



To: retailbanking@cma.gsi.gov.uk

07 June 2016

From: Payments UK

CMA Retail Banking Market Investigation

1 INTRODUCTION

We welcome the opportunity to respond to the CMA Retail Banking Market Investigation's (MI) Provisional Decision on Remedies.

Payments UK is the trade association launched in June 2015 to support the rapidly evolving payments industry. Payments UK brings its members and wider stakeholders together to make the UK's payment services better for customers and to ensure UK payment services remain world-class. Payments UK currently has 70 full and associate members spanning a broad range of industry players.

Payments UK's main roles:

- To be the payments industry's representative body: providing an authoritative voice in the UK, Europe and globally, and working with stakeholders to share payments knowledge and expertise.
- To be a centre for excellence: supporting the UK payments industry to provide world-class payments, building on the experience, thought-leadership and our team's project delivery expertise behind award-winning initiatives such as Paym, the Current Account Switch Service and Faster Payments.
- To deliver collaborative change and innovation: working on behalf of our members to benefit customers and UK plc, ensuring their needs are understood and met, both now and in the future.

During the composition of this response we have had conversations with other stakeholders, including Bacs, the Open Data Institute and the British Bankers Association.

Payments UK 2 Thomas More Square London E1W 1YN

A Company incorporated in England No 6124842.
Registered Office as above

2 OUR RESPONSE

2.1 Overview

Payments UK supports the MI's ambition to introduce measures that promote competition in the industry and drive innovation and better products and services for end users. The CMA's approach to incentivise competition through measures that empower the customer to make informed decisions and improve customer engagement is welcome. Our response will predominately focus on the foundation remedy to develop and require the adoption of open API standards and data sharing. To this end, Payments UK supports:

- the provisional decision to progress the collaborative development of an open banking API standard and framework. We agree that this will help drive competition, innovation and ultimately produce better outcomes for consumers.
- intentions to align developments in the UK market with the scope and timing of PSD2 and the European Banking Authority Regulatory Technical Standards on strong customer authentication and secure communication (RTS).
- the provisional decision for the nine cited banks to establish an Implementation Entity, as laid out in the provisional decision paper. An Implementation Entity will aid delivery according to what is a very challenging timetable.

In order to achieve the CMA's intended outcomes Payments UK has framed an approach that splits the required work into three sequenced phases to support rapid progress against challenging timetables. Payments UK is, with its experience and track record of industry wide delivery within the banking community, clearly in a position to contribute expertise and resources to help progress this remedy, as determined by the banks, the Implementation Trustee and to the satisfaction of the CMA.

We believe that the priority is to designate the independent Implementation Trustee, who will have a pivotal role in the management of the implementation plan and will have the authority to appoint the appropriate expertise and necessary resource to stand up the Entity. Payments UK stands ready to lend support and resources to the Implementation Trustee to establish the Implementation Entity, building on the capability and expertise that Payments UK has in the industry.

We intend to be in a position to submit further detail to this response ahead of the 22 June 2016 deadline.

2.2 Responses to Specific Remedies

Measures to develop and require the adoption of open API standards and data sharing

Alongside the nine retail banks¹, Payments UK has begun to consider the proposed remedies set out by the CMA and the need to establish an Implementation Entity together with the nomination of an Implementation Trustee. Payments UK agrees that the collaborative development of an open

¹ RBSG, LBG, Barclays, HSBCG, Nationwide, Santander, Danske, BoI and AIBG

banking API standard and framework aligned to the work of the Open Banking Standard is an important enabler of market led innovation. We also agree that it is vital that these developments in the UK market align with the scope of PSD2 and the RTS of the EBA. Therefore we agree that the recommendation to establish an Implementation Entity, as laid out in the provisional decision paper, can aid delivery according to what is a very challenging timetable. Moreover, we note the importance of the Implementation Entity having a clear regulatory mandate. In addition, we envisage that the governance of that entity will be critical to balance quick decision making in a multi-stakeholder environment. The Implementation Entity will need to adhere to tight deadlines against a background of a forum of interested, technically qualified parties who can debate and discuss the implementation options in wider consensus. The nomination, and subsequent appointment by the CMA, of an Implementation Trustee is a critical first step.

Payments UK agrees with the CMA acknowledgement that a suitable body to take on the role of the Implementation Entity does not currently exist. The Implementation Entity needs to be sufficiently independent of existing bodies and designed in such a way to share some of the characteristics of the OBWG. As stated above, Payments UK is, with its experience and track record of industry wide delivery within the banking community, clearly in a position to contribute expertise and resources to the process. The nine retail banks have asked us to utilise these skills, knowledge and capabilities to lend support to their discussions of the initial process, including recommending to the CMA, for your approval, the Implementation Trustee.

Progress against the order requiring the nine retail banks to adopt and maintain common API standards through which they will share data with other providers and third parties has been split into three distinct and sequenced phases to support rapid progress. We appreciate that the timeline is a provisional decision of the remedy; however in the interests of expediting progress we have already taken steps to begin discussions on the process for the Implementation Trustee appointment by supporting the nine retail banks. Our involvement in Phase 2 will be determined by the Implementation Trustee.

Phase 1 (informal step to 22 June): Proposal for the Implementation Entity

This stage entails Payments UK acting as a coordinator between the nine retail banks to formulate proposals for the Implementation Trustee. We expect this phase to propose the Implementation Trustee, who will in turn determine a joint collaborative proposal between the nine retail banks that will be able to draw heavily on the expertise and knowledge of Payments UK as a delivery and standards body for industry. It will set out how the characteristics, like those of the OBWG, can enable effective input from the 'fintech' and 'innovative' community, and how HMT, FCA and PSR would engage. Any role Payments UK may play in phase 2, the delivery and operation of the Implementation Entity, will be set out during this phase in the proposal for the Implementation Entity.

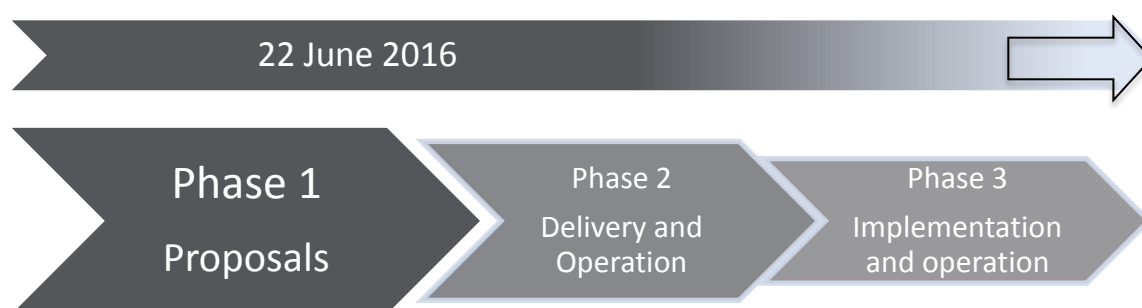
Phase 2: (formal CMA approved) Delivery and Operation

This phase will design and build the open banking standard to the agreed project plan and timetable under the leadership of the Implementation Trustee and with oversight from HMT, FCA and PSR. During this phase it will be vital to address the open questions remaining in the OBS relevant to the CMA provisional recommendations and to do so in such a way that input from other stakeholders, other than the nine retail banks, can inform but not hamper decision making and

delivery according to the initial timescales. We consider that good stakeholder management will be crucial and we would recommend drawing upon the experience and knowledge gained during the delivery of the OBS. During this phase it will also be necessary to establish the agreed data standards so that the reference and product information set out by the CMA can be uniformly accessed via the open banking standard across the data sets of the nine retail banks. This process may also be relevant to the activity to be led by the CMA to agree reference data standards for service quality metrics and/or Monthly Maximum Charges.

Phase 3: Implementation and operation

This phase will involve the implementation of the open banking standards and the maintaining of the open data, open banking APIs and any functions necessary to support a good developer experience, for example a sandbox facility. During phase 2, once the detailed design of the open banking standards has matured, it will be necessary to consider the longer term sustainability of the standard, especially in light of PSD2 or other API-related industry activity that may be of impact. For example, the work being considered by the PSF under the PSR, or other legislative measures, such as the right for data portability under GDPR which may lead to wider open interoperable standards.



Considerations in relation to PSD2

In addition to the above comments, we would like to make some further comments in relation to the proposed remedy and PSD2. We support the report's acknowledgement that the scope and timings of the remedies need to be closely aligned with those of PSD2 and that certain provisions within PSD2 are best implemented through the collaborative development of open API standards. We would however like to note that there is a real risk of fragmentation between the UK market (and the open APIs created) and the rest of Europe, particularly in light of the alignments which will be required by PSD2. There are considerations on scope, sequencing and timing that will need to be considered by the Implementation Entity as part of the remedies in order to avoid fragmentation. Specifically, the scope of the CMA remedies includes nine banks, whereas PSD2 scope is across all payment accounts accessible online in the European Union. As we mention under phase 3 of our proposal for the Implementation Entity, there will need to be a large degree of communication and alignment with other EU Member States during this period.

We would also like to note that the Implementation Entity will also need to consider the CMA's requirement for more extensive data sets ahead of the PSD2 EBA RTS on strong customer

authentication and secure communication. The RTS is a key aspect of the regulatory framework. The earliest date by which the measures governed by the RTS would apply would be September 2018 but the deadline could extend into 2019. This depends on how long it takes to finalise and publish the RTS.

Current Account Switching Package

We support the package of changes proposed for CASS.

On Account Number Portability (ANP), we support the CMA's decision to defer the consideration of ANP to a later date to the PSR. We acknowledge that the subject of ANP has been considered by a number of stakeholders and organisations for some time and that the outcome has always been a request for further consideration. We are supportive of measures that enable customers to switch accounts simply and effectively, however it is not clear how ANP would improve on current arrangements. Further work should not commence until: there is a clear view of what the payments industry will look like following forthcoming developments (such as this MI, PSR PSF strategy, PSR Market Reviews); and there is evidence that these measures do not reach the objectives set out in this MI.