



TSB Bank plc

Response to the CMA's formal consultation on the draft Retail Banking Market Investigation Order

Introduction & Overview

1. This response provides TSB's views in response to the CMA's formal invitation to comment on the draft Retail Banking Market Investigation Order 2017 (the "Draft Order") and its accompanying draft explanatory note (the "Draft Explanatory Note"). This response is provided to supplement TSB's earlier submissions during the CMA's informal consultation on the Draft Order – namely TSB's response on the "Core Service Quality Indicators" dated 28 October 2016 (the "Service Quality Informal Response") and its response covering the remainder of the Draft Order dated 31 October (the "General Informal Response") (collectively, the "Informal Consultation Responses").
2. TSB continues fully to endorse any measures that focus on tackling the root causes of the lack of competition in UK banking and that seek to improve customer engagement, transparency and switching – and in particular those aimed at:
 - a. engaging customers by increasing market transparency regarding the true cost of their PCA;
 - b. delivering an Open API framework which can be used to open up switching services to all UK consumers, including overdraft users who have the most to gain from switching; and
 - c. improving service quality metrics, such that customers have greater transparency and are more engaged with the "customer experience" they receive during their day-to-day banking.
3. Following the informal consultation period, TSB is encouraged by many of the amendments the CMA has made to the Draft Order itself and the clarifications provided in the Draft Explanatory Note. These answer many of TSB's concerns outlined in its Informal Consultation Responses.
4. TSB does, however, welcome this further opportunity to engage with the CMA, as it remains concerned that the Draft Order leaves unclear certain details regarding how this remedy package will be implemented in practice. TSB believes that further clarifications and amendments are required to ensure that the CMA's remedies are implemented in the way and to the timescales that the CMA intends, and to ensure they have the transformative effect on competition in UK retail banking that it hopes for.

5. TSB also has concerns that there need to be greater levels of oversight of the detailed design of the metrics/remedies aimed at boosting competition, particularly when the strategic design is passed to trade associations or other industry bodies, the largest stakeholders in which are the biggest banks that arguably have the least to gain from the measures.
6. To help ensure that the CMA's remedies package is as effective as possible, the remainder of this response concerns specific Parts of the Draft Order, highlighting TSB's particular concerns and areas where it believes the CMA could usefully provide greater clarity. Where TSB's points previously raised with the CMA have not been addressed, TSB refers back its Informal Consultation Responses as necessary. For the avoidance of doubt, TSB does not have further points to make about Parts of the Draft Order to which it does to refer to below.

Part 2: Open API Standards and Data Sharing

7. As it has made clear previously, TSB welcomes the development of open, standardised APIs. By allowing banks and other financial services firms to share a customer's data safely, securely and without an undue burden on the customer, the development of open API standards should lead to greater transparency in the market and facilitate switching – particularly amongst those who feel excluded from the process.
8. As such, TSB continues to support the CMA's pursuit of an ambitious implementation timetable for this remedy. It also welcomes plans to ensure that all industry stakeholders (including challenger banks, FinTechs and consumer advisory groups) have a voice, via a number of advisory groups, in the Implementation Entity charged with developing this remedy.
9. That said, TSB still has concerns in relation to a number of points that it raised in its General Informal Response.
10. First, TSB would continue to stress that the Agreed Timetable and Project Plan must be sufficiently detailed to ensure that the CMA is in a position to assess accurately whether the UK's largest banks and the Implementation Entity act in full compliance with this remedy. TSB notes that the Agreed Timetable and Project Plan, as of the date of this submission, have not been published for consultation. TSB considers that it is important that all industry stakeholders have an opportunity to comment on these documents, given their central importance to the implementation of this remedy.
11. Secondly, and linked to the above, TSB is also concerned that the Draft Explanatory Note continues to refer to how Implementation Entity will be able to designate certain "elements" of the data sets to be shared via open APIs as "optional". In the absence of further detail on what these "schema of optional elements" will be, TSB would reiterate its belief that it is important the API remedy is delivered fully to the CMA's specification in order for it to be implemented in a way that is of real benefit to consumers.

12. Thirdly, TSB is concerned that the challenger bank constituency group is not being given the resource it needs to hold the larger banks to account and ensure that voice of challengers are heard. This is particularly important given that the advisory groups may not be allowed equal voting rights to the UK's largest banks which are mandated to develop this remedy, in respect of strategic decisions made by the Implementation Entity's Steering Group (IESG).
13. Fourthly, there need to be greater checks and balances on the IESG to ensure that APIs are not designed in a way that only benefits the biggest banks, in particular ahead of the more stretching 2018 deadline.
14. Finally, TSB continues to question the value of the "Trustmarks" that the CMA proposes could be used to indicate to customers which financial services providers are fit to use the open API framework. This scheme may be undermined unless there is clear regulations governing how each banking services provider is awarded a Trustmark and in what circumstances it may lose it.

Part 3: Service Quality Indicators

15. TSB is supportive of the CMA's intention to help customers evaluate the quality of service they receive when using their bank. TSB believes that this will help customers to better engage with their bank and increase consideration of switching.
16. TSB understands that it is for the providers a reach an agreement on a methodology that is fair and robust. In order for this remedy to be effective however TSB believes it would be prudent for the CMA to make clear, to the bodies responsible, that remedies must be implemented in a way that is fair to challenger banks so that customers are provided with accurate results on the quality of service that they receive .
17. As outlined by TSB in its "Response to informal consultation on the CMA's service quality remedy" from November 2016, TSB has a number of concerns with the proposed methodology.
18. TSB notes the CMA's intention to ensure that the service quality information contains robust sample sizes for challenger banks so to promote accurate results. As a challenger bank, TSB is very supportive of this sentiment but would like to seek further clarification from the CMA as to how it intends to ensure that challengers are treated fairly. In particular, TSB would like to understand whether and how the CMA plans to weight sample sizes for challenger banks. TSB has known survey agencies to use sample sizes based on each provider's market share, resulting in challenger banks having sample sizes which are too low to produce



consistently accurate or representative results. This does not give consumers the information they need to make an informed decision about their provider or potential provider.

19. TSB notes that the CMA's intention is to have sample sizes of over 100 for each combination of brand in each region and/or each metric. TSB believes that it is important to have a de minimis threshold for challenger banks to produce accurate result but TSB would contend that such sample sizes would be too small for challenger banks, resulting in a high margin of error. TSB would also like to understand how the sample size for the smallest PCA or BCA provider included in the remedy would compare with the sample sizes for the largest providers. If the sample sizes are significantly higher, TSB contends that this would lead to statistical bias.
20. To ensure overall statistical accuracy, TSB would call for the CMA to appoint an independent statistician to ensure that the methodology and, in particular, the way in which the sample size is calculated, is not biased towards the major banks.
21. If the CMA does not believe it possible to weight or uplift sample sizes, which TSB contends would be against the spirit of encouraging greater competition in the market, then as bare minimum it is essential that acknowledgement of the potential statistical inaccuracy is clearly made within the published results, in a way that consumers can understand.
22. TSB also notes that the CMA's intention is to provide service quality metrics on a "12 month rolling basis" published at six month intervals. TSB would encourage the CMA to conduct testing as to whether or not 12 months is an appropriate timeframe. TSB is concerned that by including data from such a long period, customers will be given an inaccurate picture of how well their bank is currently performing. In the CMA's Final Report, it noted that a rolling 12 month reference period is necessary to ensure that the data is robust. TSB would encourage the CMA instead to collect data over a six month reference period, while also ensuring that sample sizes are sufficiently large in the first instance. This will make it possible to achieve results that are both robust and accurate for all providers.
23. TSB also has concerns over the intention to develop the service quality metrics based on a sample provided study, as studies of this nature enable data to be manipulated and can lead to inaccurate results.

Part 4: Prompts

24. TSB remains supportive of any measures which increase transparency and customer engagement – including prompts which encourage customers to shop around. TSB believes that these prompts can be an effective call to action for customers, provided that there is not an information overload in terms of the number of alerts a customer receives. As the

FCA begins its research into "annual summaries and events-based prompts",¹ TSB would remind both the CMA and FCA that, throughout the CMA's investigation, TSB has advocated that all PCA providers be mandated to provide a regular bill to their customers in a standardised format which delineates the true cost of the customer's account usage (including a standardised calculation for interest foregone). TSB continues to maintain that such a bill, provided on a monthly or quarterly basis, would provide all customers with the most effective and meaningful tool for delivering a step-change in transparency and regular customer engagement.

Part 5: Transaction History

25. TSB continues to endorse the CMA's efforts to make it easier for customers to obtain and share their transaction history. TSB therefore welcomes the amendments and clarifications CMA has made in respect of this Part of the Draft Order, which resolve the majority of the queries which TSB raised in its General Informal Response.
26. Addressing a concern raised in TSB's General Informal Response, the Draft Explanatory Note makes clear that this remedy does not mandate any changes to the CASS process. However, the CMA notes that banks may nonetheless work with BACs to change the CASS process if they think that this would help banks comply this remedy.
27. TSB contends that the CMA should request BACs to consider, in consultation with industry, whether a "request history" function can be incorporated into the CASS process. While it would not be mandatory to use, if a customer who is switching did want their transaction history, then the request could go through the CASS process, rather than leaving it up to the customer to approach their (old) bank after the switch is completed.
28. TSB welcomes the fact that, in Article 20.3 of the Draft Order, the CMA has recognised that in certain circumstances it would be inappropriate to provide customers their transaction history upon account closure, bearing in mind that this would impose an undue burden on the bank in question with little customer benefit. TSB would however ask for further clarification as to whether Article 20.3 would cover the closure of a BCA due to the failure of a business, in circumstances where the failed business will not be using another BCA in order to support it. As submitted in its General Informal Response, TSB would contend that providing transaction history for businesses that fail could be a costly exercise with potentially no benefit to the customer. (For the avoidance of doubt, TSB remains supportive of providing transaction history to businesses which are closing their existing BCA in order to look for a new account to support them.)

¹ FCA's response to the CMA's final report: <https://www.fca.org.uk/publication/corporate/response-cma-final-report-competition-retail-banking-market.pdf>

Part 6: Automatic Enrolment into a programme of alerts (inc. unarranged overdraft alerts, "UOD alerts")

29. As it made clear in its General Informal Response, TSB is supportive of any measure which gives customers greater control and transparency over the cost of their account usage (subject to its concern that customers should not be overloaded with information). TSB welcomes the changes that the CMA has made to the Draft Order and the clarification provided in the Draft Explanatory Note. These have resolved TSB's significant concerns.

Part 7: Monthly Maximum Charge ("MMC")

30. TSB welcomes the greater clarity that the CMA has provided regarding, for example, exactly what accounts the MMC should cover. TSB would, however, like banks to receive guidance on the extent to which they can alter or shorten (if at all) the standardised description of the MMC (as provided in Schedule 2 to the Draft Order).

Part 10: SME banking comparison tools

31. In its General Informal Response, TSB advocated that there should be challenger bank representation on the Nesta Open Up Challenge Committee and Judging Panel. In the absence of direct input into the development of the SME comparison tool(s), TSB would appreciate assurances that the winner of the Open Up Challenge prize will give all banks equal access to their tools once they are fully developed (using the data input from the UK's largest banks).

Conclusion

32. TSB welcomes this opportunity to respond to the CMA's formal consultation on the Draft Order.
33. As TSB has made clear throughout the CMA's investigation, TSB fully endorses any measures that focus on tackling the root causes of the lack of competition in UK banking and, in particular, TSB is supportive of the CMA's intention to increase customer engagement, improve transparency in the banking market and facilitate the sharing of data through an open API framework.
34. TSB would, however, encourage the CMA to keep in mind the need for there to be checks and balances in the design of APIs in order to ensure that the largest banks do not design them in such a way that would disbenefit challenger banks.
35. TSB would also call for more assurances to ensure that the methodology for the service quality remedy is robust and that the correct sample sizes are used to avoid statistical inaccuracies that could impact challenger banks in particular.
36. Further, in order for the CMA's remedies to be effective, there remain a number of areas in the Draft Order where further clarity is needed, as noted above. Providing this clarity will



better enable all banks to implement the remedies to the intended timescales and will ensure that they are delivered in a way that is meaningful to customers.