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Alasdair Smith
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Dear Alasdair

Following the publication of the investigation's provisional decision on remedies, I wanted to use our response as an opportunity to reiterate the key points that Which? has made during the course of your inquiry.

Proposals to empower consumers with more information to enable better comparison between personal current accounts, alongside remedies to improve the switching process, are welcome although we consider these simply to be necessary housekeeping improvements. We have been supportive of the industry's progress in developing an open API banking standard, and rather than require banks to introduce prescriptive measures prompting consumers to consider their banking arrangements and shop around, the CMA is right to recommend that the Financial Conduct Authority (FCA) first undertakes extensive testing to ensure the effectiveness of such prompts.

We are pleased that the CMA recognises the importance of the collection and publication of data on service quality. Beyond core measures, the CMA proposes that banks should collect and publish a wider range of additional quality measures. However, customers' views should be central to defining and measuring service quality. While we welcome the CMA suggestion that the FCA should work with banks to develop and test which specific additional measures of service quality would be most useful, the remedy should go further. It should require banks to engage with consumers to develop metrics and publish data on the quality of services that capture what is important to their customers. In doing so, the development and use of service quality comparisons could be used to promote wider culture change, rather than simply being a tool to facilitate switching.

It is disappointing that the CMA has ruled out customer challenge groups (CCGs) aimed at supporting a cultural shift in banking towards a greater focus on customers and on treating their customers fairly, on the basis that CCGs have been developed in the context of regulated monopoly businesses. There have been long-standing competition problems in retail banking, and wide-ranging concerns over ways in which banks have treated their customers over many years. Improvements in the sector have very often only come after extensive regulatory and government intervention and pressure. CCGs are an example of a mechanism that has been used to provide an ongoing basis for firm awareness of and responsiveness to customer views to be tested in contexts where competition between firms alone is unlikely to be sufficient. As such, we consider the CCG option to have been one that merited much more attention than it appears to



have received. We think that the CMA needed to look beyond switching when considering how the identified problems could be addressed. CCGs are a mechanism that could prompt and support a culture shift in banking to generate greater focus on the needs of consumers, and on treating consumers fairly.

Which? is pleased that the CMA has developed its thinking since its notice of provisional findings and possible remedies last year, and is now proposing a series of interventions specifically aimed at overdraft users, with a particular focus on users of unarranged overdrafts. However, we remain very concerned that the CMA is not taking stronger action to tackle and control the high level of unfair, punitive charges faced by unauthorised overdraft users.

We asked the CMA to consider how banks can use additional prompts and control mechanisms to assist customers to manage their accounts, using mechanisms such as alerts and grace periods. We are therefore pleased to see remedies requiring banks to alert their customers when they are going into unarranged overdraft, and to give their customers time to take action to avoid or mitigate the charges resulting from unarranged overdraft use.

However, the CMA notes that in 2014, £1.2 billion of banks' revenues came from unarranged overdraft charges. Given that unarranged overdraft charges generate so much revenue for banks, we are concerned that there is little incentive for them to make these remedies work. Indeed, this simply highlights the need for strong action to control unarranged overdraft charges.

The CMA's proposal to require PCA providers to introduce a monthly maximum charge (MMC) covering all unarranged overdraft charges, is insufficient. As you already recognise in your provisional decision, we do not believe that uncapped MMCs will be effective in addressing the detriment arising from the adverse effects on competition.

We remain unconvinced that the CMA's remedies will provide an effective means of addressing the detriment to heavy overdraft users that it has identified. The uncapped MMC proposal does little to change the current situation, and puts considerable reliance on pressures from switching in a context where the CMA found heavy overdraft users to have been much less likely than average to switch, despite having had much greater financial incentives to do so. It also does not address the problem of banks unfairly penalising a subset of customers in financial difficulty with unarranged overdraft fees that are significantly higher than arranged overdraft fees. If a bank decides to offer additional flexibility in terms of access to funds, it should do so on the same terms as would apply to an arranged overdraft.

The CMA has provisionally concluded that alternative measures that more directly constrain overdraft charges, such as the remedy proposed by Which?, would increase the risk of unintended consequences, and notably a risk that some customers could lose access to this form of credit. While the CMA has rejected our overdraft proposal on the basis of concerns over unintended consequences, it appears as though the CMA has done any detailed assessment of what those consequences might be. The very limited nature of its consideration of these issues, and of potential remedies for the detriment it identified as being suffered by heavy overdraft users, was a function of the very late stage in a long process at which the CMA focused its attention on this issue. We are concerned that the CMA's investigation spent considerable time



going over old ground that had been considered in numerous previous studies, rather than focusing more time and attention to the consideration of potential remedies, and as a result, has failed to develop effective remedies due to concerns over possibilities of unintended consequences which have not been thoroughly investigated.

However, given the short timeframe in which the CMA now needs to publish its final report, we accept that it is unlikely to neither undertake such analysis nor change its provisional decisions. The CMA has recommended that the FCA should undertake work to assess the effectiveness of the maximum monthly charge remedy, and consider whether further measures could be taken to enhance its effectiveness. The CMA is right to highlight the critical role the FCA has to play in taking forward this work. We will seek to work with the FCA to ensure it implements the CMA's proposals effectively while assessing their likelihood to address the competition problems identified.

If you or your inquiry team have any questions about this, please do not hesitate to contact me. I look forward to reading your final report.

Yours sincerely

A faint, light-colored signature of Alex Neill is visible in the document.

Alex Neill
Director of Policy, Campaigns and Communications