

21 March 2016



Dear Sir,

Competition and Markets Authority (the “CMA”) - Supplemental Notice of Possible Remedies (the “Notice”)

As requested in the Notice published by the CMA on 07 March 2016, this letter and the attached appendix form our response to the Notice.

We broadly support the CMA's proposals to introduce remedies which are designed to encourage engagement and promote switching. However, in connection with the remedies proposed in the Notice, we are of the view that there are a number of potential issues which need to be carefully considered and evaluated before the remedies could be adopted.

In the appendix, we have set out our views on each of the categories of remedies considered by the CMA in the Notice. Here, we would like to draw the CMA's attention to a number of more general points.

Remedies and corresponding evidence of an AEC

The CMA has provisionally found that some AECs were particularly pronounced for overdraft users. In particular the CMA found lower levels of searching and switching for overdraft users; barriers to accessing and assessing information; and higher switching barriers for overdraft users.

The CMA's provisional findings of an AEC with respect to overdraft users relied, at least in part, on the results of the GfK NOP PCA banking survey commissioned by the CMA and published on its website on 21 May 2015. However, not all of the remedies proposed in the Notice can be traced to a corresponding evidence base. For example, the Notice proposes remedies relating to arranged and unarranged overdraft charges, noting that these charges are not competitive.

A review of the latest GfK UK Omnibus Research (published by the CMA on 07 March 2016) did not bring any additional evidence to light. With regards to this research, Nationwide encourages the CMA to consider carefully how much weight can be placed on the results; in Nationwide's view these results should be interpreted with caution. In particular, Nationwide notes that the survey contains some mixed, and at times counterintuitive, results,¹ and further the results are not always consistent with other evidence collected by the CMA.

Nationwide looks forward to the opportunity to comment on the supporting evidence base in due course, once that is made available by the CMA.

¹ For example, 15% of respondents said the existence of CASS had a positive impact on switching (i.e. availability of CASS made them much more likely or a little more likely to consider changing their main account), while 16% said it had decreased the likelihood of switching (i.e. availability of CASS made them a little less likely or much less likely to consider changing their main account), and 66% said it made no difference. See p.110 of the document “PCA Survey – data tabulations prepared by GfK”, published on the CMA website on 07 March 2016.

Remedies testing

Nationwide welcomes the CMA's work with Optimisa in testing possible remedies. However, Nationwide is concerned that, due to the limitation of the very small sample sizes involved "*the findings cannot be generalised to the whole of the individual target audience populations, or to all PCA and BCA holders*".² As acknowledged by the CMA in other ongoing inquiries, testing is extremely important as "*without adequate testing it is not possible to know which approach will work best in practice*".³ Nationwide therefore encourages the CMA to conduct further testing on possible remedies prior to making any decision on which remedies best meet the CMA's criteria, namely that the remedy options – individually or as a package – address the AEC and/or its resulting detrimental effects on customers, are effective, practicable, timely and proportionate. As previously stated, Nationwide is keen to be involved in remedies testing.

Nationwide understands that a number of providers have shared prototypes of new online comparison tools with the CMA. Nationwide was therefore surprised to discover that the testing carried out by Optimisa relied on a single prototype of a new online comparison tool, which was identical to the prototype put forward by a single PCA provider. In conducting further testing, Nationwide would strongly encourage the CMA to test a much broader range of prototypes.

We look forward to engaging with you further to discuss the issues raised in this response.

Yours faithfully

Adam Schallamach
Head of CMA Market Review

² See page 16 of the "Qualitative report of findings prepared by Optimisa", published on the CMA website on 07 March 2016 (the "**Optimisa Research**").

³ See paragraph 95 of the "Energy Market Investigation: Summary of provisional decision on remedies" published by the CMA on 10 March 2016.

Appendix: Nationwide Building Society Response to the Supplemental Notice of Possible Remedies

1. Introduction

1.1 This paper sets out Nationwide's response to the CMA's Notice of 07 March 2016. As set out in the Notice, the CMA's remedy proposals focus on overdraft customers, with some remedies explicitly focussed on unarranged overdraft customers.

1.2 In the following sections Nationwide sets out views on five aspects of the remedies. These are:

- (A) increased standardisation of overdraft terms;
- (B) mandating customer alert services;
- (C) opt-out of unarranged overdrafts;
- (D) overdraft eligibility; and
- (E) extension of KPIs to include overdraft usage.

1.3 The paper now discusses each of these issues in turn.

2. Over standardisation of overdraft terms risks reducing providers' ability to innovate and compete

2.1 The CMA is considering three remedies that could result in the standardisation of certain PCA overdraft terms.

- (A) In overdraft remedy 1, the CMA is considering standardising the number and nature of alerts concerning overdrafts that PCA providers should offer to customers.
- (B) In overdraft remedy 3, the CMA is considering a requirement that providers have minimum grace periods in place, and that the use of alerts alongside these grace periods is made compulsory.
- (C) In overdraft remedy 4, the CMA is considering whether a capped monthly maximum charge ("**MMC**") for unarranged overdrafts would be appropriate.

2.2 Nationwide agrees that these overdraft remedies are measures which, if implemented correctly, would help to achieve the CMA's aim of enhancing the engagement of overdraft users, and particularly unarranged overdraft users. However, Nationwide believes remedies that are implemented in a prescriptive manner and/or require PCA providers to operate in a particular way could undermine their effectiveness and, in fact, would leave the CMA at risk of removing important parameters of competition between providers.

Standardising the number and nature of alerts

- 2.3 Nationwide does not support the view that the content, format or number of alerts relating to overdrafts should be the same across providers. In order to allow for competition and innovation, providers should be able to decide on the alerts they provide to customers and the format in which they are delivered. Customers could then be made aware of the differences between providers' offerings by the providers themselves, and/or through comparison websites ("**PCWs**"). This would help to further develop and re-enforce a non-price factor on which providers compete.
- 2.4 Instead of mandatory communication, Nationwide suggests that a set of standards along which PCA providers communicate, as proposed by the CMA in other ongoing inquiries,⁴ should be adopted. This would ensure transparency and comparability without affecting providers' individual style of communication (which is a factor on which they currently compete).

Minimum grace periods

- 2.5 Nationwide agrees that a remedy to introduce a minimum standard grace period across all PCA providers is likely to improve customers' ability to act on the information received from their provider, taking action to avoid unarranged overdraft charges where possible.
- 2.6 Nationwide notes however that a mandatory time frame for grace periods must not place a disproportionate burden on PCA providers. Nationwide's grace period is set at 6pm, which is already four hours later than the voluntary agreement deadline of 2pm set by the FCA. Nationwide requires customers to fund their account by 6pm in order to avoid unarranged overdraft charges; this time period is set to allow the relevant system files to be run during the evening and overnight, allowing sufficient time for Nationwide to process the volume of transactions required.

Capped MMC

- 2.7 As the CMA acknowledges, enforcing a capped MMC for unarranged overdraft usage could have significant unintended consequences. In Nationwide's view, a regulated cap of such charges removes the incentive to compete on unarranged overdraft fees to customers.
- 2.8 Furthermore, depending on the level of the cap, there could be an impact on other charges and/or benefits provided as part of PCA terms. PCA providers set the terms for different account features with reference to the PCA as a whole. A change to one element of the PCA offer (e.g. a capped charge on overdraft charges) is therefore likely to impact other PCA terms.
- 2.9 Nationwide does agree, however, that a remedy requiring providers to publish MMCs would increase transparency of unarranged overdraft charges. It also considers that

⁴ See paragraph 110 of the "Energy Market Investigation: Summary of provisional decision on remedies" published by the CMA on 10 March 2016.

permitting PCA providers to set different MMCs for each of their PCA products would provide an additional parameter of competition. In doing so, however, the publication must be part of an overall approach that looks to increase transparency for all features (publishing MMCs alongside other price and non-price benefits of each PCA). Placing undue focus on overdraft charges would risk customers making comparisons across too narrow a range of parameters, and risk imperfect switching.

- 2.10 In summary, Nationwide agrees that some standardisation of overdraft terms (including grace periods) and (maximum) charges, and the messaging provided to customers through alerts, could enhance transparency. This in turn could enable overdraft customers to better access and assess the information they need to make informed choices on their overdraft use and the PCA which is best suited to their needs. However, Nationwide also notes that the terms of overdrafts, and the format and content of alerts, are important parameters of competition between PCA providers. Nationwide is concerned that, should the proposed remedies be enforced in a manner that over standardises these parameters, the CMA risks eliminating important elements of competition between PCA providers.

3. Mandating auto-enrolment of alert services may unintentionally disengage customers

- 3.1 In overdraft remedy 1, the CMA is considering requiring providers to automatically enrol customers onto a minimum set of alerts, taken from a range of options.⁵ The CMA considers that it is likely to be in most customers' interests to receive such alerts, and that a few PCA providers have already auto-enrolled customers onto some overdraft alerts. On this basis, the CMA considers that it is feasible, and beneficial, for this practice to be more widespread.⁶
- 3.2 Nationwide notes that the primary aim of the CMA's remedies is to increase transparency in the market and encourage, where appropriate, customers to switch. Remedy 1 intends to encourage switching through prompting. As noted in its response to the CMA's Provisional Findings and Notice on Possible Remedies dated 20 November 2015 (the "**Response**"), Nationwide thinks that the most effective way to increase customer engagement in this way would be via periodic prompts – not linked to any particular "trigger point" – that remind customers to consider whether their current account is the best one for their needs and point them to an appropriate source of comparative information.
- 3.3 Nationwide considers that the alert services it provides, including those which relate to overdrafts (and are available to all customers), have empowered the customers that use them to manage their finances better. Nationwide therefore welcomes measures that increase customer awareness of available alerts and simplify the sign-up process. As noted in its response to the CMA's Information request on PCA overdrafts issued 29 January 2016 ("**CMA Overdraft RFI**")**[REDACTED]**

⁵ Including alerts for imminent arranged overdraft usage, arranged overdraft usage, imminent unarranged overdraft usage, unarranged overdraft usage, and declined items. See paragraph 60 of the Notice.

⁶ See paragraph 63 of the Notice.

3.4 However, Nationwide believes that the auto-enrolment of customers onto such alerts could lead to unintended consequences, namely that customer engagement may decrease.

(A) Customers may have actively chosen not to receive alerts (because, for example, they consider such messages as unnecessary) – for these customers auto-enrolment could result in further disengagement with communications from their PCA provider.

(B) Even for those customers who have actively opted to receive alerts, there is a risk of further disengagement and “prompt fatigue” as customers no longer receive only those alerts which they have self-selected, but a much broader set of alerts which may not be relevant to them.

3.5 In Nationwide’s view, ensuring the customer is involved in setting the alerts they receive, and in choosing the parameters of the alerts (for example, the level at which a “low balance” alert is provided) is key to building customer engagement and empowering customers to take an active role in managing their finances. Nationwide therefore considers that PCA providers should not be required to auto-enrol customers onto such alerts. However, if the CMA does pursue an auto-enrolment remedy, Nationwide believes the remedy should require PCA providers to give customers the flexibility to personalise their alerts, as has been suggested by the CMA.⁷

4. The opt-out of unarranged overdrafts needs to be fully understood by customers

4.1 Nationwide supports measures to ensure customers make an informed choice on their overdraft options, including a customer’s decision on whether to have an unarranged overdraft facility. Nationwide also agrees that a remedy requiring PCA providers to offer customers a clear opportunity to decide whether to have an unarranged overdraft facility will increase customers’ engagement with their overdraft options. As noted in its response to the CMA Overdraft RFI, Nationwide already offers members a facility to opt out of unarranged overdrafts (at no charge).

4.2 The CMA’s Notice discusses when customers should be provided with the option, or reminded of the option, as to whether or not to have an unarranged overdraft facility. Nationwide considers that the decision should be initiated by the customer,⁸ and that PCA providers should inform customers of their right to opt out through periodic prompts. In Nationwide’s view, PCA providers should be able to provide customers with the choice to opt out of an unarranged overdraft for each PCA which offers an unarranged overdraft facility. If the choice to opt out is not universally available to customers, they may need to

⁷ At paragraph 65 of the Notice the CMA has suggested that it is considering whether to require PCA providers to give customers flexibility to choose when alerts would be triggered.

⁸ As opposed to all existing customers being required to make an active choice which, as the CMA has noted at paragraph 81 of the Notice, would likely cause undue inconvenience to the customer.

change PCA in order to opt out, which would cause unnecessary inconvenience to customers and could undermine the effectiveness of this remedy.

- 4.3 Nationwide strongly believes that any remedy relating to opt outs of unarranged overdrafts needs to be carefully implemented in order to ensure that customers make an informed choice. In particular, customers who do not have access to an unarranged overdraft may face additional risks.⁹ For example, some customers may intentionally use an unarranged overdraft in order to meet payments on a loan or a mortgage - if these payments are missed there would be a detrimental effect on the customers' credit score. If customers are given the choice to opt out of an unarranged overdraft, it is important that the risks are made clear in order to enable customers to make an informed choice.¹⁰
- 4.4 Furthermore, Nationwide considers that the CMA should not impose a customer response rate (set at a percentage of a provider's PCA customers) which PCA providers must satisfy within a prescribed timeframe following the introduction of the remedy. Customers that are happy with their current overdraft offering are unlikely to actively respond to such prompts. Response targets would therefore unfairly penalise providers whose customers are happy with their current offering.

5. Providing overdraft eligibility information to price comparison websites carries substantial risks

- 5.1 The extension of remedy 7 suggests the CMA is considering whether providers should provide PCWs with an indication of a customer's overdraft eligibility once requested from a PCW.¹¹
- 5.2 The CMA states that the remedy would "*make it easier for prospective PCA customers to find out, before initiating the switching process, whether the overdraft facilities they were seeking were available to them from another PCA provider*".¹²
- 5.3 Nationwide notes that customers are already aware of whether they have been successful in securing the overdraft they require prior to switching. Nationwide therefore does not see the need for a standalone remedy aimed at making it easier for prospective PCA customers to find out, before initiating the switching process, whether the overdraft they require is available from another provider.

⁹ This is consistent with the CMA's proposal which notes at paragraph 77 of the Notice that customers will need to be made aware of the "*risks of opting out of an unarranged overdraft facility*."

¹⁰ In terms of medium, it may be more appropriate for such prompts to be communicated to customers by way of email or letter given such prompts will contain detailed customer information. Such media are more appropriate for prompts containing detailed information. Nationwide also notes that it is essential for providers to be able to communicate these prompts in their own "tone of voice". Nationwide would not be supportive of prescribed text in relation to opting out of unarranged overdrafts.

¹¹ See paragraphs 37-38 of the Notice.

¹² See paragraph 37 of the Notice.

5.4 In addition, requiring PCA providers to provide PCWs with an indication of a customer's overdraft eligibility (in response to a request from the PCW, as opposed to an application to the provider) raises a number of important issues.

5.5 Nationwide believes that prospective customers who require overdraft facilities value certainty; these customers want to know the specifics of the overdraft that *will* be made available to them, not an indication of what *might* be available to them. This view is consistent with the CMA's own evidence.¹³ A remedy which provides only indicative information is unlikely to be of value to overdraft customers and could result in worse customer outcomes. In addition:

(A) To the extent that PCA providers supply PCWs with a generic answer on overdrafts (for example "*the majority of customers applying for an overdraft of the [required amount (or over)] are accepted*"), there is a substantial risk that the information would be of little value to customers, and would lead to bad customer outcomes, particularly for those customers that have been declined in the past and are likely to be declined in the future.

(B) To the extent that the indicative offer to customers is based only on some form of soft credit check, it is unlikely that the indicative offer would match the overdraft which is offered following a full credit check. The inevitable differences between the indicative offer and the actual overdraft offer reduce the value of this information, as customers cannot use the indicative offer to make an informed choice. Such differences may also lead to frustration on the part of customers, particularly where they are offered an indicative amount on a PCW but are not offered an overdraft following the full credit check.

5.6 Nationwide therefore believes that the CMA should address its concerns through other measures. For example, Nationwide suggests that the CMA instead focuses on measures which improve the information available to overdraft customers of their availability to:

(A) Switch PCA provider without paying off their overdraft; and

(B) Apply for a new account with any PCA provider, find out if they are successful in securing the overdraft they need, and then decide to switch (using CASS if they wish) if they feel they have secured a better offer.

6. Nationwide supports the extension of KPIs to include overdraft usage, but KPIs should focus on service quality, not customer usage

6.1 The CMA is considering whether to extend remedy 5, which requires PCA providers to disclose indicators of service quality, to include metrics specific to overdrafts¹⁴ as this

¹³ For example, while it is based on a very small sample, the Optimisa Research does suggest that overdraft customers value certainty. For further details see "*Informing the development of communication tools designed to increase consideration of switching among PCA and SME customers*", published by the CMA on 07 March 2016.

¹⁴ Paragraph 158 of the Notice.

would provide the CMA and others with a measurable way to monitor the effectiveness of its proposed remedies in relation to overdraft customers.¹⁵

- 6.2 As set out in the Response, Nationwide agrees that a remedy which requires PCA providers to prompt customers to review their PCA provider is likely to contribute to increasing customer engagement. In this response, Nationwide sets out its support for a proposed remedy that would require the collection and dissemination of data on the service quality of a PCA provider's services, in a format that would enable customers to make valid comparisons between PCA providers.¹⁶
- 6.3 In Nationwide's view, requiring PCA providers to disclose indicators of service quality which are specifically related to overdrafts could only be implemented in a meaningful way through the creation of a bespoke industry-wide survey covering a wide spectrum of service quality indicators. For such a survey to be informative to customers, it would require clear definitions of all appropriate terms to be used by all PCA providers, to ensure that all PCA providers are supplying comparable data.
- 6.4 Nationwide does not believe that providing standardised information on other customers' overdraft usage would create a "reputational incentive"¹⁷ for providers. In fact, if such an incentive were to exist, providers may be more selective on the customers they are willing to provide overdrafts to (for example, by ceasing the availability of facilities to certain customers), which could lead to worse outcomes for customers.
- 6.5 Nationwide also considers that the inclusion of customers' overdraft usage would be unlikely to improve the ability of overdraft customers to access and assess the information they require to select a PCA which is best suited to their needs. There is also a significant risk that this remedy could lead to worse customer outcomes. In particular, Nationwide is concerned that, as each customer is different, this measure is unlikely to provide information which is directly relevant to customers, and it could cause confusion. Further, as customers may be optimistic about their own overdraft usage, even if a customer sees high usage from other customers, this may not resonate with them as they consider that they themselves will not use the overdraft.

¹⁵ Paragraph 159 of the Notice.

¹⁶ As set out in the Response, Nationwide believes that the most effective way of disseminating such information on the quality of service provided by PCA providers, alongside information on account features and price, would be through a comparison website with a regulated accreditation or a comparison website run by a regulatory body such as the FCA.

¹⁷ Paragraph 162 of the Notice.