

report & review

June 2005

BRIEFING NOTE

Banks in Northern Ireland face Competition Commission investigation

Six months after a super-complaint by two consumer organisations, the Office of Fair Trading (OFT) has asked the Competition Commission (CC) to investigate the personal current account (PCA) market in Northern Ireland.

The CC will determine whether there are any adverse effects on competition in this market which are detrimental to consumers and, if there are, what remedies are needed to address them.

This is the fifth market investigation referred to the CC under the Enterprise Act 2002. All of these investigations are ongoing. Under pre Enterprise Act powers, the CC published its conclusions on a monopoly investigation into the supply of banking services to SMEs in March 2002.

The investigation will take up to two years and could lead to the imposition of significant structural and behavioural changes to the banking market in Northern Ireland. The CC has invited written evidence from interested parties by 24 June 2005.

Background to the investigation

On 15 November 2004, in conjunction with the General Consumer Council for Northern Ireland, the consumer organisation Which? submitted a super-complaint about Northern Irish PCAs to the OFT. The super-complaint is a new procedure introduced by the Enterprise Act 2002 by which certain designated bodies can trigger an urgent investigation of a particular market. This complaint

alleged low interest payments, high charges, a lack of transparency in charges and parallelism between the major banks in the structure and size of charges imposed on customers holding PCAs. It claimed that, as a result, Northern Irish banking consumers are left with little choice and poor products.

On 11 February 2005, the OFT issued its reasoned response. The OFT indicated that it thought a PCA market investigation reference was appropriate and held a five week consultation on the issues. The information submitted during this consultation was not sufficient to change the OFT's view of the PCA market in Northern Ireland.

On 26 May 2005, the OFT issued a press release confirming the CC reference and published its reasons.

On 27 May 2005, the CC issued a press release inviting evidence to be submitted by interested parties in writing by 24 June 2005.

The OFT's competition concerns

During its examination of the market for the supply of PCA banking services, the OFT found that:

- There is a high level of concentration in the Northern Ireland PCA market - the "big four" Northern Irish banks (Ulster Bank, Northern Bank, First Trust Bank and the Bank of Ireland) together hold about 74% of the market;

- There are significant barriers to entry and expansion, including the extensive branch network of the big four, and low levels of switching by customers;
- There is evidence of behaviour among the big four banks leading to, or demonstrating, weak competition between them (although the OFT does not allege active collusion);
- The big four impose a number of charges when customers are in credit and overdrawn which are not found in the rest of the UK;
- The big four do not actively compete on price and prices have been moving steadily upwards over the last five years;
- There is evidence of parallel pricing behaviour by the big four and tacit collusion is a feasible market strategy;
- The big four do not actively compete for customers switching accounts, preferring to target new-to-banking customers, particularly students; and
- There is not yet any evidence that uptake of internet/telephone banking is sufficient to constrain the behaviour of the big four.

It is too soon to anticipate whether the CC will confirm the OFT's concerns about the state of competition in the Northern Irish banking sector.

The big four banks may put forward robust defences of existing practices. They may also concede that changes are needed and put forward constructive solutions to address the consumers' concerns.

What seems clear is that the CC's investigation will stir the Northern Irish banking sector from what the OFT has labelled its current state of stagnation ■

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What action will the CC take?

The CC now has up to two years to carry out a full investigation of the Northern Irish PCA banking market. During its investigation, the CC has wide fact-finding powers, including taking witness statements and requiring the production of documents. The CC's investigation is likely to impose a significant burden on all companies involved in terms of management time and expense.

If the CC finds that there are adverse effects on competition with detrimental effects on consumers, it will consider what action should be taken to remedy these adverse effects. The CC can impose undertakings or orders on the banks involved to force through changes to the market structure and practice.

The CC's remedies can be structural or behavioural. Structural remedies could include a requirement to divest a business or assets, while behavioural remedies could require the banks to discontinue certain practices or adopt certain practices (eg. to reduce charges or facilitate switching).