

Directions to Barclays Bank UK plc (Barclays) issued under the Payment Protection Insurance Market Investigation Order 2011

Background

1. On 5 February 2007 the Office of Fair Trading (OFT), in exercise of its powers under section 131 of the Enterprise Act 2002 (the Act), referred the supply of all payment protection insurance (PPI), except store card PPI, to non- business customers in the UK to the Competition Commission (CC) for investigation and report (the Market Investigation).
2. The CC investigated the matters referred to it in accordance with section 131 of the Act and concluded, in accordance with section 134(1), that there were features of the market, either alone or in combination, which prevented, restricted or distorted competition within the relevant market, and in accordance with section 134(2) that an adverse effect on competition existed. The CC published its findings in a report under section 136 of the Act entitled *Payment Protection Insurance market investigation: remittal of the point-of- sale prohibition remedy by the Competition Appeal Tribunal* on 14 October 2010 (the report).
3. On 6 April 2011 the CC made the Payment Protection Insurance Market Investigation Order 2011 (the Order), in performance of its duty under section 138 of the Act for the purpose of remedying, mitigating or preventing the adverse effects on competition and any detrimental effects on consumers so far as they have resulted, or may be expected to result, from the adverse effects on competition as identified in the report.
4. The relevant part of the Order is Article 4 (which commenced on 6 April 2012). Among other things, Article 4.1 states:

“ . . . a PPI Provider or Administrator must, subject to Article 4.7, send an Annual Review to a Policyholder”
5. Article 4.7 states:

“The obligations in Article 4.1 and Article 4.4 do not apply, if in the 12 months preceding the date when the Annual Review would have been sent either:

 - (a) the PPI Policyholder has:

- (i) not paid nor been required to pay any PPI Premium;
 - (ii) cancelled the PPI policy; or
 - (iii) permitted the PPI policy to lapse; or
- (b) the PPI Provider has:
- (i) cancelled the PPI policy in accordance with contractual rights;
 - (ii) received notice of the death of the Policyholder; or
 - (iii) received notice that the Policyholder has left the current address and no notice of the Policyholder's new address has been received by the PPI Provider."
6. On 1 April 2014, the relevant functions of the OFT and the CC were transferred to the Competition and Markets Authority (CMA) under Schedule 5 to the Enterprise and Regulatory Reform Act 2013 and the Schedule to the Enterprise and Regulatory Reform Act 2013 (Commencement No. 6, Transitional Provisions and Savings) Order 2014.
7. In April 2015, Barclays 6th PPI Compliance Report to the CMA reported that 52 customers had not received Credit Card PPI Annual Reviews on their credit card PPI. In October 2015 Barclays reported that following its investigation of the first issue (above) it had determined that over the last three Credit Card PPI Annual Review periods, 9,404 Barclays' customers had not received their Annual Reviews. In November 2015 Barclays reported a third incident of non-compliance. Annual Reviews for Mortgage PPI had not been sent to 740 customers on a specific mortgage PPI scheme since the PPI Order became effective in 2012.
8. The CMA discussed these breaches with Barclays and on 27 April 2016 the CMA wrote to Barclays summarising the actions that Barclays had agreed to take to prevent any recurrence. These actions included:
- The introduction of control mechanisms to address the issues identified and prevent these issues giving rise to compliance problems in the future.
 - The sending of apology letters to all affected customers.
 - The offering of refunds of premiums to any customers who decided to cancel their policy, dated back to when the Annual Reviews should have been issued.
 - The offering of an additional 8% annual interest on the amount refundable.
 - Providing the CMA with additional reporting on the findings from its ongoing reviews from Q4 2016 and to submit these to the CMA in January 2017 (i.e. before the PPI compliance report for 2017 was due).

- Additionally, the CMA told Barclays that it expected to be informed of future compliance issues that may arise and for this to take place as soon as any such issue is identified.
9. The letter was published on the [GOV.UK website](https://www.gov.uk).
 10. On 8 March 2018 Barclays informed the CMA that 2,265 customers that held PPI with Barclays in respect of Littlewoods credit cards did not receive the PPI annual review statements to which they were entitled, for the period between October 2016 and October 2017. This was in breach of Article 4.1 of the Order.
 11. In view of the above, the CMA has engaged with Barclays in order to identify steps to be taken by Barclays with a view to (a) ensuring that Barclays has the appropriate policies and procedures in place to prevent similar non-compliance from happening again, and (b) ensuring that Barclays has in place appropriate policies and procedures to ensure that, in the event of non-compliance, the CMA is informed promptly.
 12. Having taken into consideration the extent of Barclays' non-compliance with the Order (described at paragraph 10 above), Barclays' proposals for complying with the Order, together with the previous instances of non-compliance (noted at paragraphs 7 and 8 above), the CMA has decided to issue Directions to Barclays, to include:
 - A full description of each of the procedures to be implemented that will ensure that the CMA is notified of all issues of non-compliance or potential non-compliance within 14 calendar days of the issue being discovered
 - The introduction and maintenance of enhanced compliance training, to ensure that all instances of potential non-compliance are escalated appropriately
 - An automated solution as proposed by Barclays which tallies the number of customers of PPI (across all brands) with the number of Annual Reviews sent, with all inconsistencies investigated according to a set of procedures to include the individual steps involved and when these will be implemented
 - Assurance by an independent body of the systems used by Barclays to comply with the Order, to ensure that no other categories of customers are at risk. This should also clarify the timing and frequency of the audit and whether any findings from the independent body need to be reported to the CMA within 14 calendar days
 - Precise dates by when the above procedures will be implemented.
 13. On 3 May 2018 the CMA provided Barclays with draft directions specifying and describing the steps to be taken by Barclays for the purposes of

securing future compliance with the Order.

14. The CMA has taken into account the representations received on 21 May 2018 on the draft directions, and now issues these Directions.

Directions issued under the Payment Protection Insurance Market Investigation Order 2011

The CMA gives these directions ('the Directions') to Barclays Bank UK plc with company number 01026167 and registered address at 1 Churchill Place, London, E14 5HP (Barclays) under Article 16 of the Payment Protection Insurance Market Investigation Order 2011 ('the Order').

1. Commencement and Duration

- 1.1 The Directions come into force on 6 August 2018.
- 1.2 The Directions continue to remain in force until such time as they are varied or revoked by the CMA under the Order. The variation or revocation of these Directions does not affect the validity or enforceability of any rights or obligations that arose prior to such variation or revocation.

2. Interpretation

- 2.1 In the Directions terms have the same meaning as in the Order, unless stated otherwise.

3. Actions for Barclays

- 3.1 Barclays is accordingly directed to provide the following:
 - A full description of each of the procedures to be implemented that will ensure that the CMA is notified of all issues of non-compliance or potential non-compliance within 14 calendar days of the issue being discovered
 - The introduction and maintenance of enhanced compliance training, to ensure that all instances of potential non-compliance are escalated appropriately
 - An automated solution as proposed by Barclays which tallies the number of customers of PPI (across all brands) with the number of Annual Reviews sent, with all inconsistencies investigated according to a set of procedures to include the individual steps involved and when these will be implemented
 - Assurance by an independent body of the systems used by Barclays to comply with the Order, to ensure that no other categories of customers are at risk. This should also clarify the timing and frequency of the audit and whether any findings from the independent body need to be

reported to the CMA within 14 calendar days

- Precise dates by when the above procedures will be implemented.

3.2 A non-confidential summary of how these actions are to be completed, with timescales for completion are contained in the compliance plan in Annex A.

- Should Barclays propose to make amendments to the compliance plan:
- Proposed amendments need to be approved by the CMA; and
- The CMA will publish a non-confidential version of the amended compliance plan with Directions.

4. Monitoring and compliance

4.1 Barclays is directed to provide a compliance statement confirming compliance with the plan contained in the Directions. This is to be a separate document attached to its annual PPI compliance reports. The compliance statement for these directions should be submitted regardless of the circumstance where Barclays should fall below the reporting threshold for submitting a PPI Compliance Report.

4.2 Barclays is directed to ensure that each compliance statement is signed by the PPI Compliance Officer and a Director responsible for PPI Products.

Adam Land

Senior

Director

Signed by authority of the CMA

Board 6 August 2018