

Notice of intention to revoke the Northern Ireland PCA Banking Market Investigation Order 2008 and to make a new order pursuant to section 161 of the Enterprise Act 2002

Introduction

1. In May 2007 the Competition Commission (CC) published a [report](#) of the *Personal current account banking services in Northern Ireland market investigation* (our 2007 report).
2. In February 2008, to remedy the adverse effect on competition (AEC) identified in our 2007 report, the CC implemented a remedy package through the CC's Northern Ireland PCA Market Investigation Order 2008 (the 2008 Order), an enforcement order made under [section 161](#) of the Enterprise Act 2002 (the Act). The 2008 Order came into force on 22 February 2008, except Article 5 and Article 6 which came into force on 1 July 2008 and Articles 7 to 11 which came into force on 1 April 2009.

Change of circumstances identified by the Office of Fair Trading

3. Under [section 162](#) of the Act, the Office of Fair Trading (OFT) has a duty to consider whether, by reason of any change of circumstances, an enforcement order made under sections [158](#), [160](#) or [161](#) of the Act is no longer appropriate and needs to be varied or revoked. In May 2010, the OFT advised the CC that the coming into force of the European Union's Payment Service Directive (PSD) and Consumer Credit Directive (CCD) constituted a change of circumstances by reason of which it may be appropriate to vary parts of the 2008 Order.¹
4. The PSD has been transposed into UK law by the Payment Services Regulations 2009 which came into force for most purposes on 1 November 2009. The CCD has been transposed into UK law via a group of six Consumer Credit Act 1974 Regulations which came into force on 30 April 2010 and 26 August 2010 and which are required to be complied with in full from 1 February 2011.

Our decision

5. The CC considered the OFT's advice and on 10 January 2011 published its decision that because of the nature of the changes that are required to the 2008 Order it was appropriate to vary the 2008 Order by revoking it and making a new order which reflected the change of circumstances pursuant to its powers in sections [161](#)(4) and [138](#) of the Act. The new order is the Northern Ireland PCA Banking Market Investigation Order 2011 (the 2011 Order). The 2008 Order will be revoked when the 2011 Order is made.
6. In the 2011 Order, changes have been made to nearly all of the articles in the 2008 Order including deletion of some and extensive amendment of others:
 - (a) Articles 1 and 2 of the 2008 Order have been amended to reflect the making of a new order and changes made to other Articles;
 - (b) Article 3 of the 2008 Order has been deleted in full;

¹www.offt.gov.uk/OFTwork/markets-work/register-orders-undertakings/reviews/.

- (c) Article 4 of the 2008 Order is now Article 3 of the 2011 Order but is unchanged;
- (d) Article 5 of the 2008 Order has been amended to remove the requirement for independent certification of text and is now Article 4 of the 2011 Order;
- (e) Article 6 of the 2008 Order has been amended to revoke the requirement to give information on charges and interest rates when opening a PCA and is now Article 5 of the 2011 Order;
- (f) Article 7 of the 2008 Order has been deleted in full;
- (g) Article 8 of the 2008 Order has been deleted in full;
- (h) Article 9 of the 2008 Order has been amended to require only the provision of a 14-day period between notifying overdraft interest and charges and deducting them from the customer's account and is now Article 6 of the 2011 Order;
- (i) Article 10 of the 2008 Order has been amended to require only the provision of a switching rights reminder and leaflet and is now Article 7 of the 2011 Order;
- (j) Article 11 of the 2008 Order is amended to remove the requirement to take into account the expected number of and level of direct debits and standing orders when offering an authorized overdraft and is now Article 8 of the 2011 Order;
- (k) Articles 12 and 13 of the 2008 Order have been deleted in full as they are time-expired;
- (l) Article 14 of the 2008 Order is now Article 9 of the 2011 Order;
- (m) Article 15 of the 2008 Order has been amended to require compliance reports to be submitted to the OFT and is now Article 10 of the 2011 Order;
- (n) Article 16 of the 2008 Order has been deleted in full;
- (o) Schedule 1 of the 2008 Order has been amended to reflect the requirements of the CCD;
- (p) Schedule 2 of the 2008 Order has been deleted;
- (q) Schedule 3 of the 2008 Order is now Schedule 2 of the 2011 Order but is unchanged; and
- (r) a new Schedule 3 has been added to the 2011 Order to set out the format for compliance reporting to the OFT.

Notice of intention to revoke the 2008 Order and make the 2011 order

7. The CC now gives notice of its intention to make the Northern Ireland PCA Banking Market Investigation Order 2008 Revocation Order 2011 (the Revocation Order) and make the 2011 Order. A draft of the Revocation Order is attached as Annex A. A draft of the 2011 Order is attached as Annex B with an Explanatory Note at Annex C.
8. The CC invites written representations from any person or persons who wish to comment. Representations should reach the CC by 5pm on 9 February 2011 and should be addressed to: T J Oyler, Remedies Manager, Competition Commission, Victoria House, Southampton Row, London WC1 4AD; or by [email](#).

Peter Freeman
Group Chairman
Competition Commission
10 January 2011