order in which the relevant banks undertake a duty to notify a customer before deducting overdraft charges and debit interest. The NI Order is being reviewed by the CMA in parallel with the retail banking market investigation. See the [CMA website](#) for more information about the NI Order and its ongoing review.
 - (d) Lloyds Banking Group suggested additional behavioural remedies aimed at encouraging customers to engage more with how they use their

¹ See FCA (2014), [PS14/16 Detailed rules for the price cap on high-cost short-term credit – Including feedback on CP14/10 and final rules](#).

accounts so that they may reduce their costs of banking, regardless of whether they switch provider. See [Lloyds Banking Group's submissions](#). The CMA considers such remedies would be variants on the proposed prompts to overdraft customers described in paragraph 5(a) above, where these prompts could potentially be accompanied by opportunities for customers to actively engage to avoid the charge, such as grace periods before the charge is applied, requirements to pre-authorise the charge, or the ability to automate or trigger the transfer of funds from a nominated account.

- (e) The Royal Bank of Scotland suggested in its hearing with the CMA that banks should be prohibited from providing unarranged overdrafts unless a customer had actively opted in to this. It felt that this would improve customer understanding and act as a lever to support lower cost and more transparent arranged borrowing.
- (f) TSB suggested the development of a 'credit passport', where PCA providers should be required to provide a centralised resource, such as an existing credit agency, with customers' account usage and transactional histories. The credit agency, when requested by the consumer, would make the data available, in a usable format, to any prospective alternative PCA provider thereby assisting them to better assess the credit risk and affordability of new customers and increase the likelihood of the alternative provider matching the customer's existing overdraft limit.² See [TSB's submission](#).

7. We said in paragraphs 175 and 176 of the notice of possible remedies that we were not minded to pursue measures to control outcomes such as price controls, but that we may reconsider this view in the light of submissions received. In considering the submissions we have received, particularly Which?'s and the Financial Services Consumer Panel's suggestions relating to forms of price controls, we will consider whether the views in those two paragraphs should be updated.

Other suggested remedies

8. We have consulted on remedies aimed at prompting customers (remedies 1 and 2 in our notice of possible remedies), and remedies aimed at facilitating comparisons between providers (remedies 3 to 5 in our notice of possible remedies). We have noted in this regard the incoming EU Payment Accounts

² TSB also noted that this could be an alternative means of achieving the objectives of the CMA's proposed remedy to require banks to retain and provide ex-customers, on demand, with details of their transactions over the five years prior to their account closure (remedy 9 in our notice of possible remedies).

Directive (PAD) which will standardise terms of PCA banking services and offer customers more information on fees in a pre-contractual fee information document and annual fee statements.

9. For PCAs, a number of parties have suggested alternative remedies or further variants on the proposed remedies, including the following:
 - (a) Tesco suggested requiring a standardised labelling approach for PCAs, using traffic light colour coding to make it clear to customers both the cost of their account, and how it compares to others in the market. See [Tesco's submission](#).
 - (b) TSB suggested requiring banks to provide PCA customers with a standardised monthly bill, which would set out all the costs associated with the services provided to the customer (including interest foregone), the charges incurred and the rewards earned each month, in a clear, standardised format. TSB considered that this would improve pricing transparency for customers and could help periodically to prompt them to take action. See [TSB's submission](#). Under the PAD, as noted above, banks would be required to provide customers with an annual fee statement with standardised terminology. We would be interested in views whether more frequent communication would be appropriate and what information (if any) should be included in addition to what may be required under the PAD.
 - (c) Virgin Money suggested that PCA providers should be required to pay their customers credit interest on PCAs at or above a minimum level. See [Virgin Money's submission](#).

How to respond to this request

10. We are interested in any additional views you may wish to provide on:
 - (a) the sufficiency of the existing remedy proposals to address the issues faced by arranged and/or unarranged PCA overdraft users; and
 - (b) any of the alternative remedies suggested as listed above.
11. For any specific alternative suggestion listed above, such comments could include views on issues such as those set out in paragraph 17 of the CMA's notice of possible remedies, including (if applicable) views on:
 - (a) the likely effectiveness of the suggested alternative;

- (b) how the suggested alternative, or variants thereof, might best be developed further by the CMA;
- (c) barriers to, or concerns about, the adoption and/or implementation of the suggested alternative or variants thereof;
- (d) the proportionality of the suggested alternative or variants thereof; and
- (e) other preferred approaches, if any, to achieving the same or similar objectives to the suggested alternative.

We would appreciate any comments as outlined above. Should you wish to respond, please do so by **noon on Friday 8 January 2016**, by email to retailbanking@cma.gsi.gov.uk.