

To –Retail Banking Team  
Competition and Markets Authority  
Victoria House  
Southampton Row  
London  
WC 1B 4AD

20<sup>th</sup> June 2016

Dear Sirs,

I am replying to your request for comments on the 17<sup>th</sup> May decision on “remedies” in “retail banking”.

There are many errors and inconsistencies both internally in the documents and in regard to the Law. As the very start points and assumptions are legally flawed, erroneous, misguided, or Knowingly Misleading, then the divergence from English Law and practice get ever larger in your dangerous proposals as they progress. As many of the errors are directly confrontational to Judicial statements it is unclear how conscious the decision is to follow the current proposals to their legally reckless conclusion.

You are fully aware Mr Justice Smith warned the OFT against [para 374 2008 EWHC 875] “focussing upon the state of the account when the Bank processes the instruction, and not upon what the Bank does” because that approach is legally “flawed”, as is the CMAs.

What the Bank does is to Misrepresent an offence has been committed for which recompense must be paid. It is unclear why the Banking Regulator supports this Misrepresentation, as you do in this document.

You are fully aware the Supreme Court supported Mr Justice Smith stating that “it is not a breach of any of the standard form contracts under consideration to overdraw, or attempt to overdraw on a current account” [para 83 2009 UKSC 6]. It is entirely possible the Banks contracted to Supply for free [para 103 above] with a zero price. That is eminently provable by the documents and the Banks own submission to the High Court [para 54 EWHC 875] which they then tried to evade by Jointly inventing the payable “package” agreement in the Supreme Court with the OFT [para 89 UKSC 6].

That claim of the “package” was not recognised as being in any of the documents by the four Judges, and the Supreme Court was clear that no Supply had been identified [para 73 above], and also that the start point for considering that likely invention would be to substantiate that the customers “committed themselves under plain intelligible language to pay the Relevant Charges in respect of instructions given without sufficient funds and in return for the package of services offered by the banks”[para 116 above].

Until the CMA has proven a Chargeable Supply via that “start point” it cannot enforce these charges without becoming hopelessly exposed to a liability which will then fall on the Exchequer.

There is no evidence whatsoever in your material for the “package” claim which is permitted to facilitate the Charges, despite its lack of substantiation. You are fully aware it is for the Banks [and now the co-operative Regulator] to prove that claim.

Until the proof is given you should not be attempting to contradict clear Judicial guidance and give a Misleading impression of legality and Probity to the Charges. It is clear from its wording that the Supreme Court accepted that the Banks and OFT had the Right to Jointly claim that the “package” existed but that did not prove a Supply [para 73 above] and that the claim was only “part of the price”.

The flawed litigation arrangement between the Parties conveniently and uselessly provided that they could Jointly or Separately invent and claim anything they wished, without having to provide any factual evidence, witnesses or suffer cross examination to establish the reality of those claims.

There has been no follow up, as recommended by the Judiciary to substantiate any claim or “gaping hole” in legal protection for the consumer by means of a potential invention or Knowingly misleading material.

As you are fully aware Lord Steyn in the Highest Court considered this matter and provided the “gaping hole” quote above. The Appeal Court quoted it in recognising this failure in Consumer protection [para 45 2009 EWCA Civ 116]. A default charge can only become operative when a Breach occurs. It is a matter of Law that the Consumer does not Breach the Contract, even the Banks do not dispute or claim that. It is the Regulator which seeks to set aside the Law, including the FCA which has illegally characterised and propagandised these charges as “penalties” in its evidence to your enquiry despite this being contrary to Judicial Clarifications and Rulings. The legal “gaping hole” Lord Steyn referred to, is the one you are attempting to enforce on the Public, by refusing to recognise any charge must be subject to examination for Fairness and Good Faith with English Law.

The CMA is attempting to enforce charges on behalf of a Supplier who has not proven they are related in any way to Supply Exchanges Agreed in the Contract. You may set aside the FCAs implications that they are in some way an extra-Contractual penalty because the Courts and Banks themselves do not even suggest a Breach is committed by the entirely innocent Consumer. There is no offence committed in making a request, and the Bank always has total control over creation or extension of the overdraft, the consumer has not the slightest part in its creation or extension.

An overdraft can only even be “authorised” by the Bank.

The CMA makes an illegal implication and statement in asserting that the Consumer can somehow create an “unarranged” or “unauthorised” overdraft.

This would be connected to the serious criminal offence of fraud and dishonesty which the OFT also asserted and claimed the Consumer committed [para 105 EWHC 875]. According to the High Court there was “no evidence” to support this claim, and it was rejected.

Your CC3 Guidelines para 42 require you to be “fair”.

The CMA display great unfairness in also portraying offences by Consumers who have been found innocent by the Courts, when even the Banks do not claim an offence occurs under the Provisional Contracts which govern Current Accounts.

The Banks set aside this claim of a form of penalty and relied on the chargeable “global package” invented Jointly with the OFT in the Supreme Court as “part of the price”. You are fully aware that “part of the price” is illegal under Regulation 6 for Assessments

Four Judges found nothing to support the Bank/OFT claim that the Consumer agrees a “package” in the Contract.

As you are aware, if the customer had indeed committed itself to this form of Supply it would have shown up in the research material.

In fact the only evidence you or the Banks have given for the existence is a leaflet introduced by RBSG after litigation had started, presumably to muddy the water a little, naturally the High Court [para 399 EWHC 875] rejected this sole piece of evidence that was offered to support a post-factum claim the “package” existed. It is unclear why the FSA co-operated in this subterfuge and did not prevent its publication as the Law would require.

The CMA need to produce something else, as at present nothing has been put to the Courts that supports your contention it is safe to assume the position portrayed Jointly by the OFT and Banks in the Supreme Court is a valid agreed chargeable “exchange” in Law.

You have helped prove the case against the Regulator and Banks, that the Lower four Judges identified, namely that the “package” is a mere invention and can be safely ignored, because there is no evidence for its existence.

The High Court grounds for rejecting RBSGs subterfuge stand against your claims for all unilateral variations of the text. They will not last once the permitted Consumer defence is made against the Regulator and Banks Joint attack. Mr Justice Smith was clear “previously RBSGs documentation did not provide this explanation, and I have said, is not of contractual effect”.

The CMA is unsafely, Knowingly basing its decisions on similarly Contractually worthless unilateral insertions into the texts after they were agreed with the Consumer.

You will have noted the Judicial wording is the same as that regarding the Regulator and Banks Joint invention of the “unarranged” overdraft which you seek to enforce, that too was found “not to be of contractual effect” [paras 314,375, EWHC 875]. Your “remedy” attempting to enforce unilateral variation of agreed texts is similarly not binding on consumers.

Your attempt to evade Judicial attack by not using “unauthorised”, and preferring “unarranged” in an attempt to propagandise a lower level of imagined offence will not stand Judicial scrutiny. You are fully aware that the two terms were considered equally invalid and unenforceable [para 314 EWHC 875].

Indeed your lack of use of the term “unauthorised” actually confirms your complicity in illegal unilateral variation of Contract texts. This expression was used in the Abbey National and Others litigation. The texts cannot be altered after that point and still be Compliant with English Law. For clarity that you are Knowingly unilaterally setting aside the specific definition by the Named defendant in that Case, who stated for the Court record, quoting its own Contract - “An unauthorised overdraft occurs if without our agreement you overdraw your Account or exceed the limit of an overdraft which we have agreed” [para 62 EWHC 875].



This definition still holds for the circumstances, Nature and Form of the events you are writing about. As the Supreme Court Judges warned the OFT/Banks Jointly [para 83 UKSC 6] they could not alter the nature of a penalty into a price by clever wording, or in the CMAs case by careful deletions and omissions. Whatever you attempt in the way of dissembling to aid the Supplier will not alter the nature of a charge as a claimed penalty for an invented offence.

You are fully aware that para 62 [EWHC 875] also sets out the legal fact that there is no such thing as an unarranged/unauthorised/unapproved/informal/unplanned overdraft.

A payment instruction would not create a "Breach of a Contract . . .this is how the Banks regard overdrawing in this way and how they encourage customers to look upon unarranged overdrafts".

This is confirmed with use of the example of Barclays own Terms which state the account is in credit and any overdraft is only created by the Bank.

This is what my Contract with Barclays states [para 7.4].

The High Court noted that in February 2007 this was unilaterally removed from the Contract. Such an attempt to evade established Law is not binding on Barclays Consumers. The CMA should not be permitting and promoting unilateral alterations to texts which it Knows are not Binding under English Law.

You should in reality be investigating why the FSA permitted such an illegal action against legal Public Policy, and why the FCA confirmed such illegal action by not acting itself to correct the abuse of Consumers by setting aside English Law. It is unclear why Regulation 8 was not invoked, as Parliament intended, and the illegal deletion and alteration reversed.

It is a matter of legal Principle that an overdraft is entirely under the control of the Bank and the Consumer has no influence on its creation.

This is demonstrated by the current case in Australia where a student has been given an unlimited overdraft facility by WestPac Banking Corporation which created several millions dollars of overdraft. You are fully aware that the Magistrate would not entertain any expression of criminal intent as the Bank has full control and in Law freely provided the overdraft by its own sole decision.

Your action of being Legally Misleading by stopping use of a term does not alter the Judicial and Contractual position. All it does is prove the CMAs complicity in variation of texts and attempted evasion legal Principle and Policy.

This Knowing action will not survive Judicial examination unless you can retrospectively set aside centuries of legal practice.

It is unclear what qualifications permit you to claim certainty when very qualified Senior Judges have said there is neither clarity nor proof of the claimed package. If the CMA cannot prove the agreed payment for a global package, or a Contractual offence of any sort committed by the Consumer, then the Judgement of the Lower Courts stands and the charges are not permitted under the Provisional contracts agreed.

There are many terms and contexts used by the CMA which are not supported by the Judiciary in their own consideration of Current Accounts.



The Rulings should govern your own wordings and usage.

The intent to set aside the Judiciary is unlikely to survive a defensive attack by the Parties you defame.

You defame both the entire Public and the Judiciary itself.

The Supreme Court has cleared “Bank Charges overall” as open to attack. It is unclear why the CMA would align itself with practices which have been defined as “unfair” and “excessive” by the President of the Supreme Court [para 64 2009 UKSC 6] and has set out a scheme to propagandise, promote and enforce these charges which will eventually have to be repaid with Compound Interest.

Whilst you are permitted to defame [presumably on the grounds that the Rulings are unsafe due to declared personal interest], you should at least produce some reason why you do not comply with the clarifications of Parliamentary Law that the Judiciary have handed down.

The CMA [and clearly the FCA] are not consistent in labelling and categorisation which can only produce the confused approach you set out. You refer in **para 1** to “retail banking services for SMEs”, as distinct from “personal current accounts”. This conflicts with your Terms of Reference definition which specifically excludes businesses. The definition you use may be in error but the documentation should at least be internally consistent.

Barclays Contract is currently titled “retail customer agreement”, and is clearly stated as “not for business”. The original text before this illegal unilateral variation clearly stated that the Contract was for both “sole traders”[para 8.1] and personal customers.

The concept of “retail accounts” and the propagandised separate legal category for “business accounts” does not appear in the Judicial consideration of bank accounts.

Most of the precedents used are business accounts, which then apply across the Law. It is unclear if you feel you can operate and decide outside Judicial interpretations, as you are attempting to create a separate category of Banking Law not based on current precedents which use business examples to set the Law.

In **para 12** you then refer to “retail banking for personal and business customers”.

This is inconsistent as **para 1** does not refer to retail banking for personal customers.

It is also not consistent with the Law which refers to only Consumers and Suppliers.

There is no such thing in this context of a “customer”, or a business Consumer.

This is very sloppy and not consistent with your ruling Enterprise Act. Section 183 defines “a customer includes a person who is not a consumer”, i.e not solely a personal consumer.

Consumer is thus defined by Parliament in the Act as both business and personal, i.e. all-encompassing for purposes of the Law.

It is unclear why you feel you can set aside Parliaments careful definition which is intended to permit proper consideration of the price-supply arrangement between two equal Parties which is the legally required position here.

(I leave aside comment on the clearly unbalanced “Unfair” texts of the Contracts permitted by the FCA, in violation of the intent of the Unfair Terms Directive).

In this context of your investigation, the relationship envisaged by the Law is between two equal Parties, the “Supplier” and the “Consumer”, and a Contractually unconnected “customer” is not relevant.

The terms should be clear and legal so that a “customer” can safely become a “consumer” at the point the Contract is concluded.

It is the failure of the Regulator to ensure the Standard Form Contracts are compliant with English Law BEFORE they are or were sold that has created the unsafe illegal Market which exists and requires investigation.

The CMA use of terms in improper imprecise ways fails the test set by Mr Justice Smith when the banks attempted setting a threshold of “as clear as is reasonably possible”.

You are fully aware that he rejected that, and only “plain intelligible language” will suffice, “a commendable effort to make them plain and intelligible” does not pass the test.

Anyone reading the legal definitions in the Enterprise Act will be Misled by your use of the incorrect illegal term which does not refer properly to the Contracting Party, only to a prospective Contractee.

Your para 9 in CC3 is not legally consistent with the Enterprise Act para 183(i) as it wrongly asserts and claims to be. It claims “customers includes consumers”.

This distorts the position to the Public detriment. The Act clearly states “customer includes someone who is not a consumer”.

A customer in this context is a prospective Consumer who becomes that once they Consume what the Supplier provides. You should not refer to “customers” except to provide that they can read a fully legal text and thus safely become “Consumers”. Generally it would be safer to set aside your propaganda of para 9 in CC3 and only refer to Consumers.

It would be better to tighten 183(i) to state and better describe that “customers are prospective Consumers”.

At present the wording implies they can be both simultaneously which is not possible in logic.

You should be clear if the use of the term “customer” is preferred by the CMA, instead of the Contracted “consumer”, so that there can be a future evasion of English Law because the Regulator and Banks can thus point to the Law on Consumers claiming it does not apply.

This would follow longstanding policies where the Regulator has permitted the norm of setting aside fixed Contract texts (and in Barclays case also the Duty of Care), both of which are normally fundamental underpinnings of legal governance across the world.

You need to be honest and clear that your proposals are a continuance of the policy of easing Current Accounts outside any Regulation, by way of illegal unilateral variation of texts, including the Knowing diminution of the role of the National Regulator in the Contracts.

The Regulators attempts to permit operation of Current Accounts outside English Law has no bearing here as the definition and Law is set by Parliament and the Courts. The use in wrong contexts of “customers” is not binding and should play no part in the Misrepresentation of the legal position you express here.

It is however relevant to mis-regulation of the Economy that the Unfair Terms Regulation excludes business Consumers to their detriment, even though in Law [as

defined in the Enterprise Act] they are Consumers, and should be included for the Law, to be consistent with the Directive and good practice and morality in the economy.

Even when the EU is long gone the principles of the Directive are only basic Law, thus that it should apply to all entities whether business or private.

The Banking Regulators permission for abuse of business contrary to good practice is only supported by the Knowing exclusion of businesses as Consumers from the Unfair Terms Regulations.

It is unclear if your proposals cover Barclays accounts. To be fair the Contract does state "this sets out what you can expect from us", which as part 4 states, contrary to English Law, "we can change any part for any reason". There is, illegally, no statement clarifying that the Law requires a Party to continue with an agreed Contract and that the two months notice is contrary to that practice and is a form of coercion.

The text indeed does clarify and confirm that the Consumer can expect nothing at all from Barclays.

As this "contract" is legally worthless and promoted by the FCA, presumably this is the ultimate expression of the aim of the Regulator to complete the transition that has been occurring across at least two decades according to Mr Justice Smith, of unilaterally altering the agreed texts to the point where Current Accounts operate outside English Law.

The FCA also has gradually (presumably intentionally and Knowingly) removed itself as ultimate arbiter of the position as National Regulator for Barclays Accounts in the texts as part of this intended ideal form of Contract text, which is not fixed and guarantees nothing at all.

It is unclear therefore if Barclays is covered by the CMA proposals as it has become what appears to be the FCA test bed for operation of Current Accounts outside English Law and Principles.

As Mr Justice Smith noted [para 400 EWHC 875] to operate under the invented "package" agreement would be outside Regulation.

The OFT and Banks Jointly then proceeded at the Supreme Court to invent and portray Consumer agreement to this invention of a "global package" which four Senior Judges in the High and Appeal Courts could not see at all, in order to sidestep Regulation, as is currently occurring and the CMA promotes in this document. Whilst the Supreme Court accepted the Regulator and Banks could invent and say anything they wished, they did not identify any Supply being made [para 73 UKSC 6]. In return the Banks and Regulator did not attempt to identify a Supply to the Supreme Court.

It is unclear why the OFT, and now the CMA, would Knowingly choose to place themselves in such a legally exposed position.

The CMA may not even have a remit in this matter if a Supply is not identified. Para 130 in your CC3 requires an identified Supply to legally recognise a "Market" exists. Your terms of reference state you are to investigate "Supply of retail banking services".



You have no evidence whatsoever of any Supply. This is confirmed by the Supreme Court and your statement of lack of any evidence of a Supply when asked directly for evidence by the Chairman of the Treasury Select Committee.

So far you are working on propaganda from the Regulator and Banks claiming there is a Supply, assuming there is a supply and thus intending to facilitate seizures of Property in violation of the Human Rights Act Article 1 (Protection of Property).

This position of the lower Courts is upheld by your confirmation of the non-existence of the “global package” payment charge in the glossary appended to this document, or in the OFT's claimed list of charges in its submission where there again is no mention of this claimed Supply forming the basis of the current charging system. It appears the OFT is not acting in a co-ordinated way. It co-operated to invent the “package” charge and then fails to remember to include the invention in its faulty and propagandised list of charges and invented charges presented to the CMA enquiry.

A clear OFT invention is the “maintenance charge” which no bank appears to use. The banks boldly but honestly state it to be a “daily fee”, and do not even attempt to claim a Supply, merely leaving it to the let of the Regulator to permit this illegal abuse to continue.

At all points they can be legally cleared of not making Misleading statements like the OFT does in its invented explanation of what a “daily fee” is. The OFT is guilty of the Misrepresentation, not the Banks. That is an exposed position to consciously choose to be in.

In Law there are only bank accounts, there is no differentiation between business or personal accounts. The Contract may vary but the ruling Law does not.

The processes and procedures required for conformity with the Law are identical.

The fact the Regulator sets aside several legal processes is not binding on the Consumer or the Judiciary.

This is the point made by Mr Justice Smith that the Regulator permits the connotation of an imaginary offence by the account holder and this allows Breaches of Contract Law and normal processing procedures by the bank in order to seize property.

The whole approach of the CMA appears to be legally reckless and Knowingly conflicting with the Principles of English Contract Law, Banking Law and the position of the Judiciary in interpreting that Law as set out by Parliament.

It is unclear what knowledge or authority you have either individually or as a Body to set aside the considered position of Parliament or the Judiciary. The CMA joins the OFT in setting aside Regulation 6(1) which Parliament mandated must apply to any assessment to ensure that all deliberations are in conformity with English Law [“a term on which it is dependant”] before the process becomes fatally infected with the errors such as those the CMA is promoting and propagandising.

The result can only be adding to existing contempt for the Regulatory process, encouraging dangerous, illegal and costly behaviour by the Banks and thus a charge on the Exchequer as you seek to use State power to enforce charges which have still to be recognised as legal and enforceable by the Judiciary.

The Regulator has no final say on this matter, that is for the Judiciary reading the Law. The unilateral opinion of the Regulator has no binding effect on the Consumer. You are fully aware the root of the Reckless behaviour has been identified by Mr Justice Smith very clearly [para 374 EWHC 875] in the Regulator looking at the state of an account rather than illegalities in Bank processing.

The High Court for example was clear [para 308-11 EWHC 875] when the OFT strangely claimed a chargeable Breach occurred in relation to an instruction to not use a cheque with a guarantee card in excess of the amount on the card or in the

account. As Mr Justice Smith noted this is indeed “a contractual prohibition” [310] however the Bank always has full control of whether the overdraft extends or not, and “no Relevant Charge is imposed because a cheque guarantee card is used without the required funds in the account” [311]. “It is true it might lead to a Paid charge” but it is not paid on the Breach, thus “is incapable of being a penalty”.

“The Breach is simply part of the history that leads to the Paid Item charge”. It was further noted that the Bank Contracts not to charge for paying a request in any circumstance. “Payment of cheques -FREE”, confirming also it is something “Barclays does not charge you for” [item 9955363 6/08 pricelist].

The Charge also fails the test of certainty necessary in a Transaction Charge, as Mr Justice Smith noted it may only enter a “buffer” amount permitted by Barclays and thus not incur any charge.

As the Appeal Court noted [para 111 EWCA Civ 116] it is “not what is a service but what but what is the bargain between the Parties [regarding that service]”.

The CMA seeks to enforce charges which are not permitted in the Contract or in Law. If Regulation 6 had been applied the CMA would never have publicly propagandised the unsupported opinion that the Relevant Charges are legally valid and can be enforced.

Parliament was attempting to protect the Regulator from itself and the Exchequer from rash action by the Regulator, by wisely Mandating a firm base of legality for any opinions.

You are fully aware the charges you seek to enforce were “not included in the Contract when it was made, but were introduced into it at some later date” [para 442 EWHC 875].

You are therefore also aware that when discussing consumer debt due to charges that on final analysis the true position may be that the Bank is actually in debt to the Consumer, especially when long term Compound Debt as an Excluded Term is applied.

Clearly on the above analysis what has not been refuted in Court by the Banks or Regulator, all Paid charges in those circumstances were levied wrongly. The only defence put forward by the Banks and Regulator is the invented, unsubstantiated “package” agreement which you are fully aware was dismissed by four Judges already.

By perpetuating and enforcing the Charges against Judicial advice the CMA seeks and intends to create deeper liabilities for the Banks which they would Rightly say were partly created and liable to the Regulator.

**Para 10** shows the Market problems and lays out the legal weakness of your position due to misperceptions of what is happening. The statements of the banks and Regulator are worth nothing until they are supported by the Judiciary. The operation of the Market by the Joint misperception and Misrepresentation of the Regulator and Banks is opinion only, and should instead be securely based on English Law as passed by Parliament and interpreted by the Judiciary.

It demonstrates the starting point for your investigation is not tied to legal reality. There is no failure of the Market, it is a failure of Company Governance and a failure to enforce English Law. It is unclear if there is even a "Market", as the Supreme Court has said there is no proven Supply, which the CMAs own material sets as part of the definition of a Market:- "a collection of goods and services provided to groups of customers" [para 130 CC3].

I leave aside the incorrect use of "customers" in CC3 which is contradictory to the Enterprise Act which defines customer may not necessarily be a Consumer.

The "customer" may or may not intend to Consume what is offered by the Supplier, as written the sentence means little, but it is taken as intended to mean if it has conformed to Parliamentary usage. Parliament was very clear in the Act that a Consumer may or may not consume but is properly the object of the offer by the Supplier.

It would require setting aside most Banking Case Law if only private accounts precedents can be used to interpret processing Law and Principle, which Mr Justice Smith identified as the weak point in the Governance of Current Accounts. It would also require correcting past interpretations of the Law, if you attempted to split business and personal banking Law beyond interpretation of the Contract terms alone and but also the Principles used to interpret them.

Your attempt to sidestep Contract Law by not defining the customer properly, and thus their relationship to English Contract Law, is not binding. The Consumer has a Contract, the customer only has an agreement to consider.

The position of the Regulator and Banks is unsupported by the Judiciary.

Contract Law is perfectly capable of providing a functioning Market. It is unclear what authority the CMA has to set aside the position of the Judiciary, especially the Supreme Court which as carefully considered these matters and confirmed the position taken by the Lower Courts.

You legally Misrepresent that "Accounts do not pay interest on credit balances".

The Contracts do not transfer interest earned to the Bank nor permit its usage by the Bank, they do however commit the bank to credit interest owed to the Account. It is not for the Regulator to interfere in an agreed Contract, nor to attempt to assist the Banks sidestep this agreement by in order to efface their unwise decision and poor drafting. In Law if they do not like the way the contract turned out then they have the Right to offer a Consideration to encourage the Consumer to cancel the Contract as the Banks clearly prefer in order to regularise their income/expenditure balance. It is clear they prefer to evade the Contracts they wrote and offered, and the Regulator attempts to assist them in this objective as they Jointly seek to refuse any Judicial determination of "all the facts that are relevant to the operation of the Contractual adventure, and not just those that are within the knowledge of the customer" [para 73 UKSC 6].

The CMA in its documents does not set out the legal facts determined to present by the Judiciary. By setting aside Regulation 6 mandated by Parliament the CMA is



Knowingly frustrating good Governance of the Economy and putting itself in a dangerously exposed position in confrontation with the Judiciary whom it does not have authority to ignore.

The case is that the Banks were specifically asked by the Supreme Court if they claimed to own this interest, they did not state that they did [para 42 UKSC 6]. The Supreme Court determined that if the interest was indeed owed, it was part of the general package in the Provisional Contract. The Banks and Regulator Jointly claimed that the “package” was agreed as payable in a “global” form even though the lower Courts had not recognised any evidence for such a claim, and that the sole piece of written “evidence” was produced by RBSG after litigation had started. Naturally this bogus creation was rejected by the High Court, it is notable the OFT and FSA permitted this invention to go forward in order to support the invented “package” claim.

It is for the Banks and Regulator to prove any Consumer agreement to transfer title, or that it is included in the invented package. The interest is owned by the Consumer as a product of the balance and taken without any legal authority in the Contract. The Banks did not claim that they owned it.

If it cannot be proven, then the interest should be transferred to the Consumers ownership, where it can join the Tax allowance granted by the elected Chancellor. You assume something that is not demonstrated to the satisfaction of the Judiciary, which fails the test in Article 1 (Protection of Property) in the Human Rights Act, which puts the CMA in conflict with the Judiciary and Parliament as it attempts to transfer Property to a legally unsupported recipient.

You also state there are no charges whilst in credit. The Courts investigated this, yours is an illegally Misleading statement, it is possible to incur charges whilst in credit. In a proper investigation you should not be even promoting and propagandising a term considered by the Supreme Court as “somewhat misleading” [para 54 UKSC 6] unless your intent is also to mislead your readers as the banks intend towards theirs.

You are fully aware you are attempting the same deception that the banks tried in the High Court [para 397 EWHC 875] in claiming that “free if in credit” whilst Misleading, does describe the integrated pricing structure with subsidy from the Relevant Charges and the interest seized.

They tried to claim Regulation 6(2) refers to “price” which could be therefore also “part of the price”. Mr Justice Smith was “unable to accept this argument” because there is no Contractual reference to the “package” payment claim that the CMA and Banks rely on, and that the price is thus not that of the Supply in exchange. The “package” claim, the CMA promote here, was considered not to meet Regulation requirements as it was not in the Contract and only was “part of the price”. The Regulation requires and refers only to the “price”.

It was at this point the sole evidence the CMA rely on for the “package” pricing structure was refused as it was clearly a later invention and insertion by RBSG after litigation had started, in an attempt to portray it was in the Contract when it was made 13 years earlier. The CMA present no evidence for the “package”, however faulty, and are thus even more legally exposed than the Banks who at least had the figleaf of a single invented leaflet.

The Regulator and Banks persisted in the Supreme Court in refusing to provide any evidence of a Supply and let the current charging structure rest illegally on only “part of the price”. Whilst the OFT would not defend the Public, Lord Phillips did state that if they had done their Duty, then he would conclude the claimed exchange was “unfair” and “excessively” priced.

It is unwise for the CMA to support so fully a Charging structure which is open to attack, with the outcome largely mapped out. This is exposed in para 24 of your 24/5/16 pricing document which noted differential pricing for similar or same products. This is clearly legally faulty if a clear proportional price exchange is required in Law, especially if it relates to a form of penalty which you portray as justifiable recompense for costs incurred.

It fails the Supreme Court test and definition of the price of a transaction.

You contradict your own footnote 4 in the 24/5/16 Pricing document which Knowingly does not include the Courts determination that it is entirely possible to incur charges whilst in Credit.

You make an illegal statement that these accounts “do levy charges for overdrafts”. The Supreme Court investigated this and confirmed [para 86 UKSC 6] that there is no charge for an overdraft facility. The Court also checked and confirmed that the Banks “did not appeal against this finding”.

The Regulator alone is inventing and propagandising that there is a charge for requesting and providing a unilateral Provisional overdraft facility. Indeed in logic it would be most odd to charge, as the unilateral offer is withdrawn instant with the Consumer requesting the funds, so that the bank alone can make the decision to lend or not. A charge would create a consideration for a legal obligation by the bank, which would cut across protection for the banks’ capital in English Law.

It also contradicts the position of the Banks who state they will Supply unlimited funds without charge if it is repaid by a single time point. There is no cost levied on the Consumer for the other 23 hours 59 minutes and 59 seconds of Supply of unlimited funds. The Charge clearly therefore is not for the Supply and utility of the funds as you claim here.

The CMA provides no evidence for its claim of any levying of charges for provision of an overdraft.

The Pricing Analysis of 24/5/16 as far as I can see makes no mention of a charge for request an overdraft. It does not mention a charge for refusing a request for an overdraft. This is consistent with reading some available Terms from the banks. The list in Runpath Assumptions Dictionary “benefits” does include “help and advice” which would be similar in nature and form to “consideration” referred to in the litigation.

You confirm the Judiciary were correct to confirm that this “consideration” is “incidental” by the pricing it as zero.

It is a little concerning that Runpath do masses of largely pointless or illegal numerical analysis in this document, but fail to be able to put page numbers on this document, in order for it to be consistent with its own index.

It is illegal for the State to even consider advising Consumers on a price-quality arrangement. They may only put out facts, not pick winners. The CMA approach can only create liabilities for the Treasury, when after possibly decades, the advice proves to be wrong.

If rightly a Senior figure in the Bank of England states he struggles to fully comprehend the implications of his own insurance, how can the CMA even consider advising millions, most likely wrongly, if the legal compliance practice evident in the investigation is anything to go by.

You state an impression that foreign exchange transactions are not very clear. The Unfair Terms Directive does not permit investigation of foreign exchange as long as the market is properly run. There is no proof that there is a fault in the running of foreign exchange at the public end.

The banks may manipulate prices behind the offer price but that is different to saying the Consumer cannot see an exchange price and choose it, which is the limit of the Consumers knowledge. It may not be the best possible price a bank may or could offer but it is certainly a clear price which is what the Law requires. You need to demonstrate much more before you are permitted in Law to investigate foreign exchange pricing. It appears to have been included in the material simply to give the impression of being busy, even though it is known to be illegal and pointless.

Any foreign exchange Contract between the Parties would only be a specific Contract attached to the original Provisional Contract and is therefore not strictly part of the investigation of Current Account provision anyway.

If there are illegalities and lack of clarity in those transactions as you appear to allege it would be an admission of failure by the Financial Regulator to ensure the Law is complied with regarding Clarity. The Consumer should be able to undertake the Specific attached Contract with safety, any lack of safety is therefore agreed by the CMA as a Knowing failure to ensure the Directive is enforced.

If there are problems why is the Regulator permitting transactions still to be carried out when it is known the Consumer suffers harm by it. The reality is there might not be a problem and the CMA are simply including this in the investigation, even though it is illegal to do so, in order to propagandise action.

You claim the bank can keep the credit balance interest earned. There is no proof the Consumer has transferred title and permitted seizure of the product of ownership. It is an offence not to supply a consumer with something which they should have on an investment.

The Supreme Court specifically checked this, and the Banks offered no proof that they owned the product, i.e interest earned, beyond the claim for a "global package" Contract arrangement. The Judiciary could find no proof of a "package" arrangement and the Banks and Regulator have not offered any so far.

You state the charges are not transparent. The statement is an admission of a failure of Duty by the Regulator. It is matter of Law that they are required to be Clear, i.e. "plain and intelligible" to the customer BEFORE they Contract is made.

The problem here can be solved if the Regulator applies English Law. It would need to be a matter of investigation why the Regulator did not and does not apply the Law which should make this problem superfluous.

The market imperfection is not caused by the Banks, but by the Regulator making a conscious decision not to apply the Law as it already stands.

Until the charges are clear the material is not permitted to be sold to the Public, the Regulator however sets aside this long standing tenet of the Law.

This **paragraph 10** however demonstrates a similar Policy of the CMA to set aside the position of the Judiciary and promote non-existent legal positions in order to



justify the Relevant Charges.

You state and describe a legal offence of “not being credited with interest”, as the Banks Contract to pay interest earned into the account. This is not being done despite the Banks not claiming any legal Right to own the interest foregone when the Supreme Court specifically asked them for proof of ownership [para 42 UKSC 6]. You claim to identify the “real issue” but make no mention of the lack of legal support from the Judiciary in the operation of these accounts in the way they are currently by Joint agreement of the Regulator and Banks.

Your approach is flawed. The High Court has already made clear the Regulator is legally mistaken to not “look at what the bank does” [para 374 EWHC 875].

**Para 11** is contradictory to your previous statements. You have no evidence that operation “works well”. You have already stated FIIC is not a correct description, that is also the position of the Judiciary.

Clearly the subsidy inherent in the description in this paragraph fails the requirement of Regulation 6(2) that any charge must be in Exchange for a Supply. If overdraft users pay illegal charges to pay for services supplied to another Account user, then they have not had the legal exchange required.

It also fails a check on the Contract agreed. The Consumer agrees liability for their own actions and costs. There is no commitment to pay other Account holders costs. The charging structure the CMA seeks to enforce is an offence against Privity in Contracts.

You would need to investigate why the Regulator has not ensured a payee gets the legally required exchange, especially as the Supreme Court [para 80 UKSC 6] has drawn attention to the lack of support for this subsidy form of charging.

The most obvious error is to portray the materiel under consideration, viz the Bank Contracts, as being legal and Compliant.

This is clearly not the case and you cannot proceed until matters are clarified. It is unlikely extra legal proceedings are needed as the Regulator and Banks have made several outrageous suggestions which can be simply verified by reference to Contract material. This is the approach advised by the Judiciary that all the claims had to be verified by factual references in Contracts, and not to rely on anything unproven, as the CMA currently does.

It is unwise to rely on unfounded statements when they are fundamental to present operation of Current Accounts and also the facts the Supplier and Regulator have to your own Knowledge consciously evaded clarifying the questions when raised by the Judiciary.

You would need to consider the reason for the evasion given that the Joint Parties both claimed the Accounts system was legally Compliant and safe for Consumers to use, would not Supply any evidence to support that contention when asked.

The texts are known to be corrupted and altered since they were first concluded, and the unilaterally altered material needs stripping out, as required by Regulation 8. Again the Regulator and Banks Knowingly Jointly frustrated Mr Justice Smith when he attempted to aid the Consumer by ensuring legal compliance and continuity in the Contract wordings.

The lack of competitive pressure identified in **para 13d** is entirely to be expected if the Market consists of a form of cartel able to charge prices related to imaginary offences promoted and propagandised by a protective Regulator including the Office of Fair Trading who permits the abuses to continue despite the President of the Supreme Court determining that some form of “unfair” practices are being carried out.

Why would the Banks operate differently when it is the Regulators Policy, like that of the CMA, that the system based on illegal unilateral insertions continues without any proper investigation or control, despite long standing Public Policy that a Contract is fixed and cannot be altered in the way the Regulator and Banks corrupt the texts originally agreed by the Consumer.

In fact it is in the banks interest to continue as long as the Regulator facilitates and promotes the illegal system, on the basis that this extends the Regulators own Liability for the offences as it is fully aware of the illegal basis.

**Para 14** is very clearly untrue. The CMA has no intention of “empowering customers” by informing them that English Law does not permit unilateral variation of an agreed text, nor informing them that English Law requires Equity in Contracts, nor of informing them that the Courts have refused to give legal clearance for the texts that the CMA wishes to enforce. You do not inform the customer that this refusal was by reason of the Banks, and also the Regulator itself, Knowingly refusing to supply simple information to the Judge regarding when and how they had introduced the charges related to the invented offence of the “unauthorised overdraft”.

It reflects badly on the morality of a Party if they are not prepared to stand on Good Faith, according to Lord Bingham's test.

Nowhere do you suggest the “radical” step of introducing into the texts the existing legal Right of the Contracting Party to refuse the unilateral variation of their Contract and require that the banks carry out the Contract they have made. The current approach of only offering two of the three legal options disadvantages the Consumer. It is unclear why the Regulator permits the two coercive options only - of having variations forced on the Account, or an enforced move to another Supplier. The Right to require the bank to continue the Contract as agreed whilst the Consumer enjoys it, is, illegally, never offered.

The CMAs approach encourages illegal behaviour and entrenches Contempt for the Law by the Supplier.

Lord Bingham set Good Faith as a marker of Probity in Commerce, the Regulator and Banks Jointly act against that standard in Current Accounts provision.

**Para 24** refers to bank pricing as a marker. This is a nonsense as you are fully aware the Banks have not provided the Courts with any evidence of a chargeable Supply so far.

How can you promote a Price when you have no Supply. The CMA proposal is as illegal as the OFTs relying on only “part of the price” in the Supreme Court in order to facilitate the charging system continuing.

You have no ability to publish a price list as you have no legally proven evidence of a Supply made in Exchange, as the Regulations require. It is a false promise and fraudulent proposition, there is currently no means to fulfil that proposal.

It is unbelievable you propose the idea in **para 27**. You must be the only people who would actually base any serious decision on a website that is open to abuse.

The CMA is itself conducting investigations into abuse and misinformation through such websites. It is a little disconnected to a notion of Best Practice to promote something which leads to the necessity of investigation in a few years when the offences of bias appear. To rely on the Banks to provide any useful information is a little over trusting, considering the CMA states the reason for this whole investigation is that the Banks do not present clear pricing and evidence of a Supply to the Consumer.

If they haven't done it already there is no reason to expect things to change, the system of confusion and illegality supported by the Regulator clearly works well for them at present.

You are again inconsistent in **para 27** referring to "informed consent" for one action when you are aware the consumer never gave consent to the unilateral variation of the Contract which created these illegal "part of the price" charges in the first place. In Law you are not permitted to make judgments of either the price-quality or quality-price ratios.

The proposals in **para 28** are clearly a further attempt to evade the Law. As the proposal is specifically contrary to a Directive, have you considered how long it might take to enforce this illegal action when it may require protracted legal action and sanctions if you interfere in a Contract.

You are fully aware the Supreme Court has said it is not the place of the State to protect the Consumer from unwise choices as long as they are made with clear information.

Equally it is not the place of the State to attempt subterfuge and illegality to enforce Charges in order to provide revenue for Banks when they were post-factum. Knowingly unwise to offer to Supply for free in the Contract they made.

A better "entity" under **para 29** rather than the strange beast you propose, would be a payments arrangement like the Railway clearing system. It would eliminate the legal anomaly whereby the Banks, as Supplier, can access and seize Property from Consumers without any external control.

This control is clearly very necessary as the Banks seize Charges without offering any evidence for a Supply in Exchange, as the Law requires, and as the Supreme Court made clear was needed before the charges could be legally permitted.

Most Consumers would not object to HMRC accessing agreed tax amounts, but that was recently not permitted by Parliament, and yet the Banks are the only Supplier not controlled in its free access to another Parties Property despite conscious refusal to supply any of the legal permissions as required in the Human Rights Act, Article 1 (Protection of Property).

**Para 33** appears to be contrary to checking requirements in your Guidelines for Remedies **CC 3 Annex B para 43**. This should be a serious study of legal difficulties raised by the Judiciary in the Current Accounts Market. This would be certainly covered as a start point in **CC 3 para 165** that refers to your terms of reference. These refer to a Market, which by definition of the Act requires identification of a Supply before you can investigate distortions in that Price-Supply arrangement.

A major Government body such as CMA cannot be serious in saying its “preferred measure of quality” is a flabby pointless measure relying solely on hearsay. It certainly is not a serious method of judging a Market. I am surprised that you consider “friends, family and colleagues” who have no real perspective to offer have any legal force or usefulness. Any Consumer is legally an individual and is considered to make an individual choice about the product.

To set as a guide something of no worth at all in judging an investment would open up to liability for both the Regulator who permitted such a clearly dangerous thing, the individual who posted the information (if you could actually identify them), and no doubt the Supplier would develop means of corrupting the information anyway. It would soon become invented “friends, family and colleagues”. Given the Banks have demonstrated no interest in the fixed nature of Contract texts, and have gained the support of the Regulator for what would normally be an illegal practice amongst many other Misleading steers, there is no chance whatsoever that the Banks would pass up a chance to interfere in any information.

It is equally unlikely the Regulator would ensure the information was trustworthy, any more than they ensure the Contracts are trustworthy. The CMA even Knows that if a Legal Challenge was made to the information that the Regulator like the OFT would most likely seek to aid the Supplier in evading and preventing the permitting of any Judicial checking of Probity and Veracity, as they did when the High Court asked to check the Contracts for Good Faith.

The OFT acted to ensure unsafe material was able to be propagandised and sold, and they will most likely undermine any good intent that the CMA have for this suggestion.

If a 999 call centre can knowingly corrupt supposedly neutral information, there is no chance a part of the Bank, which the Directors would be “unaware” of, would not seek to fake information to its benefit. The position would be identical to the West Bromwich Building Society where the Regulator and Supplier cooperated to set aside the Law on fixed texts, until the Judiciary protected the Consumer because the Regulator chose not to.

This Regulator liability would be all the more binding given that at no point could the Regulator claim the information was ever anything other than worthless and no serious customer would give it any of the credence the wide-eyed CMA expect it to have.

There needs to be consideration of Treasury who would have to cover for the Regulator which delegated advice to an eminently corruptable source. You have no way of measuring Probity of an informant, especially as to be valid a forum would have to be very large and by definition uncontrollable. You have said Consumers do not act properly and engage, and then now you state you “prefer” this hearsay and gossip which will become a key indicator to enforce the illegalities that the CMA is fully aware already exist.

This ridiculous proposal would seem in clear violation of guidelines in **para 143 in CC3** which requires taking advice from “informed third parties”.

This would certainly include the Learned, Wise advice of the nine most Senior Judges in the Country.

However the CMA actively choose to not inform the reader of the weak legal position of the Contracts they seek to enforce, or even mention opinions which are backed by



the State through the Courts, and prefer to propagandise opinion from the Suppliers and Regulators who have been heavily criticised by the highest Courts.

There is no value whatsoever in any of the material you give great prominence to, until it is backed by the Courts.

A serious undermining of both the Banks and Regulators is Mr Justice Smith confirming that an attack is permitted by all Consumers on the corrupted texts which now largely consist of illegal unilateral insertions [para 11 2009 EWHC 36 COMM]. The Supreme Court backed this clearance for an attack on the “bank charges overall” on several grounds of violation of basic English Law.

None of the texts put forward by the Banks or Regulator are to be trusted in any way until they are Jointly prepared to defend them in Court. Neither Party has done so. In fact when given the chance and active choice is made to Jointly evade any Judicial protection of the Public to whom they are propagandised as safe for sale.

The CMA gives credence to a legally exposed position by seeking to enforce unsafe charges and texts by joining the OFT and Banks in setting aside a position mandated by Parliament for such “assessments” as the CMA is undertaking.

The Regulator and Banks Jointly evade the agreed position “by the Litigation agreement” that a Declaration of Good Faith be obtained before the products could safely be sold [para 437 EWHC 875]. The Parties then refused to let the High Court consider the matter under Regulation 6, which requires only the original legally fixed text to be used, and the term on which it was dependant, “this agreement is governed by English Law” [e.g. Barclays].

This legality clearly has little traction in the texts, as Barclays claim to the CMA they “do not provide unarranged overdrafts” and thus any alteration must be by way of illegal unilateral variation of the Contract, as in 2008-9 they were very vociferous at how useful such a service was, and they put on legal record they did Supply them. The Contract is the same one, it cannot be varied, any information to the contrary can be safely ignored as Misleading, and an illegal variation.

This Misinformation to the CMA exposes the need to set aside the information from the Regulator and Banks as being unreliable. Provision of the unarranged overdraft was stated correctly in Court as an essential Supply [para 103 EWCA Civ 116, quoting para 375 EWHC 875].

Indeed as Barclays stated to the Highest Court that unarranged overdrafts were an “important tool” [para 85 UKSC 6] it is clear the FCA has facilitated the Supplier acting in Bad Faith on the Contracted commitment that a change would “not be to your disadvantage” [para 13.13 a ii 11/12 text], which has been corrupted in the current text to “clearly in your favour” [p9].

However on either wording the actions of the FCA and Barclays in removing the provision of a “useful tool of financial management [Barclays Counsels own Supreme Court words] is clearly in Bad Faith and Misleading to the CMA as to its legality.

An unarranged overdraft is as the Counsel described very useful, and provided “informally” at no agreed cost which a Judge could find, it would legally only attract a reasonable rate of interest, the price of money, and not the invented penalties of the Regulator and Banks for the invented offence of asking, which is fully permitted in Law.

It is notable the OFT attempted to set aside Principles of Law in claiming the unarranged overdraft was not a Supply [para 20,21 EWCA Civ 116] which even the

Banks were forced to defend the Judiciary by noting it was contrary to the Law and the OFTS own position in 16iii and iv [EWCA Civ 116]. Similarly in this CMA enquiry the OFT attempt to Mislead by claiming “processing uncertainties” in its submission, which were found to be contrary to Legal Principle and not even permitted to be subject of Appeal even if the main Bank contentions had succeeded. It is unclear why the OFT appears so keen to promote and enforce a current accounts system operating outside any proper regard for the Judiciary and the Law. The High Court had already warned the OFT that to permit operation based on the invented “package” agreement would produce just that result, but the OFT promotes it in cooperation with the Banks.

The Contracts are fully workable if the illegal connotations attached to them by the Regulator and Banks are stripped out under the powers in Regulation 8. If the Regulator will not act to remove illegal unilateral variations in agreed Contracts then the Consumer is permitted by let of the High Court to act as noted in 2009 EWHC 36 at the head of this page. The result will be the same, English Law will be upheld, it is a question of whether the CMA joins the liability itself as much as the OFT, FSA and FCA have done by standing with the Supplier in matters of Good Faith to Regulation 6.

It is clearly important to ignore any statement by the Banks and Regulator which is incompatible with one made in Court, which is subject to scrutiny as a fixed legal commitment, compared to the opinion only .

The information from Barclays falls foul of the High Court clearance regarding unilateral insertions and is very unlikely to get a clearance of Good Faith, at the very least it should be tested before the CMA pay any attention to something which is clearly at great variance to their previous comments in a legal forum. Similarly Lloyds have not proven they have or ever had any permission in the Contracts to vary them at all, unlike the other Banks which at least had limited controlled permissions. The Lloyds texts are not to be taken as written until they fulfil the requirements they agreed to in Abbey National and Others to test the text under Regulation 6.

Contrary to the Guidelines in CC3 none of this “informed third Party” material is used.

You take no notice whatsoever as far as I can see of the Judicial opinions during this “investigation”, whilst you are permitted to defame them in that way because presumably you consider they have used the personal interest they declared to skew the decisions they made. There is no evidence for that and indeed there seems particular care taken to rely on only clear mathematical balanced positions to avoid any inference of personal influence.

It is interesting you do not seek to make clear the number of complaints a bank receives, for instance, and how many are stymied by the Bank until the Ombudsman requires legal compliance from the Supplier. These would be very good hard numbers to put in any sales material so that the Consumer may consider the known measurable attitude of the Supplier, against simple legal tests applied by the Ombudsman. Why are they not put on the entrance doors of the Bank as a warning to consider carefully what the Staff may tell you when you complain. If food establishments have to have a “score on the door” to warn consumers of poor

business attitudes, then it is clearly Unfair that another Supplier which absorbs great efforts in compliance control should not similarly have to warn consumers to avoid them if they have only a one star rating etc.

This is entirely reasonable given sufficient evidence of chosen Policies by the Banks in not processing complaints properly in order to disadvantage the Consumer. Indeed it would probably be best to save much economic waste in the national system, and have the Banks be stripped of Complaint handling as they have shown no real trustworthiness in dealing with them fairly or properly as the Law requires. If they had, then only 1 or 2% would be overturned and not be found to be legally dealt with. The higher numbers especially on repetitive simple “errors” points to a chosen policy of reducing bank liabilities by evasion of Contracted responsibility.

It is unwise to permit the FCA to act in the way you propose as they have demonstrated little regard for fixed Contract texts and can only be relied on to present a confused picture of legality to the Consumer. How will you be sure the FCA will not manipulate the advice data in the same way they currently manipulate the agreed texts.

You clearly need to enforce agreed Contracts. **Para 47** refers to gaining copies of transactions. The banks Contract already to provide Statements or Copy Statements either free or for a fee. You propose nothing that Contract enforcement would not achieve.

If the banks are failing to abide by their Contract why are they not being prosecuted on the Consumers behalf. Is this lack of a requirement to conform to Contracts part of the Policy of the Regulator of permitting unilateral variation of texts such that the bank can evade their commitments in existing Contracts. Research methodology would seem to be at fault here.

The failure of proper research appears to be consistent with your interview with Radio 4 Moneybox where you stated you had no awareness that most Banks cap charges on a monthly basis already. This was discovered by the BBC simply looking at the Contract wordings.

The Supreme Court has already pointed out that the caps exist, as they used them as legal proof that the charge is not the Price of the Transaction. By proposing a cap you self-condemn yourself in a future Court challenge. You contradict the Nature of the Charge, and challenge the finding of the Supreme Court in portraying the capped charge as the Price of the Transaction.

You cannot seriously use “therefore” in **para 55** after **para 54** which itself is a travesty of the legal position of overdrafts as expounded by the Judiciary. You are fully aware the term “unarranged overdrafts” has no contractual meaning. Even the Banks did not dispute this clear position of the Supreme Court [para 86 UKSC 6]. I shall not waste more time reading this document which has little regard for your investigatory requirement in CC 3 to consult “informed third parties” which must surely include the Judiciary in the highest Courts in England.

At the very least it is unsafe to rely on hearsay from “friends, family and colleagues” and “self-serving propaganda” from the Regulator and Banks in preference to the only fixed foundation you should rely on, that which can be enforced in Law.

You need to satisfy several Judicial warnings –

There is no evidence so far for -

The Supply

The payable global package

The liability to pay recompense for taking up the banks unilateral offer to lend money, other than interest, which is the Price of Money.

The offence you claim, requiring a form of Penalty.

Any involvement of the Consumer in the provision of the overdraft extension. It is a matter of Law that the Bank has full control, even to the extent of simultaneous withdrawal of its unilateral offer to lend, so that it may have full protection for its own Capital.

That the Contracts are safe to sell to the Public given that –

The Regulator has failed to ensure that they were fully Compliant

with English Law, as Regulation 6 requires, BEFORE they were permitted for sale as Standard Form Contracts.

The Judiciary have cleared the Contracts for attack on the basis of –

Unfairness

Excessive charging

The level of charges overall

Unilateral illegal insertions and variations of the text since at least 1994.

Lack of any defined linkage between Price and Supply as required in Law.

Lack of any mention of the “global package” which Regulation requires if it is to be used by Regulator and Banks as a basis for charging.

Lack of proof of any ownership by the bank of the interest earned on credit balances such that they can be seized and prevented being added to the elected chancellors tax free allowance of £1000.

**The 24<sup>th</sup> May 2016 Pricing Document** is largely worthless as it includes many irrelevant things and does not concentrate on legal Compliance as a basis for the charges. It certainly should not be used to interfere in a Market.

This impression is not helped by use of page numbers in the index which a numerical analysis team have failed to actually use on the pages.

One of the most notable is the constant attempts to give or imply advice on a quality-price or price-quality choice. This is illegal under the Unfair Terms Directive. It is also contrary to the Supreme Court who said the State has no place to advise on choices, only to ensure they are clear for consideration. The document is already an invitation to Prosecution.

Even given the near worthless nature of the statistics you use, given so many estimates, guesses and assumptions, it seems a little odd to risk producing such a dangerous document anyway.

This is neatly encapsulated in stating “gains from switching we present are estimates at snapshot in time, and are not a long run gain” [para 4]. In other words we are undertaking an action we can be prosecuted for by assessing a gain, we then illegally present it in a publicly funded document, in the full Knowledge that it has no value whatsoever given worthless figures and time frame, and also Know that it may actually cause detriment over the period of its use.



By **para 5** this then becomes disingenuous Misrepresentation. If it is not advice, what is it, it certainly is no grounds for producing figures in the materiel which claim a beneficial gain. This is demonstrated by your title of **Appx 6** – “estimated gains from switching”. **Para 5** is manifestly untrue.

As the Regulator and Banks claim there is a payable “global package” the outline in **para 10** demonstrates this is a waste of Public money as it has no clear use or outcome. As the claim of this “package” is unsubstantiated to the Judiciary, any worthwhile investigation into price-supply must pin down every aspect of the claimed package and compare it to the Contract to see if it is a Contracted Consumer liability.

In fact you demonstrate the point the Judiciary used to show that there is no charge for the unarranged overdraft you seek to enforce. Nowhere in the Runpath material is there support for the Regulator and Banks case. There is a lot of support for the Courts considering they had no Contractual basis.

The “general” introduction shows –

Huge extrapolation of data until it becomes worthless, with multiple guesses.

Only a 12 month time frame when the Courts have said illegal alteration of charging structures have gone on since 1994.

Does it not occur that if only 16 of 10995 accounts can show a direct price-supply link that they may be proving the position of the Judiciary that this is an admitted offence by the banks that there is no direct price-supply link when that is what the Law requires.

“there is not enough fidelity to determine what the payment might be” is merely an admission the CMA seeks to enforce charges it knows fail legal tests of Clarity.

Deleting the 20% from interest due to tax must skew the figures into sheer fantasy. That margin may be more than any marginal gains from switching to another illegal version of the cartel pricing system. If the customer does not pay the tax or includes the amount in their Tax allowance of Interest earned then the CMA is advising switching when it would clearly be better to stay and enforce ownership of the interest foregone or earned.

No account is taken of the lack of proof from the Regulator and Banks that they have Title to the interest earned on the account. The Supreme Court checked this and no claim was made, or proof offered.

You note the customer must claim back the interest but do not also note that the Regulator has failed in its Duty to protect the Consumer by clarifying and enforcing Consumer ownership of the interest on the credit balances. At the present time there is no proof of bank ownership, but there is therefore negative proof of customer ownership. The Regulator is on weak legal grounds to enforce seizure of the interest earned.

Use of the term “best bank” again gives the lie to the claim in **para 5** of not giving advice on “best products or providers”. That is clearly what the CMA is illegally attempting.

Under “product types” there is a lack of focus – “requested by account provider” should be “from the account provider”, unless it shows the provider has no knowledge whatsoever of what it is doing.

There is much consideration of attached Specific Contracts. The focus should be on the basic relationship Contract between the Bank and Consumer on money transfers

and processing. Everything else is Specific, is usually stated as such in the Contract and thus not strictly related to the basic relationship.

There is much mention of Foreign Currency transactions. It is illegal to interfere in that Market according to the Directive. This should only be included if you are also to present evidence of a failure of that Market in terms of safe legal operation. As elsewhere no evidence is offered to support setting aside Parliamentary structures.

Under "Benefits" most are attached specific Contracts. However there is proof that you are attempting to enforce something the Judiciary will not support.

You note "help and advice" are not charged. This was the basis for the Courts concluding there is nothing in the Contracts for provision of the unilateral offer of the overdraft facility, and also there is no charge for "consideration". This was found to be incidental to the basic agreement by the Bank.

This is carried through by your illegal equation of Paid and Unpaid charges. The CMA is fully aware the Courts determined one is a Supply, but the Unpaid charge is not. You must set aside the attempts of the OFT in-Court to illegally portray the Paid charge as not a Supply, in order to disguise the non-Supply nature of the Unpaid charge and thus maintain this illegal equality you portray here. Thus the "value calculations" are seriously questionable or worthless.

**Appx 1** demonstrates the CMA is attempting to cover the tracks of illegal unilateral variation of Contracts despite warnings from the Judiciary that this is open and permitted to attack by ALL Consumers. The CMA say "legacy" Contracts will be excluded. To be clear this means they exclude the nearer original texts, and prefer to promote more corrupt texts than should be used, it shows disdain for account holders who so far clearly have refused to bend to coercion from the Regulator and Banks to close these valuable free-in-all-circumstances Contracts. It is unclear why the CMA would seek to act in such a reckless way given that inevitably the Courts will impose those original texts and any aid to the Supplier will be seen as illegal help to circumvent a basic requirement in English Law.

Unless you can provide any proof of charges for "help and advice" then your claims to be able to promote and enforce charging for the provision of the unarranged overdraft extension by way of request collapse.

I would hope you would not seek to interfere in a Market by attempting to enforce any charges based on Judicially unsupported processes, nor to base any decision on the weak and near worthless methodology of the pricing analysis. Having the ability to produce a spreadsheet does not mean it has any use if the basis is unfounded on fact. Filling gaps and assuming figures is not sufficient basis to incur a large debt for the Treasury.

Promoting as a "prime indicator" hearsay from "friends, family, and colleagues" above considered Learned advice from the nine most Senior Judges in the country is not a good advert for Probity of CMA material, especially as this requires setting aside the considered advice on investigation in **para 143** in CC 3 which was presumably intended to prevent legally reckless actions.

Yours sincerely,

Mr J Streets