

The Cantor Institute

Institutional Policy Response Department

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His Majesty's Government, United Kingdom

National Underground Asset Register tranche 1 regulations

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Executive summary

The CMA proposes to **release the Limitation on Bundling Provisions (LOBP)**—which have since 2002 prevented bound banks from requiring SME borrowers/depositors to hold a business current account (BCA) with them—on the basis of (i) increased competition in SME lending/deposits and (ii) changes in customer behaviour/technology. We agree that competitive conditions have **materially improved** (eg, the largest four bound banks' combined UK share of SME loan supply is now ~60–70% by value, ~70–80% by number, down ~10–20pp versus 2002) and that modern data-sharing and entry have reduced information asymmetries.

However, two residual risks merit **guardrails alongside release**:

1. **BCA stickiness remains high**: despite CASS and Open Banking, observed **BCA switching still sits near ~3% p.a.**, similar to 2002–2014 levels. This can amplify any leverage from lending into current accounts if firms use contractual or design tactics tantamount to tying.
2. **Consumer Duty coverage is partial**: the FCA Duty protects **micro-enterprises** (banking) and **sole traders/partnerships ≤£25k (credit)**; **limited companies and larger SMEs are out of scope**, so Duty alone may not fully substitute the LOBP.

Recommendation. Proceed with a **targeted release** of the LOBP accompanied by (A) a narrow **anti-exclusivity rule** for BCAs in loan/deposit contracts, (B) **disclosure and data-reporting duties** on

*bundling outcomes, and (C) a **two-year outcomes review** with quantitative triggers. This keeps pro-competitive bundling/integration available while preventing re-emergence of harmful tying.*

1) What has changed (and what hasn't)

1.1 Competition & entry (changed, for the better)

- ***Shares of supply:*** among six bound banks with data, ***each is <25% by value***; the top four together ***~60–70% by value / ~70–80% by number*** (2023), materially below 2002.
- ***Providers & channels:*** challengers, fintechs, brokers and comparison tools have expanded; Open Banking and credit-data regulations have eased information frictions. (CMA synthesis.)

Implication: The ability to leverage lending power into BCAs via tying is ***weaker than in 2002***, though not eliminated.

1.2 Customer behaviour (mixed)

- ***Loans/deposits:*** greater propensity to consider alternatives thanks to digital tools/brokers. (CMA assessment.)
- ***BCAs:*** switching remains low (***~3% p.a.***) even though switching is easier with CASS. Low observed switching does not prove low underlying willingness, but it heightens the ***payoff to “sticky” designs.***

1.3 Regulation (partly substitutive)

- ***Consumer Duty*** elevates outcomes-based standards, but covers only micro-enterprises for banking and sole traders/partnerships ***≤£25k for credit***; not limited companies.

2) Quantitative risk assessment (post-release)

To frame proportionate guardrails, we evaluate plausible effects if contractual tying returns.

(A) Reach of potential tying.

Upper bound: the four largest bound banks touch ~60–70% of SME lending by value; if even 10–15% of

new loan offers included a “BCA required” term, 6–10% of SME loan flows could be exposed. (Combines CMA share and a conservative adoption rate; illustrative.)

(B) Foreclosure intensity.

*Given ~3% **BCA switching** annually and known frictions, forced BCA openings could shift a non-trivial share of SME current accounts toward bound banks even without explicit exclusivity—especially where firms subtly **design** processes to favour opening/maintaining their BCA.*

(C) Counter-constraints.

*Open Banking, brokerisation, and challenger presence **dampen** leverage compared to 2002; moreover, Duty still **bites** for micro-enterprises and smaller credit.*

Bottom line: Systemic harm is **unlikely** under today’s competition, but **targeted guardrails** are prudent to prevent selective “re-bundling” from exploiting BCA stickiness or exploiting Duty gaps.

3) A proportionate package to accompany release

3.1 Keep pro-competitive integration; ban exclusivity

- **Ban BCA exclusivity clauses** (and “primary BCA” requirements) in SME loan/deposit contracts for **all SME legal forms**; allow **integrated products** only if all components are available separately on comparable terms. (Aligns with the spirit of the original undertakings while enabling modern integration.)

3.2 Mandatory disclosures at point-of-sale

- **Side-by-side offer:** whenever a loan/deposit offer is presented **with** a BCA, firms must also present a “**non-BCA**” **comparator** showing any price/fee differential and service differences.
- **Contract clarity:** plain-English confirmation that **no exclusivity** or “main account” condition applies; if incentives exist, quantify them transparently.

3.3 Data and monitoring (publish & compare)

*Report **quarterly** to the CMA (publish annually) for SMEs by legal form and size band:*

1. **Share of new SME loans/deposits sold with a same-bank BCA** (and how many were new BCA openings).

2. **Price differentials** between bundled vs unbundled offers (APR/fees).
3. **Observed churn** of BCAs post-loan origination (12/24 months).
4. **Complaint rates** referencing bundling/choice architecture.
5. **Micro-enterprise vs non-micro** outcomes (to proxy Duty coverage gaps).

This links directly to the CMA's focus on competitive landscape and customer behaviour.

3.4 Two-year outcomes review with triggers

CMA to re-open if any trigger is breached:

- **Bundled share** >25% of new loans in any bound bank **and** >5pp rise in its BCA share.
- **Price penalty** for unbundled customers >50 bps APR (median).
- **Complaint rate** on bundling >2x firmwide product average.

4) Addressing the Consumer Duty gap

*Because **limited companies** and larger SMEs sit **outside Duty scope**, we suggest a **CMA order** (or commitment) requiring:*

- **Choice-architecture fairness tests** (A/B or review-based) on cross-selling BCAs with loans for **all SMEs**, not just Duty-covered groups;
- **Board-level attestations** that product design and pricing deliver good outcomes where bundling incentives are offered.

This complements, not duplicates, Duty obligations.

5) Implementation plan (six months)

- *Month 0–2: Publish final decision; issue draft order/commitments covering **anti-exclusivity**, **disclosures**, and **data schema**.*
 - *Month 3–4: Firms build disclosures & reporting; CMA tech dry-run.*
 - *Month 5: Go-live (LOBP released); start quarterly reporting.*
 - *Month 24: Outcomes review against triggers; adjust if needed.*
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6) Responses to the CMA's key propositions

- *Has competition strengthened enough to release? **Yes—provisionally**. Concentration has fallen and alternatives expanded; bound banks' top-four share ~60–70% **by value** is meaningfully below 2002.*
 - *Is customer behaviour sufficiently responsive? **For loans/deposits, more so**; for BCAs, switching still ~3% **p.a.**—hence our guardrails around exclusivity and transparency.*
 - *Does Consumer Duty obviate **LOBP**? **Partly** (micro-enterprises; small credit). **Not fully**—hence the need for non-Duty protections for larger SMEs.*
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Conclusion

*We support the CMA's direction to **release the LOBP**, conditioned on **light-touch but effective guardrails** that preserve modern, pro-competitive integration while preventing a return to harmful tying—especially where **BCA stickiness** and **Duty gaps** could otherwise be exploited. The package above provides **clear metrics, transparency, and a review clock**, ensuring benefits of competition are locked in and visible to SMEs.*

End of response.

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