

TSB Bank plc

From: Colin Garland
Director, Markets

25 July 2024

TSB's breaches of Part 7 and Article 56 of the Retail Banking Market Investigation Order 2017

I am writing to you on behalf of the Competition and Markets Authority (CMA) concerning breaches by TSB Bank plc of Part 7 and Article 56 of the [Retail Banking Market Investigation Order 2017](#) (the Order).

Part 7 of the Order requires all providers of personal current accounts (PCAs) in the UK to set a Monthly Maximum Charge (MMC) in relation to unarranged overdraft charges. Providers cannot charge customers more than the MMC in any given month and must disclose the MMC each time they mention unarranged overdraft charges in product literature.

Article 56 of the Order states that if a bank is aware that it is not compliant with any part of the Order, it must report this non-compliance to the CMA within 14 days of becoming aware that it is not compliant.

The breaches of Part 7

TSB breached Part 7, Article 29.1 of the Order by:

- Failing to disclose the level of the MMC next to the relevant charges in Spend and Save Plus customers' monthly statements. The breach occurred between February 2021 and January 2024.
- Failing to disclose the level of the MMC within its mobile app journey for new to bank customers when mentioning overdraft charges. The breach occurred between January 2022 and February 2024.

The breach of Article 56

TSB became aware of the breach of Article 29.1 of the Order related to the Spend and Save Plus customers' monthly statements on 1 August 2023. However, it only

reported this to the CMA on 1 September 2023. TSB therefore failed to notify the CMA of this breach within the 14 days required under the Order.

The CMA's concerns

The obligation to provide correct and complete information to customers on the MMC is an important element of the Order to address the concerns found in the [Retail Banking Market Investigation](#). This measure, in combination with other obligations, was designed to make it easier for consumers or small businesses to understand the cost of unarranged overdrafts, to ensure they can make suitable choices in relation to the management of their finances and select and use appropriate accounts for them.

The failure to disclose the MMC in some product literature and communications to customers may have led customers or potential customers of TSB's PCAs to not understand the maximum amount they could be charged in a month for using an unarranged overdraft. While TSB noted that the missing information was available elsewhere, the Order requires that it should be available each time they mention unarranged overdraft charges to maximise the opportunities for consumers to see and be aware of these charges and their implications.

The CMA is concerned that both breaches of the MMC requirements had significant durations of longer than two years. The time taken by TSB to end both breaches represents a concern for the CMA in relation to the adequacy of TSB's actions to deliver ongoing compliance with the Order.

The requirement to inform the CMA of breaches within 14 days of becoming aware of them is important as it allows the CMA to review breaches promptly, in turn allowing us to ensure things are put right in an appropriate manner and without delay. The CMA notes that TSB has also breached Article 56 of the Order previously. This context makes the repeated breach of Article 56 outlined in this letter to be a further cause for concern in relation to the adequacy of its internal procedures.

TSB has taken action to put things right

I note that the breaches of Part 7 were self-reported by TSB on 1 September and 6 October 2023. TSB has now fixed both breaches and has taken some additional steps to prevent a recurrence.

In relation to Part 7:

- TSB has introduced a traceability exercise to ensure that project requirements deliver compliance with the relevant regulation.
- All PCA and Overdraft Legal, Regulatory and Mandatory communications will be fully reviewed for content accuracy at least annually.
- The review will cover fixed and variable content, issuing mechanisms and templates for all account types.
- A checklist will be provided to ensure required elements are covered (e.g. regulatory text).
- Product, Legal and First Line Risk representatives will be required to approve the review.
- Reviews will be tracked through First Line Risk Forums, with Executive Accountability vesting in Customer Banking Director. Further escalation through TSB's risk governance structure will occur as appropriate.
- A forward-looking schedule will be established to highlight communications as they come up for review.
- TSB will review all linked templates and variations of communications.

In relation to Article 56, TSB has committed to carrying out the following action:

- Sending reminders to relevant teams and delivering refresher training sessions on the requirement to escalate for assessment by appropriate stakeholders promptly, and the notification requirements under Article 56.

CMA assessment and next steps

Given the actions that have been, and are being, taken by TSB, the CMA does not expect to take further formal enforcement action in relation to these breaches. The CMA will monitor TSB's future compliance closely.

This letter has been copied to the Financial Conduct Authority.

Yours sincerely

Colin Garland
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