Competition and Markets Authority
Retail Banking market investigation team
Victoria House
37 Southampton Row
London
WC1B 4AD

By email to retailbanking@cma.gsi.gov.uk

7 June 2016

Dear Sir/Madam

**Retail banking market investigation: provisional decision on remedies**
**Comments from the Asset Based Finance Association**

The Asset Based Finance Association ("ABFA") represents the invoice finance (factoring and invoice discounting) and asset based lending industry in the UK and Ireland. The industry supports businesses in the real economy and has particular expertise supporting SMEs.

The ABFA is a representative association. The ABFA's objectives are to develop and support professional standards within the industry and to inform and engage with stakeholders on the types of finance provided by the industry. With respect to the former objective, the ABFA and its Members established an independent Standards Framework. This Framework is overseen independently of the industry by a Professional Standards Council (PSC) and also includes an independent Complaints Process provided by Ombudsman Services. I am copying the Chair of the PSC, Lucy Armstrong, on this correspondence as the issues considered have some relevance to the Standards Framework.

The industry is defined by the products not the institutions providing them and the membership of the ABFA is varied. It includes the specialist arms of the UK and Irish high street banks, a number of specialist and challenger banks, the specialist businesses of some overseas banks and large corporates, as well as a number of independent non-bank finance providers.

So the ABFA represents a diverse membership within which there are strong and varying views on many of the matters that the Competition and Markets Authority identifies and seeks to address in its banking market investigation. Moreover, the final remedies are clearly likely to have varying degrees of direct impact on ABFA Members. For the avoidance of doubt, the purpose of this correspondence is solely to offer general commentary from the industry on some of the provisional remedies and seek some clarification on certain matters of common interest for the industry.

It should be noted that in strict legal terms, invoice finance (through which the majority of funding from the industry to SMEs is provided) cannot be accurately described as a type of *lending* as it is generally provided on the basis of *purchase* of the outstanding debts due to a client businesses as those debts arise. In effect the debts are the security against which the funding is provided and the economic effect is largely identical to lending. So for the purposes of this correspondence, the presumption is that the term 'lending' (and 'secured lending') either does, or potentially would, include invoice finance.

**Proposed remedies enabling PCA customers and SMEs to make comparisons between providers on the basis of their service quality**

***Additional Service Quality Indicators***

With specific comment on the provisional list of Additional Service Quality Indicators for SMEs only [paragraph 3.156 (c)(ii)], the ABFA points out that at present the Lending Code is limited in its coverage of business lending to loans, credit cards and overdrafts to micro-enterprises only. It does not, for instance, cover the funding provided to SMEs by the ABFA's Members which is covered by the independent Standards Framework referred to above.

The ABFA would request that final Additional Service Quality Indicators from the CMA in this area include expanded reference to other relevant regimes that are in place to allow businesses to access specialist financial services with confidence. In addition to the Standards Framework covering the ABFA's Members in the provision of invoice finance and asset based lending, this should also include the Finance and Leasing Association's (FLA) Asset Finance Code that covers FLA Members in the provision of asset finance (leasing and hire purchase), and any other relevant regimes.

Both the ABFA and the PSC would be pleased to provide any additional information about the Standards Framework that the CMA may require.

**Measures to increase transparency of the cost of and eligibility for SME lending**

The ABFA agrees that transparency about the costs of SME lending is important and notes that provision of clear and accessible information is particularly important for smaller businesses. In the sector covered by the ABFA (and the PSC), transparency and clarity around fees and charges is required by the ABFA Code and is enforced by the independent Complaints Process and the PSC.

As the CMA recognises [paragraph 6.48], in an invoice finance and asset based lending situation the valuation of the assets is highly bespoke and the value of the asset base will also vary in real-time. As the CMA further recognises [paragraph 6.42] the terms and prices of finance will vary considerably based upon the particulars of the business and the nature of its debtors.

This does not lend itself to easy comparison. For these reasons, the ABFA does not believe that a simplistic quantitative metric such as an APR/EAR is useful or would allow meaningful comparison between qualitative service-based types of funding. By their very nature, invoice finance and asset based lending are dynamic, flexible facilities which incorporate a significant service element. A single metric is not a substitute for providing accessible information about how different products work, the overall costs associated with them, and when and for what businesses they might be appropriate. The ABFA is pleased that the CMA's provisional findings recognise the concerns around such an approach in a commercial finance space.

*Clarifications*

Consistent with that finding, the ABFA requests clarification regarding the requirement referred to in Figure 6.1 [page 237] that "all lenders who advertise prices for SME lending in marketing materials should always do so using an APR/EAR format from the existing (personal) consumer credit regime."

Is this intended to cover all types of 'lending' by all types of lenders to all sizes of businesses within the very broad category of 'SME' or is this requirement intended to be limited to those products within the terms of reference of the investigation up to the value of £25,000 (unsecured loans and overdrafts)?

Clearly if the more expansive interpretation was taken this could have the unintended effect of discouraging any initiative to encourage some outline indication of price parameters - such as indicative overall costs of credit for instance - as if this could be seen as the advertising of prices then it would have to be done in an APR/EAR format that is not relevant or informative for the products provided by the ABFA's Members.

In other words, such an interpretation might actually work to decrease transparency. The ABFA would gratefully appreciate clarification from the CMA in this regard.

Similarly, with regard to the proposed online loan price and eligibility indicator tool, the ABFA would appreciate clarification as to what types of secured lending up to £50,000 would be included in the proposed tools and, in particular, whether it is intended to cover invoice finance and asset based lending or it will be limited to secured 'loans' (in the conventional sense). The ABFA would have concerns if it was the former, for reasons similar to those considered above in the context of the inappropriateness of an APR/EAR approach. (The ABFA notes that whilst there is some limited consideration of whether funding against fixed assets could be brought into the scope of such a tool over time, in an invoice finance situation there will be a core asset base that will be varying in real-time).

**Measures to facilitate comparisons of SME banking products**

The Nesta prize approach is a novel method of addressing a challenge such as this. The ABFA will follow this process with considerable interest should this be the final recommendation.

In order to be effective, the eventual chosen solution must be representative of the full range of finance options available and the full range of finance providers active in the UK market-place that might be appropriate for the requirements of SME businesses.

The ABFA observes that whatever solution is chosen there must be robust governance put in place, with agreed, objective and published criteria for access. Access should not be restricted to or privilege certain types of funding provider or funding types, whether this occurs by design or indirectly. Scrutiny of the remuneration/funding model of the chosen solution will be key to ensure that it is sufficiently open access. In addition, as the CMA recognises, the solution will need to be able to facilitate true qualitative comparison rather than more simplistic quantitative comparison.

**Providing SMEs with expert financial advice**

The ABFA strongly supports the CMA's provisional recommendations on the provision of informed and comprehensive advice to SMEs on the sources of finance that may be available and appropriate for them. The ABFA has been pleased to be part of the BBB and the ICAEW's Business Finance Guide initiative and will continue to focus on these issues.

As the CMA notes, professional associations such as the ICAEW are key to this, as are bodies such as the ACCA and CIMA. The ABFA would also emphasise the importance of specialist advisory organisations such as the National Association of Commercial Finance Brokers. In addition the role of the representative business bodies such as the Federation of Small Businesses, the British Chambers' of Commerce, and the Forum of Private Business in channelling such information to their members will be key. The ABFA believes that the British Business Bank has an essential role to play in centrally coordinating work in this area.

I hope that our comments are helpful and we would be grateful if our requests for clarification could be addressed in due course, either directly or in the final remedies. Please do not hesitate to contact me if you would like to discuss any aspects or if you require any additional information.

Yours faithfully

**Jeff Longhurst**