

Response to consultation on behalf of Currensea Ltd.

The CMA commonly appoints an independent professional services firm as a Monitoring Trustee to monitor compliance with remedies imposed after Market Investigations or Merger Inquiries. Would this be appropriate in this instance and if so, which types of firms or other bodies could be considered? Would it be practicable to find a firm that was not conflicted?

We would find it difficult to imagine any professional services firm that would not be conflicted at some level. All professional service firms will have a banking relationship with at least one of the CMA9, and many will have them as fee generating clients. Only a truly independent body will be able to carry out this task in a manner that is transparent, fair and dedicated to a positive customer outcome.

Is it necessary to continue monitoring activities at all since the FCA is already responsible for ensuring compliance with the (similar) requirements of the PSR including by the CMA9? To what extent would the FCA's current monitoring activities be an effective substitute for the activities of the Trustee's monitoring function?

We consider continued monitoring outside the FCA to be absolutely vital.

As the consultation has identified, some areas of Open Banking may conflict with areas of commercial interest to a bank. As the UK's first CBPII, Currensea offer a Debit card connected to an existing high street bank account that removes the foreign exchange fees. This achieves the vision of the CMA order, bringing competition to a previously locked-in area of finance, and providing customers with choice and a positive outcome. However, it also poses a direct commercial threat to a previously untouchable area of bank revenues.

When Currensea first launched, API compliance amongst the CMA9 for the CBPII API's was extremely poor, and response times clearly breached the regulations. For strong cases like this, the FCA were able to act and provide suitable encouragement to the CMA9. However, for the FCA alone, this would be much more difficult to identify and act, where performance issues are inconsistent. For instance, a temporary slowdown in performance by a given ASPSP, would have a direct impact on a CBPII's customers spending abroad with their debit cards - with the potential to leave them unable to pay.. For these scenarios, high level monitoring by the FCA is no substitute to a dedicated independent monitoring function. Without this, ongoing disputes between TPP's and ASPSP's about performance numbers and liability would simply continue, based on noise, hearsay and streams of NOT005's submitted. Much needed resolutions would end up in the long grass and the result would ultimately be a negative consumer outcome.

We believe that only via detailed independent statistical monitoring can the right customer outcome be achieved. It is our firm supposition that without this strong independent monitoring, ASPSP support and development for performance issues will slowly head to the bottom of the priority stack. In the case of CBPII API's where performance sensitive

APIs provide direct competition and commercial threat to bank revenue lines, based on historic precedent the resulting ASPSP prioritisations would be clear.

CBPII representation in the future entity

We note that there would appear to be no representation for CBPII TPP's in the Future entity. The CBPII is a distinct category under Open Banking and PSD2, with a very different model and different set of API's and performance requirements. As such we feel this to be a significant oversight and would request distinct representation.

Kind regards,

James Lynn