Response to Provisional Decision from Barclays received 3 September 2025

We are very supportive of the Provisional Decision and agree that market and regulatory developments have been such that revocation is warranted.

This said, we had a few observations about the application and relevance of the Consumer Duty in this context:

1. The CMA considers that the level of protection the CD offers is not equivalent to that of the Undertakings, in part as the CD is not sufficiently prescriptive. We disagree with this view.
    a. While we accept that the CD is intentionally outcomes-based, and necessarily less prescriptive, this does not mean that the level of protection it offers is not the equivalent of a more prescriptive measure such as the SME Undertakings.
    b. The CD is designed to offer flexibility to firms and to avoid the potentially unintended consequences of an approach that is too prescriptive (which to our mind could include disproportionate compliance burdens developing over time, or to obligations not being applied equally to all market players).
    c. As noted in our submission of 12 May, we feel that CD rules (and specifically those requiring firms to ensure that customers do not face unreasonable barriers to switching products/providers) offer an efficient, flexible and proportionate approach, which is equivalent and in certain situations greater than the substantially equivalent to the level of protection offered by the Undertakings.

2. In any event, under the Enterprise Act 2002, a change of circumstances that could give rise to a decision to revoke regulatory remedies is not contingent on those remedies being substantively duplicated elsewhere. The CMA seems mindful of this dynamic in the Provisional Decision, which is helpful to see: while the CMA does not feel that the CD offers duplicative or equivalent protection to the Undertakings (with which we disagree), it considers that that, in itself, should not be a barrier to revocation – with which we agree.

3. The CMA also concludes that the CD does not offer equivalent protection to the Undertakings, as it applies only to a narrower subset of SMEs. While it is true that the CD captures only smaller SMEs, we note that these (1) are likely to make up a significant proportion of all SMEs; and (2) are the businesses that the Undertakings were presumably most concerned to protect. We would accordingly argue that a very large proportion of SMEs is in fact within scope of both the CD and the Undertakings – and benefit from an equivalent level of protection under each.

In addition, the CMA's statement in paragraph 2.30 could be taken as indicating that it considers, with reference to the 2022 FCA Strategic Review, that a large branch network confers an incumbency advantage. While the original report giving rise to the Undertakings found that a large branch network could be a barrier to entry/expansion, we note that the CMA concluded in its 2016 review that the banks had complied with the remedy that was introduced to address this finding (please see paras 4.21 and 4.22 of "*Review of 2002 SME banking undertakings – provisional decision*" of 17 May 2016, confirmed in the final decision of 9 August 2016) such that Undertaking 25 of the Behavioural Undertakings could be released. Further, the CMA found in the RBMI final report that access to branch network was not a barrier to entry/expansion. We do not think there is evidence to suggest that the CMA's previous finding that the branch network does not represent an incumbency advantage should be changed.

When considering whether to revoke historic remedies, we do not think it would be appropriate for the CMA to refer to potential adverse effects on competition that were found to have been addressed satisfactorily at an earlier review stage, or to come to a different conclusion to that in its final report. We assume the CMA will clarify this point in the final decision.

Please do let me know if you have any further questions and I will be glad to assist.