

MARKET INVESTIGATION INTO PAYMENT PROTECTION INSURANCE

Notice of intention to make an Order under section 165 of and Schedule 10 to the Enterprise Act 2002 and public consultation on the proposed Order

1. On 5 February 2007, the Office of Fair Trading (OFT), in exercise of its duty under [section 131](#) of the Enterprise Act 2002 (the Act), referred to the Competition Commission (CC) the supply of all payment protection insurance (PPI), except store card PPI, to non-business customers in the UK. The OFT made the reference to the CC following receipt of a super-complaint about PPI on 13 September 2005 from Citizens Advice.
2. The CC investigated the matters referred to it in accordance with [section 131](#) of the Act and concluded, in accordance with [section 134\(1\)](#), that there were features of the market, either alone or in combination, which prevented, restricted or distorted competition within the relevant market, and in accordance with [section 134\(2\)](#) that an adverse effect on competition existed.
3. The CC regarded the following as features of the market which adversely affected competition:
 - (a) Distributors and intermediaries fail actively to seek to win customers by using the price or quality of their PPI policies as a competitive variable.
 - (b) Consumers who want to compare PPI policies (including PPI combined with credit), stand-alone PPI or short-term IP policies are hindered in doing so. Product complexity (the variations in pricing structures—in particular in relation to single-premium policies—and in terms and conditions, the way information on PPI is presented to customers); the perception that taking PPI would increase their chances of being given credit; the bundling of PPI with credit; and the limited scale of stand-alone provision, act as barriers to search for all types of PPI policies. The bundling of retail PPI with credit accounts and with merchandise cover (also known as purchase protection insurance) acts as a barrier to search for retail PPI. In addition, the time taken to obtain accurate price information is a barrier in relation to the provision of PLPPI, MPPI and SMPPI. These barriers to search impede the ability of consumers to make comparisons, and therefore effective choices, between PPI policies. They also, therefore, act as barriers to expansion for other PPI providers, in particular providers of stand-alone PPI.
 - (c) Consumers who want to switch PPI policies to alternative PPI providers or to alternative insurance products are hindered in doing so. Terms which make switching expensive (in the case of single-premium policies) act as barriers to switching for PLPPI and SMPPI policies. Terms which risk leaving consumers uninsured (for a short period of time or in case they suffer a recurrence of a condition) act as barriers to switching for all types of PPI policies. In addition, the lack of access to consumers' balance information acts as a barrier for switching for CCPPI and retail PPI, and the bundling of retail PPI with merchandise cover acts as a barrier to switching for retail PPI. These barriers to switching limit consumer choice. They also, therefore, act as barriers to expansion for other PPI providers, in particular providers of stand-alone PPI.
 - (d) The sale of PPI at the point of sale further restricts the extent to which other PPI providers can compete effectively.

4. The CC found that there was a detrimental effect on customers resulting from the adverse effect on competition and considered, in accordance with [section 134\(4\)](#), whether action should be taken by it, or whether it should recommend the taking of action by others, for the purpose of remedying, mitigating or preventing the adverse effect on competition concerned or the detrimental effect on customers so far as it had resulted from, or may be expected to result from, the adverse effect on competition.
5. The CC consulted on a range of possible actions and in its [report](#) published on 29 January 2009, the CC decided to impose a package of remedies, which included a prohibition on selling PPI at the point of sale of credit—a point-of-sale prohibition (POSP)—which would be effective and proportionate in remedying the various features of the market identified as having an adverse effect on competition.
6. Barclays Bank plc challenged the lawfulness of the CC's decision to impose the package of remedies in the Competition Appeal Tribunal (the Tribunal). The Tribunal partly upheld Barclays' challenge as is set out in its judgment of 16 October 2009. As a result the CC's decision to include the POSP as part of the package of remedies was quashed by the Tribunal and remitted to the CC for reconsideration. The CC's findings as to an adverse effect on competition in the PPI market, as set out in paragraph 3 above, were not disturbed.
7. The CC reconsidered its decision to impose the POSP as part of its package of remedies. In its [report](#) dated 14 October 2010 the CC decided that in order to achieve as comprehensive a solution to the adverse effect on competition as was reasonable and practicable it was necessary for the POSP to form part of the package of remedies for PLPPI, MPPI, CCPPI and SMPPI.
8. Accordingly, the CC decided that the package of remedies for PLPPI, MPPI, CCPPI and SMPPI would contain the following key elements:
 - (a) *POSP*—PPI cannot be sold by the credit arranger (or any business covered by the prohibition) at the same time as the credit product, nor within seven days of the conclusion of the credit sale period, or the provision of a personal PPI quote, if one were not provided during the credit sale period. As a limited exception to this POSP, the distributor or intermediary arranging the credit (or any business covered by the prohibition) may sell PPI to the consumer the day after the conclusion of the credit sale provided that the consumer has initiated the transaction over the Internet or telephone and the consumer has confirmed that they have seen the personal PPI quote.
 - (b) *Provision of a personal quote*—all credit arrangers must provide a personal PPI quote to the consumer in a durable medium, if the credit arranger provides information about PPI to the consumer during the credit sale. If the credit arranger does not provide a personal PPI quote during the credit sale period, but subsequently contacts the consumer to offer PPI, a personal PPI quote must be provided at that time. Stand-alone providers are required to provide a personal PPI quote to the consumer in a durable medium if the consumer asks the provider about the cost and/or features of a stand-alone policy, including short-term IP, sold by that provider.
 - (c) *Information provision in marketing materials*—all PPI providers must disclose prominently the following information in any PPI marketing materials that include pricing claims or cost information, any indication of the benefits of the PPI product

or its main characteristics: the monthly cost of PPI per £100 of monthly benefit¹ (CCPPI providers must also show the cost of PPI per £100 of outstanding balance); that PPI is optional (stand-alone providers do not have to include this statement) and available from other providers (without specifying those other providers); and that information on PPI, alternative providers and other forms of protection can be found on the Consumer Financial Education Body's (CFEB) [moneymadeclear](http://moneymadeclear.com) website.

- (d) *Provision of information to third parties*—all PPI providers must provide comparative data to the CFEB, as specified by, and in the format requested by, the CFEB. In addition to the information that the OFT may request from time to time for the purposes of monitoring and reviewing the operation of the remedies package, all PPI providers that meet a specified threshold must provide the following information to the OFT on an annual basis: annual gross written premium (GWP), split by product type; distributor penetration rates, split by product type; and aggregate claims ratios for each provider, split by product type. In addition, all PPI providers must provide to any person on request aggregate claims ratios, split by product type, for the previous year. These can be provided in the form of a range to be specified by the CC.
 - (e) *Recommendation to use information for price comparison tables*—the CC will recommend to the CFEB that it uses the information provided to it pursuant to this remedies package to populate its PPI price comparison tables with data on all PPI and short-term IP products.
 - (f) *A prohibition on the selling of single-premium PPI policies*—PPI cannot be charged on a single-premium basis. Subject to the prohibition on charging PPI on a single-premium basis, premiums can be charged monthly or annually. Where an annual premium is paid by a consumer, then a rebate must be paid to consumers on a pro-rata basis if the consumer terminates the policy during the year. No separate charges can be levied on a customer for administration or for the set-up or early termination of a PPI policy.
 - (g) *Annual reviews*—PPI providers must provide an annual review for PPI customers. Provision of this annual review will be the responsibility of the company that sold the PPI policy to the consumer, other than for sales made by intermediaries where provision of this annual review will be the responsibility of the company with whom the consumer has an ongoing relationship.
 - (h) *Compliance reporting requirements to support the above elements.*
9. For retail PPI, the CC decided as is set out in its report dated 14 October 2010 that the POSP should not form part of the remedy package. The key elements which form the remedy package for retail PPI are:
- (a) *Unbundling PPI from merchandise cover*—an obligation to offer PPI separately from merchandise cover if both are offered as a bundled product.
 - (b) *Information provision in marketing materials*—an obligation to provide information above the cost of PPI and 'key messages' in marketing materials.
 - (c) *Provision of information to third parties*—an obligation to provide information to the CFEB for publication and to provide information about claims ratios to any party on request.

¹If the benefit pays out for less than 12 months, notice of this fact must also be clearly disclosed to consumers alongside the cost of the policy.

- (d) *Recommendation to the CFEB*—a recommendation to the CFEB that it uses the information provided to it under the above obligation to populate its PPI price comparison tables.
 - (e) *Personal PPI quote*—an obligation to provide a personal PPI quote to customers before the end of the cooling-off period.
 - (f) *Annual review*—an obligation to provide customers who have spent more than £50 on retail PPI premiums in the preceding 12 months with a written annual review of PPI costs including a reminder of the customer's right to cancel.
 - (g) *Annual reminder*—an obligation to remind all active customers of their cancellation rights and of key messages on an annual basis.
 - (h) *Single-premium prohibition*—a prohibition on selling single-premium PPI policies and on charges which have a similar economic effect.
10. The CC indicated in its report that it intended to implement the remedies by an Order rather than by undertakings. The CC now gives notice of its intention to make an Order. A draft of the Order is attached. The CC invites written representations from any interested person or persons.
 11. This notice and the draft Order, together with an Explanatory Note, have been published on the CC [website](#).
 12. In accordance with paragraph 2(2)(f) of [Schedule 10](#) to the Act, which requires that consultation extends for a period of not less than 30 days from the date of publication of this notice, representations should reach the CC by 5pm on 6 January 2011.
 13. Comments on the draft Order should be provided to the CC, preferably [electronically](#), or to:

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Competition Commission
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(signed) PETER DAVIS
Group Chairman
25 November 2010