

## PPI REMITTAL

### MBNA RESPONSE TO CC PROVISIONAL DECISION

4 JUNE 2010

1. This submission contains the comments of MBNA Europe Bank Limited ("**MBNA**") on the Provisional Decision published by the Competition Commission ("**CC**") on 14 May 2010 (the "**Provisional Decision**").
2. MBNA remains of the firm view that there are no adverse effects on competition ("**AEC**") in the provision of Payment Protection Insurance ("**PPI**"), and that the CC's anticipated remedy of a point of sale prohibition ("**POSP**") is unnecessary. Even if there were an AEC, MBNA considers that the imposition of the proposed POSP would be entirely disproportionate, particularly as other remedies, such as those that increase transparency, would be sufficient to address any concerns that the CC may have.
3. In addition, the new evidence and analysis presented in the Provisional Decision in the CC's assessment of the loss of convenience arising from the imposition of a POSP represents a notable departure from the CC's original determination of an AEC and exposes a fundamental inconsistency in the CC's logic.
4. This submission addresses two main points:
  - The CC's failure to address a significant loss of welfare.
  - The CC's inconsistency of reasoning about the extent to which consumers act rationally.

#### **The CC's failure to address a significant loss of welfare**

5. As MBNA has noted previously,<sup>1</sup> the CC's remittal analysis should not only focus on the loss of value that might arise from the inability to purchase PPI at the point of sale (e.g. in terms of the cost of an additional phone call in order to purchase PPI), but the significant loss in welfare given that some customers may no longer purchase PPI when it would be in their interests to do so. MBNA's own internal projections of declining take-up (and resulting losses in revenue) following the implementation of the POSP – and indeed the forecasts of other PPI providers, which suggest losses in take-up ranging from 30% to 70% (see paragraphs 7.12 to 7.17 of the Provisional Decision and Appendix D) – reinforce this expectation that the POSP would lead to a significant reduction in take-up of PPI. Other evidence presented by the CC, such as the qualitative evidence presented in paragraphs 7.89, also suggests that the loss of convenience would be expected to lead to a notable fall in take-up of PPI.
6. In the Provisional Decision, however, the CC considers that this drop in take-up is likely to be overestimated. The CC places significant weight on consumer research it commissioned (conducted by Accent), which suggests that, whilst most customers expressed a preference for buying PPI at the same time as the underlying credit, a number of customers place a significant value on purchasing mortgage and personal loans PPI after the point of sale:

*"Evidence from the survey of PLPPI and MPPI customers conducted for us by Accent ... showed that 60 per cent of PLPPI customers, and 50 per cent of MPPI customers, expressed a preference for buying PPI at the same time as credit.*

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<sup>1</sup> See MBNA submission dated 6 January 2010.

*However, Accent also found that a significant minority of existing PPI customers (31 per cent of PLPPI customers, and 36 per cent of MPPI customers) would prefer a delay in the sales process. These customers attached a significant value to the benefits of such a delay." (Paragraph 7.20).*

7. The CC goes on to conclude that the value placed on delaying the purchase decision suggests a net welfare benefit from the remedies package.
8. However, it is entirely unclear to MBNA how a POSP may be considered a proportionate remedy, when over half the customers surveyed by Accent prefer to purchase at the point of sale of the credit. The CC appears entirely to disregard the fact that:
  - the 30% of customers who would welcome a delay are not precluded from buying at a later date at present, and will therefore not benefit from the imposition of the POSP;
  - whereas, for the majority of consumers who prefer to purchase PPI at the same time as the credit product, the introduction of a POSP serves only to inconvenience them and increases the costs faced by them in purchasing PPI.
9. Moreover, for those consumers that prefer to purchase later (i.e. prefer a delay), there is clearly no reason to believe that these customers would not be able and willing to shop around for the most appropriate PPI offer at present. If there are any concerns about the ability of such customers to identify the most appropriate offer, these must relate to the cost of searching and their ability to identify the relevant characteristics of the PPI offers of different providers. However, any such concerns – to the extent that they are justified – would properly be addressed by remedies aimed at increasing transparency and facilitating search. Thus, the other remedies proposed by the CC would be entirely sufficient to deal with any perceived AEC flowing from unnecessarily high search costs.

#### **The CC's inconsistency of reasoning about the extent to which consumers act rationally**

10. In response to concerns raised by MBNA, the CC strongly argues that customers make their decision about when and whether to buy PPI in a rational manner on the basis of perceived costs and benefits.<sup>2</sup> However, if that is the case, it is clearly entirely disproportionate to restrict consumer choice by removing the option from customers to purchase PPI at the point of sale. Any such restriction will – almost by definition – result in a loss of consumer welfare. MBNA cannot see how the CC can maintain that the POSP is a proportionate remedy when it takes the view that consumers choose on the basis of properly assessed costs and benefits.
11. In essence, the Provisional Decision sets out a view of the world that is entirely inconsistent with the finding of an AEC. If the CC is correct in its belief that the POSP will only have a small impact on take-up, and that any consumer who fails to buy PPI as a result of the POSP is one for whom the benefits from taking out PPI are smaller than the cost imposed by the POSP (in the form of lost convenience), then it is difficult to see how there could be an AEC that the POSP is capable of addressing. Any such AEC would have to be linked to avoidable search costs, which the POSP would not affect, and against which the POSP by definition will lead to a net reduction in consumer welfare. Conversely, if the CC's finding of an AEC is to some extent based on consumers failing to

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<sup>2</sup> The CC states: "MBNA told us that, if convenience was modelled only as a cost, this would ignore the adverse effect on consumers who failed to take out insurance even though it would be in their interest to do so. We disagree: consumers who fail to take out PPI are those for whom the cost of PPI in combination with any loss of convenience arising from the POSP exceed the expected surplus they derive from consuming PPI. Because the model takes into account the possible impact of the loss of convenience on sales to consumers who prefer to buy at the point of sale, this effect is therefore taken into account." (Paragraph 9.71)

make decisions on the basis of a proper assessment of costs and benefits (e.g. that they purchase PPI at the point of sale because they systematically undervalue the benefits from shopping around), then the CC's claim that it has properly considered the impact of a loss of convenience cannot be sustained. The POSP would in this case have a much more dramatic effect on take-up than could be captured in the CC's model, as MBNA has pointed out.

12. In summary, the Provisional Decision exposes a fundamental inconsistency in the CC's reasoning. It cannot be the case that the POSP is an appropriate remedy and, at the same time, only leads to a reduction in PPI take-up to the extent that only those customers for whom the benefits from PPI are below the costs imposed by the POSP would fail to take up PPI.
13. As a final point, MBNA would like to reiterate its opinion that the CC's proposed remedies (particularly the POSP) were and remain unnecessary (and therefore disproportionate). In the time period covered by the CC's investigation, the sale of PPI has changed fundamentally. It has been affected by factors such as the FSA's and FOS's continuing work on PPI, by adverse publicity, and by the general economic situation.

**MBNA Europe Bank Limited**