

NON CONFIDENTIAL VERSION

## UK Competition and Markets Authority

### Retail Banking Market Investigation

#### Comments on Provisional Decision on Remedies

#### 1. Introduction

- 1.1. Bank of Ireland (BoI) is pleased to respond to the UK Competition and Markets Authority (CMA) invitation to comment on the Provisional Decision on Remedies (PDR) in respect of the Retail Banking Market Investigation published on 17 May 2016. During the course of the Inquiry, BoI has engaged positively with CMA and we look forward to working further with the CMA to ensure that the Inquiry outcomes enhance market competition and provide benefits to both personal current account customers and businesses.
- 1.2. In this response we set out some general comments in respect of the proposed remedies package and then address a number of remedies on which CMA has invited specific BoI comments. Our response deals primarily with implementation issues, timing and costs associated with the remedies package. We have also commented briefly on the CMA provisional decision to revoke the Northern Ireland PCA Order 2008 in its entirety.

#### 2. General Comments

- 2.1. BoI operates in both Northern Ireland (NI) and Great Britain (GB) which for the purposes of the current market inquiry CMA has defined as separate markets. In NI BoI operates as a 'high-street' bank providing a broad range of banking services to personal and business customers. The position is much different in GB where BoI has a different business model and cannot be deemed a 'larger retail bank' to which the proposed remedies package applies. Furthermore as previously outlined to CMA, BoI does not offer services to new Personal Current Account (PCA) or Small and Medium Enterprise (SME) business customers in the GB market - the PCA base comprises small a legacy book of personal customers remaining following closure of our branch network some years ago and the SME business is in wind-down with no new lending services provided.
- 2.2. BoI also provides a range of banking products and services to customers of the UK Post Office (PO). This includes a trial of a PCA product.

- 2.3. A previous Competition Commission inquiry into the SME banking market concluded that NI was a separate market relative to other GB markets. At that time Bol was active in the GB market with a much larger base of business than at present. However the resulting remedies undertakings given by Bol in 2002 applied *only* to our NI business on the basis that we were a mainstream provider of services in that market only.
- 2.4. For the reasons outlined above Bol submits that the remedies package now proposed should apply only to our PCA and SME business in NI.
- 2.5. In this context the effort and costs that will be incurred to implement the remedies as currently proposed is disproportionate relative to both the size of the market and scale of Bol operations when compared to the large UK banks (Barclays, HSBCG, LBG, RBSG and Santander) named by CMA in the PDR. Bol cannot be expected to have access to comparable technology, financial and staff resources that will be required to implement the remedies package within the timeframes proposed by CMA.
- 2.6. In the time available Bol has only been able to undertake a very high level assessment of the costs of implementing the remedies package. We estimate that our costs will be a minimum of £x m which represents c. x% of current year budgeted operating profits and c. x% of profit before tax.
- 2.7. The above estimate excludes the costs of implementing the Open Banking Standard API. Furthermore we believe that the January 2018 timetable proposed by CMA may not allow sufficient time for successful implementation of Open API given that technical standards and other essential protocols to enable banks to develop functional specifications and systems design, from which implementation plans and timings will follow, are not yet agreed. In addition the proposal that banks be required to make available redacted PCA datasets via Midata in early 2017 is problematic for Bol as it does not currently subscribe to Midata. This would require new IT infrastructure development which has a limited useful life given that it becomes obsolete with the availability of open API. The lack of benefit for the Bol investment required is disproportionate given that CMA acknowledges the low levels of usage of Midata by customers of those banks currently making data available.
- 2.8. Many of the proposed remedies will require cooperation and coordination across banks, industry bodies, regulators and other stakeholders to design solutions and agree standards and protocols. This is likely to take time to achieve and we believe additional recognition needs to be given to this by CMA when drawing up the proposed implementation timetable.

2.9. More generally we have concerns at the implementation timetable proposed by CMA for a number of the remedies, in particular those that will require changes to technology systems to support implementation. Banks will have already committed resources across a range of business change and technology programmes. Many of these programmes are required to meet requirements resulting from regulatory change together with essential business change. The implementation timetable for the remedies package should be agreed with this in mind and once the details of the changes required have been more firmly established.

### **3. Transparency regarding cost and eligibility for SME lending**

3.1. CMA is proposing that banks should be required to make a tool available on their websites that enables a small business to obtain an indicative price quote and indication of their eligibility for unsecured and secured loans and overdrafts up to £25,000.

3.2. BoI believes that it is possible to develop and deploy such a tool. However, we believe that this risks 'commoditising' business lending by reducing the scope for businesses to negotiate with banks regarding terms and pricing for lending. In addition we believe that the tool will only be suitable for relatively straightforward financing proposals; cases involving more complex business ownership structures and / or proposed security arrangements are more suitable for consideration on a face-to-face basis.

3.3. Of necessity, the website tool will adopt a formula / credit scoring approach to the assessment of credit risk and it is likely that banks will err on the conservative side given the lack of direct customer engagement. Therefore in the event that the bank website tool indicates that, based on the information provided, a business is not eligible for the lending facilities requested, the business is unlikely to proceed further with their inquiry. This could mean that marginal proposals which, following discussion and review with a customer, could be viable banking propositions under a different approach e.g. alternative collateral arrangements, will not be considered and may result in the business not gaining access to the finance needed.

3.4. CMA proposes a six month implementation period following the effective date of the relevant Order. BoI believes that a minimum of eighteen months will be required to design, develop, test and deploy the website tool.

### **4. Measures to facilitate comparisons of SME banking products**

4.1. CMA proposes that identified banks support the Nesta Challenge prize as a way of creating one or more commercially sustainable SME comparison websites with the

costs of development being shared by the named banks in proportion to their shares of the UK BCA market.

- 4.2. Whilst BoI agrees that this is the most suitable basis of apportioning costs, those banks that will be required to provide funding fall into two groups; five very large UK / international banks i.e. Barclays, HSBCG, LBG, RBSG and Santander and three small NI based banks (Danske, BoI and First Trust Bank [AIBG]). In these circumstances there is a risk that the overall scope and costs of the project will be determined primarily by the larger banking groups and could result in NI banks incurring excessive levels of costs in absolute terms. Therefore consideration should be given to capping the levels of costs payable by NI banks at the outset<sup>i</sup>.
- 4.3. In addition the market share metric(s) from which cost apportionment is determined should reflect the scale of the NI market. NI businesses are, on average, much smaller than those operating across GB meaning that NI banks earn lower average revenues per SME account and this should be reflected in the cost sharing arrangements.

## **5. Measures to make account opening easier and improve the switching process: standardisation of Business Current Account opening procedures**

- 5.1. BoI believes clarification of the desired outcomes regarding the CMA's proposals to '*standardise BCA opening procedures*' is required.
- 5.2. Whilst BoI did not participate in the Project Bulldog work - the Oliver Wyman-led review of the possible CMA remedy sponsored by Barclays, HSBCG, LBG, RBSG and Santander - we have had an opportunity to review the *Final Report* produced by OW (dated 3 June 2016). Our understanding is that whilst the participating banks believe useful progress has been made, further work is required given different interpretations of both the specific remedy goals as currently proposed and indeed the overall objective.
- 5.3. Nevertheless the banks participating in the Project Bulldog review considered that it should be possible to agree a common core set of information requirements that banks could adhere to *but not be confined to*. It is unclear how this latter element of flexibility, allowing banks to include additional information requirements, provides certainty to SME businesses as to the information that they would be expected to have available when opening / switching bank accounts. We also note that the OW report concludes that complexities arising from business size, legal structure and ownership arrangements are likely to mean that the common core set of information is only suitable for use by smaller businesses.

- 5.4. BoI believes that the OW work correctly identifies the extent to which the remedy can address simplification of the BCA account opening process for SMEs by harmonising the approach taken by banks. We do not believe that a standard account application form / template is possible or indeed desirable given that the new customer take-on process forms a point of competitive differentiation.
- 5.5. We understand that the BBA is now engaging with a wider set of banks to assess how the work to date can be built on and BoI is happy to contribute to this process.
- 6. Measures to increase customer awareness of and engagement with their overdraft usage and charges: auto-enrolment of customers for unauthorised overdraft alerts**
- 6.1. CMA proposes that, *where feasible*, banks should automatically enrol all customers into an unarranged overdraft alert service. Under this remedy banks would be required to inform customers on a reasonably timely basis when they have or are at risk of exceeding an arranged overdraft limit. To enable the delivery of alerts banks would be required to collect an account holder's mobile phone number when opening a new account and where existing customers update their contact details.
- 6.2. In order to address this remedy BoI will need to collect and hold customer mobile phone records and develop a system to deliver alerts to customers when unarranged overdrafts are incurred / imminent. We note also that this remedy is intended to operate in conjunction with the remedy in respect of 'grace periods' which will rely on the same technology infrastructure.
- 6.3. With regard to the collection of customer phone numbers to enable auto-enrolment of existing customers, BoI currently holds mobile phone numbers for those customers who have registered for our mobile 'app' banking service and we believe these could be reliably used to deliver the alerts envisaged. In other cases whilst BoI holds customer mobile phone data across a range product / processing systems, we do not believe that the data is sufficiently robust - data may have been recorded incorrectly on our systems; customers may have changed phone numbers and not advised BoI - to allow us rely on it to deliver balance alerts. Therefore a customer contact programme will need to be put in place to request customers to confirm / update the information held by BoI. Where no phone number is currently held BoI will need to put in place a process to routinely prompt customers to provide this information e.g. during branch visits, online banking log-on, phone banking dial in, etc.
- 6.4. As indicated in the PDR (Table 5.1, footnote 2, p. 183) BoI does not currently offer balance alerts / prompts. BoI will therefore need to devote substantial resources to

design, test and deploy a technology solution to enable overdraft alerts to be created and delivered to customers. We note that CMA has acknowledged the difficulties that some banks may face in making the necessary technology changes to meet the remedy's requirements by indicating that a period of up to twelve months may be available to banks to implement the remedy (PDR, 5.76, p. 193).

6.5. We note also that CMA (PDR, 5.57 - 5.63, pp. 189 ff.) has outlined issues to be considered and potential scenarios regarding the circumstances in which overdraft alerts would be triggered. Whilst these are helpful, until BoI has agreed a set of requirements with CMA setting out exactly what needs to be delivered by way of overdraft alerts we are unable to provide a firm estimate of how long will be needed to meet the remedy's requirements. However we believe that it could take up to twenty-four months from the point of agreeing precise design specifications to make the necessary technology changes.

## **7. Provisional decision to revoke the NI Personal Current Account Order (2008)**

7.1. As outlined in our submission of June 2015 in respect of the CMA consultation on the NI PCA Order (2008), BoI believes that the key provisions of the Order have, for the most part, been overtaken by subsequent changes to regulations and codes of practice and the launch of the Current Account Switching Service (CASS). We suggested that these changes were sufficient to warrant a review of the appropriateness of continuing to govern the provision of elements of PCA services via a legislative framework applying exclusively to NI.

7.2. We therefore agree with the CMA's provisional decision of 17 May 2016 that market and regulatory developments together with the remedies package now proposed by CMA in respect of the current retail banking market investigation are such that the Order can be revoked in its entirety. We also welcome the CMA view that the representations made by a number of parties, including BoI, that implementation of a single regulatory regime across the UK is preferable to the maintenance of separate requirements for providers in NI and GB which is both costly and complex.

**Bank of Ireland (UK) plc**

**1 July 2016**

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<sup>i</sup> See our comments in Section 2 in respect of geographic scope of remedies as they apply to NI. We have assumed that remedies apply to BoI and First Trust Bank (AIBG) in respect of their NI operations only. Danske bank operates in NI only