Anticipated acquisition by Lloyds Banking Group plc of MBNA Limited

Decision on relevant merger situation and substantial lessening of competition

ME/6663/16

The CMA's decision on reference under section 33(1) of the Enterprise Act 2002 given on 5 May 2017. Full text of the decision published on 26 May 2017.

Please note that [✄] indicates figures or text which have been deleted or replaced in ranges at the request of the parties for reasons of commercial confidentiality.

SUMMARY

1. Lloyds Banking Group plc (**LBG**) has agreed to acquire MBNA Limited (**MBNA**) (the **Merger**). LBG and MBNA are together referred to as the **Parties**.

2. The Competition and Markets Authority (**CMA**) believes that it is or may be the case that the Parties will cease to be distinct as a result of the Merger, that the turnover test is met and that, accordingly, arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.

3. The Parties overlap in the supply of credit cards to UK consumers. As a starting point, and in line with previous decisional practice, the CMA assessed the impact of the Merger on the supply of all credit cards to consumers. The CMA then considered whether the Parties could be closer or more important competitors for particular groups of customers, eg those seeking to transfer their existing credit card debt (balance transfer customers), or through particular sales channels, ie through digital comparison tools (**DCTs**) such as Moneysupermarket.com.

4. The CMA's investigation found that:

(a) The Parties will have a combined share of supply of all credit cards to UK consumers of around 15-30%, depending on the measure used. On most measures, LBG is the second largest supplier and MBNA is the sixth largest.

(b) The Parties compete with each other most closely in the supply of balance transfer cards[1] (with a combined share of supply of [30-40]%), and dual cards[2] (with a combined share of supply of [20-30]%).[3] However, there are a number of other credit card issuers which compete closely with the Parties in these segments (eg Barclaycard, Virgin Money, Tesco and Sainsbury's). These credit card issuers often rank higher than one or both of the Parties in price comparison tables for these products and, moreover, the identity of the credit card issuers occupying the top positions in price comparison tables changes frequently.

5. In light of this evidence, the CMA believes that a range of different credit card issuers will remain post-Merger which will together exert a sufficient constraint on the Parties to ensure that the Merger does not give rise to a realistic prospect of a substantial lessening of competition (**SLC**) in relation to the supply of credit cards to UK consumers.

6. The Merger will therefore **not be referred** under section 33(1) of the Enterprise Act 2002 (the **Act**).

ASSESSMENT

Parties

7. LBG is a UK-based retail and commercial bank that supplies a range of financial services. BlackRock Inc. and HM Treasury are shareholders of LBG. The turnover of LBG in the financial year ended 31 December 2016 was £17,500 million. LBG's consumer credit card business supplies credit cards and related services in the UK under the Lloyds Bank, Bank of Scotland and Halifax brands.

8. MBNA only supplies credit card services (ie it does not operate a network of branches or provide other financial services).[4] MBNA's UK turnover for the financial year ended 31 December 2015 was £[✂] million.

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[1] See paragraph 18 for definitions of different credit card product segments.
[2] Ibid.
[3] Based on the Parties' estimates of new acquisitions of these product types in 2016.
[4] Such credit card issuers are known as 'monoline' providers.

Transaction

9. On 20 December 2016, LBG entered into a sale and purchase agreement to acquire MBNA from FIA Jersey Holdings Ltd (the **Seller**), a wholly owned indirect subsidiary of Bank of America, National Association (**BoA**). The total consideration is £1.9 billion (subject to certain adjustments). Completion is conditional upon CMA clearance and change of control approval from the Financial Conduct Authority (**FCA**).

10. The transaction has not been notified for merger control purposes in any other jurisdiction.

Jurisdiction

11. As a result of the Merger, the enterprises of LBG and MBNA will cease to be distinct. The UK turnover of MBNA exceeds £70 million, so the turnover test in section 23(1)(b) of the Act is satisfied. The CMA therefore believes that it is or may be the case that arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.

12. The initial period for consideration of the Merger under section 34ZA(3) of the Act started on 17 March 2017 and the statutory 40 working day deadline for a decision is therefore 16 May 2017.

Counterfactual

13. The CMA assesses a merger's impact relative to the situation that would prevail absent the merger (ie the counterfactual). For anticipated mergers the CMA generally adopts the prevailing conditions of competition as the counterfactual against which to assess the impact of the merger.

14. However, the CMA will assess the merger against an alternative counterfactual where, based on the evidence available to it, it believes that, in the absence of the merger, the prospect of these conditions continuing is not realistic, or there is a realistic prospect of a counterfactual that is more competitive than these conditions.[5]

15. The Parties submitted that, absent the Merger, it is likely that MBNA would be sold to a third party and that the appropriate counterfactual against which the CMA should assess the Merger is therefore a situation where MBNA is not

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[5] *Merger Assessment Guidelines* (OFT1254/CC2), September 2010, from paragraph 4.3.5. The *Merger Assessment Guidelines* have been adopted by the CMA (see *Mergers: Guidance on the CMA's jurisdiction and procedure* (CMA2), January 2014, Annex D).

owned by BoA. The Parties also submitted that the assessment of the counterfactual should consider the impact of recent regulatory developments which will further promote competition within the credit card sector.[6]

16. The CMA considered these submissions but found that the identity of any alternative purchaser of MBNA (and whether or not its sale would occur at all) is completely unknown, and the impact of future regulatory changes is very uncertain. For these reasons, the CMA believes the prevailing conditions of competition to be the appropriate counterfactual.

Background

17. Credit cards are a financial product used by consumers as a method of payment and/or a source of unsecured borrowing. Credit card issuers typically compete over several parameters, including the fee payable by the customer for holding the product, the credit limit, the interest rates charged on purchases made with the card, outstanding balances or cash withdrawals,[7] minimum repayments, interest-free periods and foreign currency conversion fees.

18. There are different types of credit cards, which address different consumer needs:[8]

(a) **balance transfer cards** offer a long interest-free period for consumers transferring the balance of an existing debt from another credit card;

(b) **purchase cards** offer a long interest free period for new purchases made with the credit card;

(c) **dual cards** offer interest free periods for balance transfers and new purchases;

(d) **low APR cards** charge a low interest rate annually on outstanding credit card balances;[9] and

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6 These are the Second Payment Services Directive (PSD2), which will require banks to give third party providers access to a customer's online account/payment services; and the implementation of recommendations from the FCA's Credit Card Market Study, including the provision of additional information and prompts to customers regarding promotional periods and their spending in relation to credit limits.

7 Credit cards may have a single APR or different tiers of APR, depending on the cardholder's credit rating (the lowest APR would be paid by those with the best credit rating). There are also credit cards specifically for users with a low credit rating, aimed at improving their credit rating ('credit-builder' cards).

8 Based on the Parties' submissions and verified by evidence received from third parties.

9 APR stands for annual percentage rate.

(e) **reward cards** offer either cashback or another type of 'reward' for new purchases made with the credit card.

19. Third parties told the CMA that certain credit card types are increasingly sold through DCTs. In particular, the CMA found that balance transfer, purchase and dual cards are more frequently sold through these intermediaries than low APR and reward cards (where direct sales channels or existing customer relationships may be more important).

20. DCTs typically present credit cards ranked in order of total cost for a consumer and separately for different types of consumer profile (eg those with different credit ratings). For credit card types where no objective ranking is possible (eg rewards cards or those where multiple costs and fees are relevant), some DCTs allow consumers to further specify their needs (eg the amount they wish to borrow) so that a 'personalised' ranking is produced.[10]

21. DCTs often have contractual relationships with data providers which collect and report data on the credit card products currently available, including information on their features and prices. DCTs told the CMA that credit card issuers sometimes directly report new credit card products or price changes, and will occasionally promote special offers on selected DCTs. DCTs receive commissions for 'click-throughs' and/or for sales of credit cards from issuers.

22. A large number of third-party affiliate partners (eg airlines, hotel chains, sports clubs or charities) have commercial relationships with credit card issuers. These credit cards are typically branded by the affiliate partner and offer alternative benefits to consumers. For example, MBNA's credit card offering with Virgin Atlantic allows consumers to earn air miles for purchases made.

FCA market study and recent industry developments

23. In July 2016, the FCA published the report of its market study into the UK credit card sector.[11] The FCA found that competition in the sector was working fairly well for most consumers. The FCA said that there were a number of firms offering a range of products to meet varied consumer preferences, and these firms were competing strongly. The FCA noted that credit card issuers competed primarily on certain product features, such as

[10] Two of the largest DCTs for credit cards in the UK ([✂] and [✂]) told the CMA that they have extended their services to include pre-eligibility checks so that rankings for different consumers include only those credit cards for which they are likely to be approved. In order to do this, these DCTs will conduct a 'soft-search' or indicative credit check, based on information provided by the consumer.

[11] FCA Credit card market study: MS14/6

introductory promotional offers and rewards, and less on interest rates outside promotional offers and on other fees and charges.

24. The FCA found that competition was working less well for higher risk consumers (ie those with low or no credit rating) who have a much more limited choice of products and credit card issuers. However, neither of the Parties supply credit cards to higher risk consumers.

25. The FCA also found that DCTs play an important role in the credit card market, with 66% of consumers surveyed indicating that they used at least one DCT and found them useful.

26. Third parties told the CMA that, since the FCA market study, certain changes to regulations have impacted the sector. In particular, changes to the interchange fee regulations (**IFR**), introduced in December 2015, have reduced the revenues credit card issuers can earn from each purchase made using a credit card. Several competitors told the CMA that these changes have caused certain product types (such as balance transfer cards), from which revenues are primarily earned from interest on outstanding balances, to become more profitable relative to other product types (such as purchase or reward cards).

27. The FCA told the CMA that, since its market study, the overall market has grown and consumer demand for credit card products has increased.

Frame of reference

28. Market definition provides a framework for assessing the competitive effects of a merger and involves an element of judgement. The boundaries of the market do not determine the outcome of the analysis of the competitive effects of the merger, as it is recognised that there can be constraints on merging parties from outside the relevant market, segmentation within the relevant market, or other ways in which some constraints are more important than others. The CMA will take these factors into account in its competitive assessment.[12]

Product scope

29. The Parties overlap in the supply of credit card services to consumers.[13]

[12] *Merger Assessment Guidelines*, paragraph 5.2.2.

[13] LBG also supplies credit card services directly to businesses, which MBNA does not; and MBNA provides credit card services to affiliate partners, which LBG does not.

30. Previous investigations by the Office of Fair Trading (**OFT**) and Competition Commission (**CC**)[14] have considered the supply of credit card services, including *Barclays Bank plc/Goldfish,*[15] *Morgan Stanley/Lloyds TSB,*[16] *HSBC/Marks & Spencer,*[17] *MBNA/Alliance and Leicester,*[18] *Lloyds/HBOS*[19] *and Lloyds/Abbey National*[20] (the latter two as part of wider investigations). In all of these investigations, the OFT and CC considered the appropriate frame of reference to be the supply of all credit card services to consumers.[21]

31. The Parties submitted that the product frame of reference should be left open by the CMA in this investigation. The Parties said that the supply of credit cards to consumers is an overly narrow frame of reference as credit card issuers face competition from suppliers of alternative forms of consumer finance and payment methods and technological developments have opened up the sector to new competitors.

32. However, based on evidence received from third parties, the CMA found that credit cards are not easily substitutable with other forms of unsecured lending.

33. Moreover, third parties told the CMA that consumers have different needs which determine the type of credit card they seek. The CMA found that these differences are reflected in how credit card issuers market their products and in how DCTs present these products in price comparison tables, normally grouping them according to product type.

34. On the supply side, evidence from competitors indicated that no physical assets are involved when credit card issuers switch to supplying different credit card products, and they have the ability to switch quickly.[22] Credit card issuers told the CMA that they can easily and quickly[23] change the attributes of their credit cards and introduce or remove credit card products. The CMA

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[14] The CMA's predecessor organisations.

[15] ME/3532/08 Anticipated acquisition by Barclays Bank plc of the Goldfish business of Discover Financial Services, OFT, 7 March 2008.

[16] ME/2212/06 Anticipated acquisition by Morgan Stanley Bank International Limited of certain assets of the Goldfish business from Lloyds TSB Bank plc, 16 February 2006.

[17] ME/1244/04 Anticipated acquisition by HSBC Holdings plc of Marks & Spencer Retail Financial Services Holdings Limited, OFT, 11 October 2004.

[18] ME/1516/02 Completed acquisition by MBNA Europe Bank Limited of the credit card portfolio of Alliance and Leicester (decision not available online), OFT, 2002.

[19] ME/3862/08 OFT report to the Secretary of State on Lloyds/HBOS merger, 31 October 2008.

[20] Lloyds TSB Group Plc and Abbey National Plc: A report on the proposed merger, Competition Commission, 2001.

[21] In *Barclays Bank plc/Goldfish*, the OFT also considered the supply of credit card services to third party partners as a separate frame of reference from the supply of credit card services to consumers, as the merger parties in this case overlapped in both frames of reference.

[22] In line with the meaning given in the *Merger Assessment Guidelines*, paragraph 5.2.17.

[23] All of the credit card issuers who responded to the CMA said that they are able to do so within 12 months.

also found that, for the credit card segments where the Parties overlap, the same group of credit card issuers generally compete and the conditions of competition are similar within each relevant sales channel.

Conclusion on product scope

35. In light of the above evidence, the CMA has assessed the impact of the Merger on the supply of all credit cards to consumers. However, on a cautious basis, the CMA has also assessed whether the Parties compete more closely, and whether other credit card issuers impose different competitive constraints, in the narrower segments listed at paragraph 18 above.

36. The CMA has not found it necessary to reach a conclusion on the appropriate product frame of reference as no SLC has been found on any plausible basis.

Geographic scope

37. In *Barclays Bank plc/Goldfish* and *HSBC/Marks & Spencer,* the OFT considered the relevant geographic frame of reference to be national, as most credit cards issued to UK residents are provided by UK-based credit card issuers.

38. The Parties submitted that a national frame of reference was also appropriate in this case.

39. The CMA received no submissions from third parties regarding the appropriate geographic frame of reference. During its investigation, the CMA found that credit cards are supplied on the same terms nationwide, with no differences in pricing based on a consumer's location within the UK. The CMA also found that most credit card products will only be supplied to consumers who are legal residents of the UK and/or have a current account at a UK bank.

40. For these reasons the CMA has considered the impact of the Merger on a UK-wide basis. However, the CMA has not concluded on the geographic frame of reference as no SLC has been found on any plausible basis.

Conclusion on frame of reference

41. For the reasons set out above, the CMA has considered the impact of the Merger in the supply of all credit cards to UK consumers and, within that frame of reference, balance transfer cards, purchase cards, dual cards, low APR cards and reward cards. However, the CMA has not concluded on the

appropriate frame of reference as no SLC has been found on any plausible basis.

Competitive assessment

Nature of competition

42. Credit card issuers determine their product offering based on a number of factors. These factors include target customer profile(s), risk appetite, preferred sales channel(s), and price (ie level of interest rates or fees).

43. To obtain a credit card, consumers apply for their chosen products via their preferred sales channels. The credit card issuer will then decide either to accept or reject each application, this decision being based principally on each consumer's credit rating. Some of the terms (eg the credit limit and, in some cases, the APR), typically depend on the consumer's credit rating.

44. Other than the combination of price and other terms, the CMA found that there is little differentiation between credit card products. Some third parties told the CMA that brands might have some bearing on a consumer's choice of credit card but they said that branding is likely to be much less significant to a consumer than price or other key features.

45. The CMA found that credit card issuers monitor both the sales of their own products and the prices of competitors' products to evaluate their performance. Issuers sometimes respond by adjusting the price and terms of their products, or altering their product range.

Horizontal unilateral effects in the supply of credit cards to UK consumers

46. Horizontal unilateral effects may arise when one firm merges with a competitor that previously provided a competitive constraint, allowing the merged firm profitably to raise prices or to degrade quality on its own and without needing to coordinate with its rivals.[24] Horizontal unilateral effects are more likely when the merger parties are close competitors. The CMA assessed whether it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC in relation to horizontal unilateral effects in the supply of credit cards to UK consumers.

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[24] *Merger Assessment Guidelines*, from paragraph 5.4.1.

Shares of supply

47. The Parties submitted estimates of the shares of supply of credit cards to UK consumers by issuer, as shown in Table 1, calculated on the basis of market size data from the British Bankers' Association (**BBA**).

Table 1: Estimated shares of supply of credit cards to UK consumers, 2016

	Estimated UK shares of supply 2016 (%)*			
	Total accounts	***Active Accounts***	***Outstanding balances***	***Total Credit Card Spend***
LBG	[10-20]%	[10-20]%	[10-20]%	[10-20]%
MBNA	[5-10]%	[5-10]%	[10-20]%	[5-10]%
Combined	***[20-30]%***	***[20-30]%***	***[20-30]%***	***[10-20]%***
Barclaycard	[20-30]%	[20-30]%	[20-30]%	[20-30]%
HSBC / M&S	[10-20]%	[10-20]%	[10-20]%	[10-20]%
RBS / NatWest	[5-10]%	[5-10]%	[5-10]%	[5-10]%
Tesco	[5-10]%	[5-10]%	[5-10]%	[5-10]%
Santander	[0-5]%	[0-5]%	[0-5]%	[0-5]%
Capital One	[0-5]%	[0-5]%	[0-5]%	[0-5]%
Virgin Money	[0-5]%	[0-5]%	[0-5]%	[0-5]%
Co-operative Bank	[0-5]%	[0-5]%	[0-5]%	[0-5]%
Nationwide	[0-5]%	[0-5]%	[0-5]%	[0-5]%
Vanquis	[0-5]%	[0-5]%	[0-5]%	[0-5]%
Sainsbury's	[0-5]%	[0-5]%	[0-5]%	[0-5]%
TSB	[0-5]%	[0-5]%	[0-5]%	[0-5]%
Bank of Ireland	[0-5]%	[0-5]%	[0-5]%	[0-5]%
Other competitors	[0-5]%	[0-5]%	[0-5]%	[5-10]%
Total	**100%**	**100%**	**100%**	**100%**

Source: The Parties

* Shares of supply for each credit card issuer include co-branded and affinity credit cards issued on behalf of a partner organisation.

48. These estimates indicate that LBG is the second largest supplier of credit cards to UK consumers, behind Barclaycard. On most measures MBNA is the sixth largest supplier, except for outstanding balances where it is the third largest supplier. Post-Merger, the merged entity will remain the second largest supplier on most measures, except for outstanding balances where it will have a slightly larger share of supply than Barclaycard. This information suggests that the Parties will have a combined share of supply of around 15-30%.

49. However, the CMA believes that there are some limitations to these estimates. In particular, a significant proportion of existing credit card accounts included within these figures may not be fully contestable (eg they may relate to customers who choose their credit card with the bank where they hold an existing account, from which they are less likely to switch). Also, this data does not distinguish between different product types. The CMA

therefore asked the Parties to provide estimates of their shares of new credit card acquisitions by product type. The CMA did not ask for an estimate of the Parties' shares of new credit card acquisitions in the purchase card segment as MBNA does not offer purchase cards, and there would therefore be no increment in LBG's share of supply for this product type arising from the Merger. The Parties provided these estimates for 2016, as presented in Table 2.

Table 2: Estimated shares of new credit card acquisitions by product type, 2016

	*Estimated UK shares of new acquisitions, 2016 (%)**			
	Balance transfer cards	***Dual cards***	***Low APR cards***	***Reward cards***
LBG	[20-30]%	[20-30]%	[10-20]%	[0-5]%
MBNA	[10-20]%	[5-10]%	[5-10]%	[0-5]%
Combined	***[30-40]%***	***[20-30]%***	***[20-30]%***	***[5-10]%***
Barclaycard	[10-20]%	[10-20]%	[5-10]%	-
Virgin Money	[10-20]%	[10-20]%	[5-10]%	-
Tesco	[5-10]%	[10-20]%	[5-10]%	[20-30]%
Santander	[5-10]%	[5-10]%	-	[10-20]%
Sainsbury's	[5-10]%	[5-10]%	[5-10]%	[10-20]%
Nationwide	[5-10]%	[0-5]%	-	-
Bank of Ireland	[0-5]%	[0-5]%	[5-10]%	-
HSBC / M&S	[0-5]%	[5-10]%	-	[5-10]%
TSB	[0-5]%	[0-5]%	[0-5]%	-
Co-operative Bank	[0-5]%	[0-5]%	[10-20]%	-
RBS / NatWest	-	-	[30-40]%	-
Other competitors	-	-	-	[30-40]%
Total	**100%**	**100%**	**100%**	**100%**

Source: The Parties. Total market size based on data from eBenchmarkers.
* Shares of supply for each credit card issuer include co-branded and affinity credit cards issued on behalf of a partner organisation.

50. These estimates indicate that in 2016, the segment in which the Parties together attracted their highest proportion of customers relative to their competitors was the balance transfer segment ([30-40]%). This is consistent with their relatively higher combined share of outstanding balances shown in Table 1. The estimates also indicate that the Parties had significant shares of new acquisitions in the dual cards and low APR segments, with around [20-30]% and [20-30]% of all new acquisitions in these segments respectively.

Closeness of competition and competitive constraints

51. To assess how closely the Parties compete with one another and the extent to which other credit card issuers exert competitive constraints on the Parties, the CMA considered the Parties' submissions, reviewed their internal documents, and gathered evidence from third parties.

Parties' submissions

52. The Parties submitted that there were a large number of alternative credit card issuers with which they compete strongly, including Bank of Ireland, Barclaycard, HSBC, Nationwide, Sainsbury's, Santander, Tesco and Virgin Money, as well as a tail of smaller issuers. The Parties submitted that they were just two of nine credit card issuers that led DCT comparison tables in 2016.

53. The Parties submitted that any rivalry between LBG and MBNA was not critical for driving competition across the market, and that they do not attach any special weight to one another's proposition compared with other rivals. The Parties said that they assess a broad range of competitors when making their pricing decisions and they use comparison tables to check how their products are positioned against those in the top rankings, regardless of the identity of the competitor in that position.

54. The Parties also submitted that the fact comparison tables are fluid and change frequently indicates that no two credit card issuers are particularly close competitors. They said that there is a high degree of information available to consumers through DCTs, and little brand loyalty to credit card issuers.

55. The Parties also argued that they are differentiated in the relative importance they each attach to different sales channels as [60-70]% of LBG's sales come from direct channels and [30-40]% from DCTs, whilst [20-30]% of MBNA's sales come from direct channels and [70-80]% from DCTs.

Internal documents

56. The Parties provided a large number of internal documents, including minutes of meetings where pricing decisions were made.

57. The CMA used a software tool to search through these internal documents. The CMA did not find any evidence to indicate that the Parties monitor each other's performance or product offering more closely than they monitor those

of other credit card issuers or to indicate that the Parties view each other as close competitors.

Third party views

58. The CMA sought the views of third parties, including the Parties’ competitors, DCTs, and consumer organisations, on the extent to which the Parties compete and the constraints on the Parties from other credit card issuers.

59. All of the competitors which responded to the CMA said that the Parties compete closely with each other in the balance transfer and dual segments. Some competitors said that the Parties also compete closely in the low APR segments, but others said that they did not. The majority of competitors identified the Parties as having different strategies and strengths in issuing credit cards.

60. The DCTs that responded to the CMA also said that the Parties currently compete closely in the balance transfer and dual segments. However, these DCTs also said that there are several other credit card issuers which compete strongly in these segments. The DCTs said that the Parties both target consumers in the ‘prime’ (ie good credit rating) segment of the market. The CMA notes that nine of the ten competitors which responded to its investigation said that they also target these consumers.

61. Third parties generally believed that the Parties compete closely in the DCT channel for customers seeking balance transfer or dual cards. Many of these third parties said that their views were based on the Parties’ recent performance in the major DCTs’ price comparison tables.

CMA’s assessment

62. As discussed in paragraph 44, the CMA notes that, other than in the pricing and terms offered, credit card services provided by different issuers are relatively undifferentiated. Moreover, evidence from third parties indicates that, at least for some credit card issuers, it is both quick and easy to adjust the pricing and terms of existing products, and to launch new products.

63. Nevertheless, the CMA focused its assessment on the product segments where the Parties’ estimates of their combined shares of supply (see paragraph 48) and third party views indicated the Parties compete most closely, ie balance transfer, dual, and low APR credit cards. The CMA also considered in more detail the sale of these products (directly or indirectly) via

DCTs as competitors highlighted the increasing importance of DCTs in new customer acquisitions.[25]

64. The CMA first compared the Parties' and other credit card issuers' product offerings in these segments. The CMA found that at least eight of the Parties' competitors also offer balance transfer and dual credit cards.[26] Four of these competitors also offer low APR cards.[27] [✂].[28]

65. The CMA analysed the identity of the credit card issuers in the top two positions of price comparison tables and the frequency with which they appear in these positions. Based on evidence provided by DCTs, the CMA found that, of the eight competitors identified, four regularly appeared in the top two positions for balance transfer cards and dual cards during the past two years (Barclaycard, Virgin Money, Tesco and Sainsbury's), indicating these credit card issuers to be the closest competitors to the Parties in these segments and through the DCT channel.

66. The CMA asked competitors about their credit card strategies. One competitor told the CMA that it had become somewhat less active in the balance transfer segment and the DCT sales channel recently;[29] however, [✂].[30]

67. The CMA undertook some analysis of DCTs' price comparison tables, in order to observe the strategies of different credit card issuers. The CMA found that the credit card issuers occupying the top positions in these tables changed frequently, indicative of competition. Moreover, the CMA found that the frequency with which these top positions changed had been increasing. The CMA also found that both the number of different credit card issuers occupying these top positions, and the number of issuers moving between and within product segments, had also been increasing.

68. Competitors indicated that they have different capabilities which determine the speed and ease with which they can alter the attributes of existing products and launch new products. The CMA found that, for some competitors, there are no significant barriers to adjusting prices and other key terms and/or developing their product range, in particular, in order to occupy the top

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[25] Some third parties said that the importance of DCTs is likely to be understated by looking at click-throughs alone as many customers search on a DCT and then apply directly without clicking through.

[26] Bank of Ireland, Barclaycard, HSBC, Nationwide, Sainsbury's, Tesco, TSB, Virgin Money.

[27] Bank of Ireland, Sainsbury's, Tesco, TSB.

[28] The CMA also identified some credit card issuers which do not have the capabilities to compete effectively in the DCT channel (mainly due to IT requirements), or which pursue different strategies compared with the Parties, eg in relation to their risk appetite and/or the product segments on which they focus. Given the sufficient competitive constraints from other parties, these other competitors were not considered further.

[29] [✂].

[30] [✂].

positions in price comparison tables. Several competitors told the CMA that pricing and terms of existing products could be adjusted as quickly as the same day, whilst entirely new products could be launched well within a year.

Conclusion on closeness of competition and competitive constraints

69. Based on the evidence set out above, the CMA believes that there are several credit card issuers that pursue similar strategies to the Parties and that compete closely with them. In particular, the CMA found that Barclaycard and Virgin Money have consistently and regularly competed closely with the Parties for consumers via DCTs for several different product segments, including for balance transfer and dual customers. In addition, Tesco and Sainsbury's have successfully expanded their positions in the credit card sector and regularly compete closely with the Parties. Moreover, the CMA found several further credit card issuers which occasionally challenge the Parties at different points in time (eg Bank of Ireland, HSBC, Nationwide, Santander and TSB).

70. The CMA has found that, over time, a number of different credit card issuers have alternately competed more actively for consumers, and that the product segments in which this competition has occurred have also varied depending on prevailing market conditions.

Additional concerns raised by competitors

71. Some of the Parties' competitors raised additional concerns, which they told the CMA could reduce competition in the supply of credit cards to consumers.

Economies of scale and scope

72. Several competitors told the CMA that, post-Merger, the Parties would benefit from economies of scale and scope which would make it harder for competitors to compete with them. Competitors said that economies of scale arise for credit card issuers from having a larger 'back-book'[31] of consumers from which they earn revenues. Some competitors said that the merged entity's combined back-book would put competitors at a disadvantage. Competitors also said it would become harder for new entrants to enter the balance transfer segment as they would need more money to finance the business while building up a sufficiently large back-book of paying consumers.

[31] This refers to a credit card issuer's existing customer base and will include consumers who pay interest and fees on outstanding balances.

73. Some competitors told the CMA that this issue has been exacerbated by the changes to the IFR, which had made it more difficult to gain market share via issuing reward cards.

74. Some competitors also told the CMA that the merged entity would be able to draw on its combined knowledge and expertise to improve its estimations of credit risk, which would enable it to price more accurately and therefore disadvantage competitors. Competitors said that the merged entity's better pre-eligibility checks would also promote its products' positions in comparison tables where rankings are informed by customer eligibility.[32]

75. One competitor also told the CMA that MBNA would have access to cheaper sources of funding from LBG post-Merger, which would allow it to gain a competitive advantage over other monoline competitors, which have to rely on wholesale sources of finance.

76. The CMA considered these various submissions but did not find that any of them, taken either individually or collectively, provide evidence that the Merger gives rise to a realistic prospect of an SLC. The CMA believes that the presence of a large number of alternative credit card issuers, several of which possess similar characteristics to the Parties and have substantial resources, means that the merged-entity will have insufficient market power to exclude its rivals post-Merger. The CMA also notes that some of the most vigorous competitors in the balance transfer and dual credit card segments (eg Sainsbury's, Tesco and Virgin Money): (i) are not traditional retail banks; and (ii) being more recent entrants into the supply of credit cards, there is no realistic prospect that their back-books of customers are as large as those of longer established credit card issuers.

'Crowding out'

77. Several competitors told the CMA that the merged entity could gain a competitive advantage through its ownership of multiple credit card brands, as DCTs do not currently allow multiple cards of the same brand to occupy multiple positions in their price comparison tables. As the merged entity has five different brands, [33] it could occupy up to five positions in each price comparison table, whereas a credit card issuer with only one brand could only occupy one position. These competitors said that, even if one of their products

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[32] DCTs told the CMA that, if all other attributes are the same, they will rank cards for which the consumer is more likely to be accepted higher in their comparison tables.

[33] The merged entity will own three brands from LBG (Lloyds, Halifax and Bank of Scotland) and two from MBNA (MBNA and Nuba). MBNA also issues Fluid-branded credit cards, however these are currently closed to new applications.

attained the top position in a price comparison table, if the merged entity's products occupied multiple positions in the table beneath it, collectively these would be likely to generate more sales than the competitor's top-ranked product, and would potentially be more profitable as the terms offered by the lower ranked products would not be as favourable. These competitors also said that it was costly to introduce a new credit card brand into the market.

78. Based on the Parties' submissions and evidence received from competitors and DCTs, the CMA believes that obtaining either the first or second positions in a price comparison table has a significantly more beneficial impact on credit card sales than obtaining a lower position. Further, the CMA believes that there are no significant barriers to existing credit card issuers achieving these positions. This is supported by evidence from DCTs which indicates that the identity of credit card issuers occupying the top two positions in price comparison tables changes frequently. The CMA therefore believes that the Merger will not enable the Parties to crowd out their rivals from price comparisons tables to the detriment of competition.

Conclusion on horizontal unilateral effects

79. As set out above, the CMA's investigation found that the Parties will have a combined share of supply of all credit cards to UK consumers of around 15-30%. On most measures, LBG is the second largest supplier and MBNA is the sixth largest. The Parties compete with each other most closely in the supply of balance transfer cards (with a combined share of supply of [30-40]%), and dual cards (with a combined share of supply of [20-30]%). However, there are a number of other credit card issuers which compete closely with the Parties in these segments (eg Barclaycard, Virgin Money, Tesco and Sainsbury's). These credit card issuers often rank higher than one or both of the Parties in price comparison tables for these products and, moreover, the identity of the issuers occupying the top positions in price comparison tables changes frequently.

80. In light of this evidence, the CMA believes that, post-Merger, competitors will together continue to exert a sufficient constraint on the merged entity such that the Merger will not give rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the supply of credit cards to UK consumers.

Barriers to entry and expansion

81. The CMA has not had to conclude on barriers to entry or expansion as the Merger does not give rise to competition concerns on any basis.

Third party views

82. As discussed above, the CMA contacted competitors of the Parties, DCTs and consumer organisations. Some competitors raised concerns regarding possible horizontal unilateral effects arising from the Merger (as discussed above). One additional third party[34] also raised concerns relating to possible horizontal unilateral effects arising from the Merger, and [✄], though this latter concern is beyond the scope of the CMA's investigation. None of the DCTs or consumer organisations raised concerns regarding the Merger. The CMA also contacted the FCA and the Prudential Regulation Authority regarding the Merger, neither of which raised concerns regarding the Merger. These third party comments have been taken into account where appropriate in the competitive assessment above.

83. One competitor also told the CMA that the Merger would effectively create a duopoly in the supply of credit cards to consumers, with the merged entity and Barclaycard together accounting for almost 60% of the market. This competitor said the merged entity would have greater symmetry with Barclaycard and that the removal of MBNA as a 'maverick' competitor would make it easier for the two companies to reach and sustain less competitive outcomes post-Merger.

84. The CMA considered this concern and, in particular, assessed whether the Merger may give rise to coordinated effects. However, the supply of credit cards to UK consumers is characterised by a large number of products, the role of DCTs and other intermediaries, and the fact that competitors are unable to observe each other's customer acceptance criteria or decisions. Further, the CMA has not seen any evidence of existing coordination, and found that rival firms compete vigorously in the segments most affected by the Merger (see paragraph 79). For these reasons, the CMA does not believe that the Merger gives rise to a realistic prospect of an SLC due to coordinated effects.

Decision

85. Consequently, the CMA does not believe that it is or may be the case that the Merger may be expected to result in an SLC within a market or markets in the UK.

86. The Merger will therefore **not be referred** under section 33(1) of the Act.

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[34] [✄].

Andrew Wright
Director, Mergers
Competition and Markets Authority
5 May 2017