

Response to the super-complaint on personal current account banking in Northern Ireland made by Which? and the General Consumer Council for Northern Ireland

11 February 2005

OFT771a

BACKGROUND

1. On 15 November Which? (formerly known as the Consumers' Association) submitted on their own behalf and on behalf of the General Consumer Council for Northern Ireland (GCCNI) a super-complaint to the Office of Fair Trading (OFT) about personal current bank accounts (PCAs) in Northern Ireland.

2. In their super-complaint, Which?/GCCNI state that the market for PCAs in Northern Ireland does not appear to be functioning in the interests of consumers. They say that the market is remarkably static and displays a striking degree of similarity in terms of the structure and size of bank charges; and that the lack of effective entry and clear lack of competition between the four largest Northern Irish banks leaves Northern Irish consumers with little choice and poor products. They highlight four main problems:
 - Northern Irish banks pay considerably less interest than rivals when accounts are in credit

 - Northern Irish banks charge significant sums for activities that other banks do not charge for at all

 - Northern Irish bank charges often lack transparency; and

- Northern Irish banks display a striking degree of similarity in terms of what they charge for and the amount they charge.
3. The right to submit super-complaints was created by section 11 of the Enterprise Act 2002 (the Act). A super-complaint is defined under section 11(1) of the Act as a complaint submitted by a designated consumer body that 'any feature, or combination of features, of a market in the UK for goods or services is or appears to be significantly harming the interests of consumers'. Which? is a designated consumer body.
 4. Section 11(2) of the Act requires the OFT, within 90 days following receipt of a super-complaint, to publish a reasoned response saying what action, if any, it proposes to take. This document and the attached consultation paper address the key issues raised by Which?/GCCNI and represent the OFT's response to the super-complaint.
 5. In considering this super-complaint we have consulted interested parties, including by way of questionnaires sent to, and meetings with, the four largest banks in Northern Ireland.

Overview of the sector

6. PCA banking services provide to individuals the facility to hold deposits, receive and make payments (cheques and debit cards and ATM facilities) and make regular payments (direct debits and standing orders).
7. The fees which are the principal focus of concern in the super-complaint are those transaction fees that apply to all transactions throughout a quarterly fee period, even if the account is overdrawn for only one day. This applies to both authorised and unauthorised overdrafts. In addition the super-complaint raises concerns about charges for the setting up, amending and cancellation of standing orders and direct debits.
8. No official figure for the value of total deposits held in current accounts is available for Northern Ireland but it is estimated by industry sources to be in the region of £1.9 billion. The population of Northern Ireland at the

2001 census was recorded as 1.68 million, of whom it was estimated (in 2002-03) that 78 per cent had PCAs.

9. The banking market in Northern Ireland is concentrated, with four banks historically accounting for over 80 per cent of PCA business and bank branches, they are: Ulster Bank, Northern Bank, First Trust Bank, and the Bank of Ireland (the 'big four' banks). Two of these, Ulster Bank (which is owned by Royal Bank of Scotland Group) and Northern Bank (until recently owned by the National Australia Bank Group¹) have been subsidiaries of banking groups with GB-based sister banks. The two remaining banks, First Trust and Bank of Ireland, are owned by Allied Irish Banks and the Bank of Ireland respectively, both Republic of Ireland banks.
10. There are four smaller providers with market shares in the range 2-7 per cent, they are: Halifax, Abbey, Nationwide, and Alliance & Leicester. All other providers are very small indeed.

ANALYSIS

Market structure

11. The big four banks now account for around 77 per cent of the Northern Ireland PCA market. There is some evidence of recent erosion of their combined share but this appears to have been relatively limited.
12. The big four have told us of the importance they attach to a branch network covering both urban and rural areas of Northern Ireland. The costs inherent in establishing an extensive branch network may act as a deterrent to entry, or to expansion by the smaller players as these are sunk costs for incumbents.
13. Only 5 per cent of the Northern Ireland population were estimated to have had access to a current account online in 2003, compared with 21 per cent in Great Britain. This limits the extent of competition that can come from direct providers.

¹ In December 2004 a sale to Dansk Bank was announced.

Conduct of suppliers

14. We find evidence of behaviour among the big four leading to, or demonstrating, weak competition between them:
- they impose a number of charges when customers are in credit and overdrawn which are not found in the rest of the UK (and there are no offsetting advantages such as higher interest payments on positive balances)
 - they have stated that their prices are not directly cost derived
 - there is clear evidence of parallel pricing behaviour among them, and of price leadership and possible price signalling; and
 - they do not actively compete for switchers.

Conduct of customers

15. There would appear to be low levels of switching by consumers, both between rival banks and to alternative accounts within the same bank. As noted above, there is also low uptake of internet banking by consumers.

Conclusion

16. Overall we conclude that the features we have identified appear, in combination, to lead to limited price competition and weak switching competition between the big four. Such a restriction of competition among providers would be likely to result in significant harm to the interests of consumers.

PROPOSED ACTION

17. The features identified appear to result in a restriction of competition in this market and we believe that the test for a market investigation reference to the Competition Commission (CC) under section 131 of the

Act is satisfied. We believe that the CC has broader powers than the OFT to introduce any remedies which it may consider appropriate in the event of an adverse finding following a full investigation. For this reason we do not consider that a market study by the OFT would be a sufficient response to the super-complaint. Nor do we consider that there is scope for enforcement action under the Competition Act 1998 or other OFT powers.

18. We therefore propose to consult on a market investigation reference to the CC in accordance with section 169 of the Act. The consultation paper attached to this document, which provides more detailed reasons for our proposed action and forms part of our response to the super-complaint, will be sent to those parties on whose interests a reference is likely to have a substantial impact. Following the consultation, the OFT Board will decide by early summer whether or not to make a reference.
19. We have been advised in confidence by Northern Bank that it intends to announce changes to its accounts and charges after the date when this response document was finalised but before it is due to be published. The OFT has taken account of these planned changes (to the extent of the information available to it) in its decision to consult on a market investigation reference. It will make a fuller evaluation of them, along with responses received during the consultation period and any other developments that take place, in taking its decision whether or not to make a reference.