

**PAYMENT PROTECTION INSURANCE MARKET INVESTIGATION: REMITTAL  
OF THE POINT-OF-SALE PROHIBITION REMEDY BY THE COMPETITION  
APPEAL TRIBUNAL**

**Provisional decision**

Published: 14 May 2010

The Competition Commission has excluded from this published version of the provisional findings report information which the inquiry group considers should be excluded having regard to the three considerations set out in section 244 of the Enterprise Act 2002 (specified information: considerations relevant to disclosure). The omissions are indicated by [✂]. Some numbers have been replaced by a range. These are shown in square brackets.

# Payment protection insurance market investigation: remittal of the point-of-sale prohibition remedy by the Competition Appeal Tribunal

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### Glossary

## Summary

1. On 7 February 2007 the Office of Fair Trading (OFT) referred the supply of all payment protection insurance (PPI) (except store card PPI) to non-business customers in the UK to the Competition Commission (CC) for investigation under [section 131](#) of the Enterprise Act 2002 (the Act). In our [report](#) published on 29 January 2009 (the 2009 report), the CC found an adverse effect on competition (AEC) in markets for PPI and decided that a package of remedies, including a prohibition on selling PPI at the same time as credit, would form as comprehensive a solution as is reasonable and practicable to the AEC and detrimental effects on customers.
2. Barclays Bank plc (Barclays) challenged the lawfulness of the decision to impose the remedy package. The Competition Appeal Tribunal (the Tribunal) in its judgment published on 16 October 2009 (the judgment), did not uphold the part of the appeal relating to the finding of an AEC. It did, however, uphold Barclay's appeal in part. It found that the CC had failed to take into account the loss of convenience to consumers which would flow from the imposition of a prohibition on selling PPI at the point of sale of credit—a point-of-sale prohibition (POSP)—in assessing whether it was proportionate to include it in its proposed remedy package. The CC's decision to include the POSP in its remedy package was quashed and remitted to the CC for reconsideration.
3. In addition to reassessing the inclusion of the POSP in light of the Tribunal's ruling on the loss of convenience, the Tribunal also asked us to address certain other factors in our modelling although, it said, when viewed individually, they would not have been material in the sense that the use of appropriate methodology could have led to a decision not to impose the POSP. These factors were:
  - the one-off and ongoing costs of implementation of the remedies;

- marketing costs;
- the loss of convenience to consumers from not being able to purchase PPI at the same time as credit; and
- an elasticity of demand of the type derived from an assumed price change by all distributors in the relevant market, rather than of a type appropriate when considering a price change implemented by a single distributor within a competitive market which included other distributors.

4. The Tribunal also said that:

- we should address in the remittal the question of the timescale over which the remedy package would take effect; and
- we may wish to bear in mind during the remittal a question raised in the appeal, as to how the remedies would be effective for PPI sold with retail credit accounts (retail PPI), where the premium paid tracks the outstanding balance, when we found that competition by stand-alone providers was adversely affected by their inability to know the level of credit being extended by the retailer, adversely affecting the suitability of their products as alternatives for retail PPI customers to buy.

5. Whilst the Tribunal did not uphold the part of the appeal relating to the finding of an AEC, in light of the exceptional market conditions seen in the second half of 2008 and in 2009, we considered whether the developments in PPI markets were such as to cause us to modify our conclusions on the AEC such that the AEC has been eliminated. We provisionally concluded that, whilst there have been some changes to the market since the 2009 report was published—largely driven by the severe financial crisis of 2008 and the recession that followed—all the features which the remedy package set out to address remain. We found that the barriers to searching for retail PPI associated with retail PPI being bundled with merchandise cover had

reduced for the time being in light of the largest provider offering an unbundled policy. We also saw new evidence which suggested that, in practice, PPI customers did not place significant value on the ability of credit card PPI (CCPPI) and retail PPI policies to track outstanding balances; however, as no part of the remedy package actually addresses this feature, we did not need to decide whether this remains a feature.

6. We considered whether any alternative remedy packages put to us, which did not include a POSP, would be substantially effective. We looked at imposing only transparency remedies, having a clear break in the sales process instead of imposing a POSP, and requiring customers to opt in to their policies on an annual basis instead of a POSP. We concluded that none of these would form effective remedy packages.
  
7. We looked at the evidence on whether introducing a POSP would result in a loss of convenience with consequent reductions in sales of PPI. We concluded that the evidence from natural experiments, parties' internal documents and surveys (including the Accent survey we commissioned during the remittal) showed that some customers do prefer to buy PPI at the credit point of sale, and that, if a POSP were introduced but all else were held equal, there would be some drop-off of sales of PPI—although we did not expect all else to be held equal if the remedy package were introduced. We thought that drop-off in sales would have two causes: first, there would be a reduction because consumers have more time and space to consider their needs, and some would decide that they either did not want or need PPI; and second, there would be some consumers who found it inconvenient to have a POSP in place and would not buy PPI as a result. We have carefully considered the arguments put forward by the parties and concluded that they are overstating the loss of convenience that would result from the introduction of a POSP. Whilst some

consumers do prefer to buy PPI at the same time as credit, many of these do not attach significant weight to this preference, and many other consumers would prefer to buy PPI later.

8. We considered whether the POSP could be effective for PPI products where the premium tracks the credit balance. New survey evidence showed that many retail PPI customers would prefer a balance which does not vary by month, and we found that several large CCPPI distributors have been developing new policies which do not track the monthly outstanding balance (which in our judgement indicated that distributors thought that policies not tracking outstanding balances was not a handicap to achieving sales). These pieces of new evidence convinced us that the incumbency advantage held by retail PPI providers by their ability to tailor insurance premiums to outstanding credit balance was not significant. We reached a similar conclusion for CCPPI policies.
9. We reconsidered whether to impose the POSP as part of a remedy package. We did so by considering whether the remedy package including a POSP would be an effective and proportionate package for each of the five major PPI products. We looked at four questions: whether the remedy package would be effective; whether the remedy package was no more onerous than needed to achieve the aim of remedying the AEC; whether the remedy package was the least onerous if there was a choice; and whether the remedy package produced adverse effects which were disproportionate to its aim.
10. For personal loan PPI (PLPPI), mortgage PPI (MPPI), CCPPI and second-charge mortgage PPI (SMPPI) we concluded that the package would be substantially effective. For retail PPI, new evidence regarding customers' likelihood of searching

led us to conclude that we could not be confident that the package would be substantially effective.

11. We concluded that the remedy package was no more onerous than needed to achieve the aim of remedying the AEC, and that there were no other equally effective packages.
12. In terms of whether the remedy package produced adverse effects which were disproportionate to its aim, we looked at qualitative and quantitative evidence and concluded that for PLPPI, MPPI, CCPPI, and SMPPI the benefits of putting in place a remedy package including a POSP outweighed the loss of the relevant customer benefit of lower credit prices and the loss of convenience that some consumers might be expected to experience. For retail PPI we were not sure whether the remedy package would produce adverse effects which were disproportionate to the aim.
13. We therefore provisionally conclude that we should require the introduction of the remedy package set out in the 2009 report, including the POSP, for PLPPI, MPPI, CCPPI and SMPPI. For retail PPI we cannot yet conclude that we should require the introduction of the remedy package including the POSP, and we have published a new Notice of Possible Remedies in order to gather views on what remedies might form a proportionate remedy package which either would be substantially effective in remedying the AEC, or would mitigate the detriment identified.

## Provisional decision

### 1. The remittal to the CC

- 1.1 On 7 February 2007 the OFT referred the supply of all PPI (except store card PPI) to non-business customers in the UK to the CC for investigation under [section 131](#) of the Act). In our report published on 29 January 2009, the CC found an adverse effect on competition in the markets for PPI and decided that a package of remedies, including a prohibition on selling PPI at the credit point of sale, would form as comprehensive a solution as is reasonable and practicable to the AEC and detrimental effects on customers.
- 1.2 On 30 March 2009 Barclays filed a notice of application with the Tribunal challenging the following aspects of the 2009 report: the decision to introduce a prohibition on distributors selling PPI at the credit point of sale; the findings in relation to the relevant market; and the findings in relation to the factors affecting the nature and extent of competition in the supply of (non-retail) PPI. Lloyds Banking Group (LBG) and Shop Direct Group Financial Services (SDGFS, for matters related to retail PPI) intervened in support of Barclays; the Financial Services Authority (FSA) intervened in support of the CC.
- 1.3 The Tribunal, in its judgment published on 16 October 2009<sup>1</sup> did not uphold the part of the appeal relating to the finding of an AEC. It did, however, uphold Barclays' appeal in part.<sup>2</sup> It found that the CC had failed to take into account the loss of convenience to consumers which would flow from the imposition of a POSP in assessing whether it was proportionate to include it in its proposed remedy package. This failure meant that the CC's decision to include the POSP in our remedy package should be quashed and remitted to the CC for reconsideration.

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<sup>1</sup>[www.catribunal.org.uk/238-3732/1109-6-8-09-Barclays-Bank-PLC.html](http://www.catribunal.org.uk/238-3732/1109-6-8-09-Barclays-Bank-PLC.html).

<sup>2</sup>Paragraph 180 of the judgment.

1.4 In addition to reassessing the inclusion of the POSP in light of the Tribunal's ruling on the loss of convenience, the Tribunal also asked us to address certain other factors in our modelling though, it said, when viewed individually, they would not have been material in the sense that the use of appropriate methodology could have led to a decision not to impose the POSP. These factors were:

- the one-off and ongoing costs of implementation of the remedies;
- marketing costs;
- the loss of convenience to consumers from not being able to purchase PPI at the same time as credit; and
- an elasticity of demand of the type derived from an assumed price change by all distributors in the relevant market, rather than of a type appropriate when considering a price change implemented by a single distributor within a competitive market which included other distributors.

1.5 In addition, the Tribunal said that:

- we should address in the remittal the question of the timescale over which the remedy package would take effect, and
- we may wish to bear in mind during the remittal a question raised in the appeal, as to how the remedies would be effective for retail PPI, where the premium paid tracks the outstanding balance, when we found that competition by stand-alone providers was adversely affected by their inability to know the level of credit being extended by the retailer, adversely affecting the suitability of their products as alternatives for retail PPI customers to buy.

1.6 On 26 November 2009, the Tribunal made an order quashing the CC's decision to impose the POSP as part of our remedy package, and remitted that part of our decision back to us for reconsideration in accordance with the principles set out in the Tribunal's judgment. The Tribunal stated explicitly in its judgment of 16 October

2009 that this decision did not mean that the CC could not by that process lawfully decide to include the POSP in its remedy package as the result of its reconsideration.<sup>3</sup>

1.7 We published our general approach to reconsidering the POSP as part of the remedy package on our website for consultation on 11 December 2009 ('the overall consultation')<sup>4</sup> and published our modelling approach for consultation on 4 March 2010 ('the modelling consultation').<sup>5</sup> We took into account the responses to these documents, as well as information gathered during our PPI market investigation and this remittal, in reaching our provisional decision.

1.8 The Tribunal's decision did not require us to revisit the whole of the 2009 report. Instead, we have considered further the issues related to the two grounds upheld by the Tribunal and the Tribunal's suggestion to consider a further issue (see paragraphs 1.3 and 1.5) and taken these into account in this provisional decision. In doing so, we also have had regard to recent market developments affecting PPI.

## **2. Description of the AEC and the remedy package**

### ***The AEC***

2.1 Section 9 of the 2009 report set out the findings and features or combination of features of relevant markets which prevent, restrict or distort competition in the markets for the provision of PPI (except store card PPI) to non-business customers in the UK such that there is an adverse effect on competition.

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<sup>3</sup>Paragraph 181 of the judgment.

<sup>4</sup>*The Competition Commission's approach to reconsidering the point-of-sale prohibition as part of its remedies package*, paragraphs 11 & 12.

<sup>5</sup>[www.competition-commission.org.uk/inquiries/ref2010/ppi\\_remittal/index.htm](http://www.competition-commission.org.uk/inquiries/ref2010/ppi_remittal/index.htm).

2.2 Paragraph 9.2 of the 2009 report set out the features of relevant markets which, alone or in combination, prevent, restrict or distort competition in the supply of PPI to non-business customers in the UK. We concluded that:

- (a) Distributors and intermediaries (which we refer to collectively in this report as credit arrangers) fail actively to seek to win customers from their rivals 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 income protection (short-term IP) insurance 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 providers or to alternative types of insurance policies 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 by credit providers and, in relation to retail PPI, continued exclusive access to customer accounts, further restricts the extent to which other providers can compete effectively.

2.3 Paragraph 9.4 of the 2009 report set out our findings as to the detriments arising from these features. We concluded that the detrimental effects on consumers of these features in relation to all types of PPI (except retail PPI) were higher prices for, and less choice in, PPI policies than would be expected in a well-functioning market. We also concluded that demand for PPI was distorted, and that it was possible that there was less innovation than would be expected in a well-functioning market. For retail PPI we concluded that the detrimental effects on consumers of these features were higher prices for retail PPI policies than would be expected in a well-functioning market. We also concluded that it was possible that there was less innovation than would be expected in a well-functioning market.

### ***The remedies***

2.4 In accordance with our duty under [section 134\(4\)](#) of the Act, we considered whether action should be taken to remedy the AEC. In our 2009 report we proposed that the following package of remedies would form as comprehensive a solution as is reasonable and practicable to the AEC and detrimental effects on customers resulting from the AEC that we had identified:

- (a) a prohibition on selling PPI at the credit point of sale and within a fixed time period of the credit sale ('the POSP');
- (b) an obligation to provide a personal PPI quote ('the personal PPI quote');

- (c) an obligation to provide information about the cost of PPI and 'key messages' in PPI marketing material ('information provision in marketing material');
- (d) an obligation to provide information to the OFT and the FSA for monitoring and publication; and an obligation to provide information about claims ratios to any party on request ('provision of information to third parties');
- (e) a recommendation to the FSA that it uses the information provided to it under this obligation to populate its PPI price comparison tables;
- (f) an obligation to offer retail PPI separately from merchandise cover where both are offered together as a bundled product ('unbundling retail PPI from merchandise cover');
- (g) a prohibition on the selling of single-premium PPI policies ('single-premium prohibition'); and
- (h) an obligation to provide an annual statement of PPI cost and a reminder of the consumer's right to cancel ('annual statement').

2.5 The Order of the Tribunal quashed only the decision to include the POSP as part of the remedy package.

### **3. Our approach to reconsideration of the POSP**

3.1 In this section we set out first how we approach the reconsideration of the POSP, setting out our initial proposal for this, parties' views on this and our final decision on how we should approach this issue. Secondly, in paragraph 3.16, we set out briefly how the rest of this report is structured.

3.2 We set out our proposed approach to the remittal in the overall [consultation document](#). In that document we proposed to consider first whether our original package of remedies (including the POSP) would be a proportionate solution to the AEC that we found, and only if we were to conclude that the original package of

remedies would not be a proportionate solution, would we turn our attention to how we should modify our package of remedies. We set out how we would approach the question of proportionality, including looking at developments in the market since the 2009 report, and how we would consider proportionality of a remedy package including a POSP. In addition, we recognized that we would have to consider whether there were any other remedy packages which were as effective as one including a POSP.

- 3.3 Several parties responded to say that this was not the best way to proceed and that we should consider remedy packages not including a POSP in parallel.
- 3.4 HSBC Bank plc (HSBC) said that the correct approach would be to consider alternative packages without the POSP as part of the proportionality analysis, undertaking a comparative analysis which it said was described by the Tribunal in paragraph 120 of its judgment.
- 3.5 LBG, while accepting that our proposed approach was legally open to us, expressed concern that it would leave insufficient time to consider alternatives if we concluded that a POSP was disproportionate, and created a risk that we concluded that the POSP was proportionate without having effectively examined other potentially superior options. LBG also said that, in giving preference to the POSP over other possible remedies during the original investigation, we had failed to take account of the loss in convenience, and so we should give further thought to considering the pros and cons of the POSP relative to other potential remedies. In this respect LBG put an alternative remedy package to us (see paragraphs 6.21 to 6.36) and conducted analysis of it, which it said showed that its package was more likely to have a beneficial effect on consumer welfare than the remedy package set out in the 2009 report.

- 3.6 The Association of British Insurers (ABI) said that our proposal was seriously flawed, and exploring alternative remedies concurrently could lead to more suitable solutions being developed, and a better outcome for consumers. It also raised concerns that our proposed approach risked there being a lack of time to consider other approaches.
- 3.7 SDGFS accepted the two-stage approach set out in our consultation document, but said that, as it believed the POSP could not be a proportionate remedy for retail PPI (as it said there were no substitutes for retail PPI and therefore there were no competitors over which an advantage could be held), we should move immediately to a consideration of remedies without a POSP.
- 3.8 The British Bankers' Association (BBA) expressed concern that the approach could lead to our adopting a remedy which did not, in fact, represent the best outcome for consumers. It said that we might conclude that the POSP was a proportionate remedy without having considered whether other remedies were in fact superior to it; it also expressed concern that we would have insufficient time properly to consider alternative remedies.
- 3.9 Barclays raised a different issue. It said that we should look at the POSP remedy on an incremental basis—that is we should look at the remedy package without the POSP as a separate remedy and consider the incremental change to the remedy package made by the POSP.
- 3.10 We considered these responses carefully. We accepted HSBC's comment (paragraph 3.4) that a comparative exercise should be undertaken only to the extent that we should compare the remedy package including the POSP with any other sub-

stantially effective remedy packages, or if we found that the remedy package set out in the 2009 report produced adverse effects which were disproportionate to the aim.

- 3.11 Similarly, we took the view that LBG's comparative modelling of the opt-in remedy and the remedy package in the 2009 report (see paragraph 3.5) was relevant only if we concluded that both the opt-in remedy and the remedy package set out in the 2009 report were substantially effective, or if we found that the remedy package set out in the 2009 report produced adverse effects which were disproportionate to the aim.
- 3.12 We did not agree with concerns raised that we would fail to identify the best remedy package for the AEC identified (see paragraphs 3.5, 3.6 and 3.8). We consider in Section 6 whether there are any other packages which we believe would be substantially effective, and conclude that there are not. Where we conclude that the remedy package including the POSP is both effective and proportionate (see Section 9), in our judgement, in the circumstances of this case where the POSP lies at the heart of the remedy package, it would therefore be the appropriate remedy package to put in place, and that we should not be looking to implement instead other, less effective, remedy packages on proportionality grounds.
- 3.13 We did not agree with concerns about there being insufficient time to consider alternatives should the POSP remedy package be found not to be proportionate (see paragraphs 3.5 and 3.6). We thought that it was important to concentrate efforts on a thorough investigation of proportionality of the remedy package including a POSP—that was what was remitted to us for reconsideration. We recognized that in taking this approach we did risk creating an extra stage in the process, that of the consideration of how to mitigate the AEC if we could not remedy it using a substantially effective remedy package, but on balance we thought this was a risk that was worth

taking in order to be able to conduct a thorough review of the proportionality of including a POSP in the remedy package. We also thought that, overall, our approach would be a more efficient use of time, as to consider alternative packages we might not use at the same time as the consideration of the remedy package including a POSP would increase the length of time taken to conduct analysis, much of which might not be needed.

3.14 We did not accept Barclays' suggestion of how we should approach proportionality of the POSP (see paragraph 3.9). Barclays raised this approach in the appeal,<sup>6</sup> but the Tribunal did not find Barclays' argument that we should have adopted this approach 'at all persuasive'.<sup>7</sup> We agree with the Tribunal and do not adopt this approach here.

3.15 We therefore decided to adopt the approach set out in paragraph 3.1.

3.16 In order to do this we look first at developments in PPI markets since the 2009 report, and, whilst the Tribunal did not uphold the appeal relating to the finding of an AEC, whether these developments have implications for the AEC. We consider next whether there are any alternatives to a POSP which would form part of a substantially effective remedy package. We then consider the extent to which the introduction of a POSP would result in a loss of convenience for customers. Next we consider the effectiveness of the POSP for PPI products where the premium tracks the credit balance. We then conduct a revised assessment of proportionality and reach a conclusion on the proportionality of imposing a remedy package including a POSP.

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<sup>6</sup>See [www.catribunal.org.uk/files/Judg\\_1109\\_Barclays\\_16.10.09.pdf](http://www.catribunal.org.uk/files/Judg_1109_Barclays_16.10.09.pdf), paragraph 117.

<sup>7</sup>Ibid, paragraphs 118 & 119.

## **4. Developments in PPI markets since the 2009 report**

### ***Introduction***

- 4.1. This section summarizes developments in PPI markets since the report was published in 2009. That report included data up to and including the first half of 2008. This section focuses on data from the second half of 2008 and the first 11 months of 2009. Further details can be found in Appendix A.

### ***Changes in the regulatory environment***

- 4.2. There have been two main developments in the regulatory environment. The first development was the request by the FSA in February 2009 that firms cease to sell single-premium PPI on unsecured loans by 29 May 2009.<sup>8</sup> The request was contained in a letter sent to chief executives and was confined to the sale of single-premium PPI with unsecured personal loans. The request did not extend to mortgages, secured loans, credit cards or other forms of credit. The request arose because of the FSA's continuing concerns over poor sales practices. In September 2009, prompted by concerns about the way in which PPI was sold and the fairness with which firms assessed consumer complaints, the FSA consulted on proposed new guidance and rules for the fair handling of PPI complaints.<sup>9</sup> In light of responses received to that consultation the FSA has revised its proposals and has consulted again, with that consultation concluding on 22 April 2010.<sup>10</sup>
- 4.3. The second development was that in October 2009 the FSA reached agreement with relevant trade bodies and some firms to refund around £60 million to MPPI customers by June 2010. These customers had experienced substantial increases in premiums or reduction of coverage when firms relied on terms in the contract to make these changes. The FSA's view was that some of these terms were unfair

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<sup>8</sup>[www.fsa.gov.uk/pages/Library/Communication/PR/2009/031.shtml](http://www.fsa.gov.uk/pages/Library/Communication/PR/2009/031.shtml).

<sup>9</sup>[www.fsa.gov.uk/pages/Library/Policy/CP/2009/09\\_23.shtml](http://www.fsa.gov.uk/pages/Library/Policy/CP/2009/09_23.shtml).

<sup>10</sup>[www.fsa.gov.uk/pubs/cp/cp10\\_06.pdf](http://www.fsa.gov.uk/pubs/cp/cp10_06.pdf).

under the Unfair Terms in Consumer Contracts Regulations and that some of the variation and cancellation terms had not been adequately disclosed, as required by the FSA's Insurance: Conduct of Business (ICOBS) sourcebook.<sup>11</sup>

### ***Changes at the business and product offering levels***

- 4.4. There have been changes at the business level, which have largely been caused by the severe financial crisis and subsequent recession. In October 2008 Alliance & Leicester was taken over by Santander, which already owned Abbey. In January 2009 Lloyds TSB Group plc (Lloyds TSB) and HBOS merged to form LBG. Cattles plc (Cattles), which was one of the largest suppliers of SMPPI, stopped selling PPI policies in February 2009 and is no longer providing credit. These changes did not result in an increase in competition in PPI markets.
- 4.5. There have also been many changes in product offering—see paragraphs 4 to 15 of Appendix A. With the withdrawal of single-premium PLPPI (see paragraph 4.2) some parties moved immediately or with some break to selling regular-premium PLPPI. However, as yet some have not replaced their single-premium product. We also saw some withdrawals of CCPPI products and of stand-alone products. We found that these changes occurred for a variety of reasons, but for at least the large PPI providers none of them occurred because the suppliers in question considered that they could not continue in the market because of the possible impact of our remedies. We consider from paragraph 7.59 the product changes that we expect to see if the remedy package is put in place.

### ***Volume and value of PPI sales***

- 4.6. We found that there has been a significant reduction in the number of PPI policies sold in 2008 and 2009. We found three main reasons for a decline in the number of

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<sup>11</sup>[www.fsa.gov.uk/pages/Library/Communication/PR/2009/135.shtml](http://www.fsa.gov.uk/pages/Library/Communication/PR/2009/135.shtml).

policies sold. First, there has been a reduction in the amount of credit made available, as a result of the financial crisis and subsequent recession. Second, there has been a continuation in the long-term decline in PPI penetration rates. Third, there was the withdrawal of single-premium policies, with some distributors not replacing their PLPPI policies immediately.

- 4.7. The decline in gross written premium (GWP) was even more pronounced than the reduction in number of policies sold. In 2009 there was, overall, a negative GWP earned by the large PLPPI distributors. This was driven by five of the large distributors,<sup>12</sup> which reported negative GWP for PLPPI in 2009 to us. The drivers of the steep decline in PLPPI GWP were two-fold. First, parties stopped selling single-premium PLPPI; some parties did not immediately replace these with regular-premium products and consequently sold no new policies for part of the year, and those that did only received GWP on those new policies on a monthly basis, instead of receiving a multi-year premium in one lump sum. Secondly, significant amounts were paid in rebates for cancelled single-premium policies; in some cases the rebates paid outweighed the GWP earned from policies in force.

### ***Distributor income***

- 4.8. Distributors generate income in the form of commission and profit share, as a proportion of GWP. The amount of income as a percentage of GWP is set out in the contract between distributor and underwriter. Commission is normally a percentage of GWP and profit share is a percentage of profits once claims and underwriter expenses have been taken into account. Overall, the income received by distributors in the years 2003 to 2005 remained at approximately £2.6 billion per year, although

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<sup>12</sup> In the 2009 report we included the following as the large distributors: Abbey National plc (Abbey), Alliance & Leicester plc (Alliance & Leicester), Barclays, Capital One Bank Europe plc (Capital One), Cattles, HBOS plc (HBOS), HSBC, Lloyds TSB, MBNA Europe Bank Ltd (MBNA), Nationwide Building Society (Nationwide), Northern Rock plc (Northern Rock), and the Royal Bank of Scotland Group (RBSG). We also focused on the four largest providers of retail PPI (Express Gifts Ltd (Express Gifts), JD Williams & Company Limited (JD Williams), Otto UK Home Shopping Group of Companies (Otto), and SDGFS). For the remittal we replaced Northern Rock with Clydesdale and Yorkshire Bank, part of the National Australia Group (CYB), and focused on only two large retail PPI distributors—JD Williams and SDGFS.

by 2006 and 2007 it had dropped to £2.2 billion per year. In 2008 the income dropped further, to £1.8 billion, and to £517 million in 2009. The reduced income was partly due to lower GWP. For PLPPI four of the large distributors reported negative income, for largely the same reasons as there was negative GWP reported. For MPPI in particular, income was reduced due to the increase in claims on the policies.

- 4.9. Most large distributors told us that during 2007 to 2009, they did not make significant changes to the prices of any of their PPI or short-term income protection products. We saw some price increases; the only price decreases we saw in 2009 were directed by the FSA, reversing price increases made to MPPI policies.

### ***Claims***

- 4.10. The evidence showed that there was an increase in the number of claims in 2009 relative to 2006 overall, and for PLPPI and for MPPI, but that the number of claims per hundred policies in 2009 was still less than in 2002 for CCPPI and at a similar level to 2002 for SMPPI. The increase in claims ratios can be attributed both to an increase in the value of claims paid and a fall in the net premiums earned. There was some adjustment to some contracts between MPPI underwriters and distributors in light of actual or expected changes in MPPI claims ratios though no adjustment to contracts for any other form of PPI.

### ***Profitability***

- 4.11. We looked at distributor profitability in 2008 and 2009 by the five main product types as well as overall. We took the same approach as in the 2009 report.<sup>13</sup>

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<sup>13</sup>Broadly, the approach was to analyse profitability of PPI distinct from the underlying credit product, looking at economic profit and return on equity; more specifically our model included the following inputs: costs of £100 per policy sold; tax of 28 per cent; capital base calculated as 12 per cent of revenues; capital cost calculated as 10 per cent of capital base; return on equity calculated as post-tax profits divided by capital base. We saw no evidence to suggest that the cost of selling a policy or capital cost had changed since the report. For 2009 we maintained the capital base at 2008 levels (ie by calculating capital base as 12 per cent of 2008 revenues) due to the large drop in distributor income between 2008 and 2009.

4.12. Table 4.1 summarizes the results of our profitability analysis for 2008 and 2009.

TABLE 4.1 **Results of profitability analysis for 2008 and 2009, for each main product type, and for all types of PPI in total**

	2008		2009	
	<i>Economic profits £m</i>	<i>Return on equity %</i>	<i>Economic profits £m</i>	<i>Return on equity %</i>
PLPPI	638.2	530	3.2	13
MPPI	94.7	542	50.2	292
CCPPI	279.9	475	187.0	321
SMPPI	67.6	577	5.1	53
RCPPI	5.5	129	5.7	134
Total	1085.8	510	251.2	126

Source: CC based on data provided by the parties.

4.13. Our updated profitability analysis shows that, for 2008, despite a drop in GWP and income, economic profits remain at just over £1 billion for all distributors and all PPI products. Return on equity remains at approximately the same levels it was in the 2009 report.

4.14. For 2009 overall, economic profits have declined, although return on equity remains at very high levels compared with any reasonable estimate of the cost of capital. We noted that, for PLPPI, economic profits were closer to zero than for products overall, and the return on equity was very similar to a reasonable estimate of the cost of capital. However, we considered that the levels of profitability experienced in 2009 were unlikely to be useful as indicative of the likely levels of profits in the longer term. For all PPI products overall the impact of the recession, and for PLPPI the decline in GWP (due to the launch of regular-premium policies to replace single-premium policies, the rebates on cancelled policies outweighing the sum of GWP received on existing and new policies, distributors ceasing selling PLPPI policies, and lower take-up rates of PLPPI policies), contributed to 2009 being an anomalous year.

## **5. The impact of developments in the market**

- 5.1. As noted in paragraph 1.3, the Tribunal did not uphold the part of the appeal relating to the finding of an AEC. We are not required, therefore, to reconsider whether there is an AEC. In light of the exceptional market conditions seen in the second half of 2008 and in 2009, we decided we should, however, consider whether the developments set out in Section 4 were such as to cause us to modify our conclusions on the AEC such that the AEC has been eliminated.
- 5.2. We found four features resulting in an AEC. These are set out in paragraph 2.2. We consider each of them in turn. We then look at the possible impact of the market developments in the round.

### ***Failure to compete***

- 5.3. We saw no indication of distributors or intermediaries actively seeking to win customers from their rivals. The economic situation led to a number of mergers (see paragraph 4.4), which we did not think led to an increase in competition among PPI providers. We found no evidence of distributors in 2009 starting to offer PPI products to anyone other than their own credit customers. As set out in paragraphs 7.51 to 7.64, we found that in response to the 2009 report many parties have been developing products that could be used to target competitors' customers. However, none of these has yet come to market.
- 5.4. We concluded that this feature remained as much of a problem as was identified in the 2009 report.

### ***Barriers to search***

- 5.5. In the 2009 report we found several barriers to search. For all types of PPI we found the following barriers to search:

- 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 customers' chances of being given credit;
- the bundling of PPI with credit; and
- the limited scale of stand-alone provision.

5.6. We found that the bundling of retail PPI with credit accounts and with merchandise cover (also known as purchase protection insurance) acted as a barrier to search for retail PPI.

5.7. We also found that the time taken to obtain accurate price information was a barrier in relation to the provision of PLPPI, MPPI and SMPPI.

5.8. We considered whether each of these barriers remained.

5.9. Whilst single-premium PLPPI policies are no longer being sold, other forms of product complexity—pricing structures and the terms and conditions—have not changed significantly since the 2009 report. Moreover, we saw no changes in the way information is presented to consumers. We were not made aware of any significant changes made by parties in this respect, and moneysupermarket.com told us that the main change regarding its PPI pages was that several providers had withdrawn their products from its website.

5.10. Whilst parties have been working to improve sales quality over the last few years, including making clear that PPI is optional, we found in paragraph 5.50 of the 2009 report that between one-quarter and a half of consumers (depending on the product)

still believe that PPI take-up will positively influence the credit application process, and some believe that PPI is mandatory. There have been no developments since the 2009 report to persuade us that this does not remain a barrier.

- 5.11. PPI is still sold with credit at the credit point of sale, and we concluded that this remained a barrier.
- 5.12. We found in Table 7 of Appendix A that the scale of stand-alone provision has actually declined since the 2009 report was published, such that we concluded that the limited scale of provision remained a barrier.
- 5.13. Retail PPI products remain bundled with merchandise cover, which indicated to us that this barrier to search remains. The main provider of retail PPI (SDGFS) now offers an unbundled retail PPI product, which indicated to us that the barrier has reduced in size at least for the time being.
- 5.14. We had no reason to believe that the length of time taken to conduct a PPI sales process has reduced significantly and therefore were content that the time taken to obtain accurate price information remained a barrier to search for PLPPI, MPPI and SMPPI.
- 5.15. We concluded therefore that each of the barriers to search identified in the 2009 report remained wholly or largely in place, and therefore that barriers to search remained a feature.

### ***Barriers to switching***

- 5.16. We identified several barriers to switching in the 2009 report:

- 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;
- 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.

5.17. We considered whether each of these barriers remained.

5.18. We noted that single-premium PLPPI policies were no longer sold, and considered whether single-premium policies remained a barrier to switching. We noted first that the FSA request to stop selling single-premium PLPPI (see paragraph 4.2) was only a request, and that parties which stopped selling PLPPI ahead of the FSA's request were in effect not bound by the request of February 2009. We also noted that the FSA action related only to PLPPI. Many SMPPI policies have been sold on a single-premium basis, although the only remaining large distributor offering SMPPI at the moment offers it on a regular-premium basis. We saw nothing to suggest that SMPPI policies were unlikely to reappear once credit providers start offering secured loans in greater volumes again. As such we thought that, whilst there are no single-premium policies sold by large distributors at the moment, this is a function of parties' responses to a request from a regulator which is not binding on them, and the economic crisis which has reduced credit providers' appetite for offering secured loans. In our judgement, absent action by us, single-premium policies could reappear as the economy recovers, and if they did they would constitute a barrier to switching.

- 5.19. Moreover, we saw no increase in switching rates—indeed the number of stand-alone products sold nearly halved between 2008 and 2009 (see Appendix A).
- 5.20. We saw no changes relating to terms which risk leaving consumers uninsured and concluded that this remains a barrier to switching.
- 5.21. There remains a lack of access to consumers' balance information. However, during the remittal we received new evidence which showed that on balance retail PPI customers would generally prefer policies for which a fixed monthly premium is paid, and that some CCPPI distributors are currently developing new policies which do not track balances. We also noted that [§]. In our view this new evidence casts doubt on whether the lack of access to consumers' balance information, allowing stand-alone providers to create policies which track balances, is in fact a feature—as in practice consumers do not appear to attach significant value to policies tracking the outstanding balance.
- 5.22. As no part of the remedy package actually addresses this feature (we consulted during the original investigation on a remedy which would require the sharing of data on outstanding balances, but decided against imposing it<sup>14</sup>) we did not need to decide whether this remains a feature for the purposes of reaching a decision on whether to impose the remedy package.
- 5.23. Retail PPI products remain bundled with merchandise cover, which indicated to us that this barrier to switching remains. We noted that the largest retail PPI provider, SDGFS, now offers an unbundled PPI product, which indicated to us that the barrier had reduced somewhat, at least for the time being.

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<sup>14</sup>See paragraph 10.370 of the 2009 report.

5.24. We concluded that there remain barriers to switching. Some remain as much of a problem as at the time of the 2009 report. The barrier associated with single-premium policies remains, in our judgement, as a potential barrier; the lack of access to consumers' balance information is discussed further in Section 7.

### ***The point-of-sale advantage***

5.25. Finally, we were satisfied that the point-of-sale advantage, and ongoing incumbency advantage in the case of retail PPI providers, remained in place. Distributors continue to hold an effective monopoly over the sale of PPI to their own credit customers, and it was clear to us that this feature of PPI markets remained as much of a problem as was identified in the 2009 report.

### ***The market developments in the round***

5.26. Having considered the impact of market developments on the individual features in our AEC finding, we considered whether the developments in PPI markets—the changes in the regulatory environment; mergers within and exits from PPI markets; the product withdrawals; the reductions in numbers of policies sold and the decline in GWP; the increases in claims and reduced profit shares; and the changes in profitability—taken together should cause us to change our findings on the AEC in some way.

5.27. We were not persuaded that the changes in the market, individually or collectively, were symptomatic of a fundamental change that would alter our findings on the AEC. In our judgement the fundamental issues which prevent effective competition in PPI markets remain in place—monopoly provision of PPI at the point of sale of credit leading to a lack of competition among distributors and barriers to entry and expansion for stand-alone providers, with consumers who are not well informed that

they have options and what those options are, barriers to consumers searching for policies, and barriers to their switching existing policies.

### ***Conclusions on the impact of developments in the market***

5.28. We therefore concluded that, whilst there have been some changes to the market since the 2009 report was published, all the features on which the remedy package set out to address remain, and that there remains an AEC. We consider in Section 7 the scale of the AEC and whether it remains necessary to address all the features we have previously addressed through the remedy package.

## **6. Alternatives to a POSP**

6.1 During our original investigation several alternatives to a POSP were put to us. These were set out in paragraph 10.67 of the 2009 report. Our views on them were set out in paragraphs 10.68 to 10.71 of the 2009 report. We concluded that the alternative suggestions from the parties would either be more complicated to monitor and likely to be ineffective or would not address the AEC that we found. We saw nothing that should lead us to change this conclusion.

6.2 During the course of the remittal we received representations about remedies which we were told would be effective remedies to the AEC and would be more proportionate than a POSP. We set out below the alternative remedies put to us during the remittal and our views on them.

### ***Transparency remedies only***

6.3 LBG and MBNA told us that the remedy package's information remedies alone were sufficient to address the AEC. LBG said that changes to the market since the 2009 report was published had strengthened the case against the imposition of a POSP, and we should actively consider whether the transparency remedies in the remedy

package<sup>15</sup> would, on their own, be sufficient to remedy the adverse competition effects identified in the 2009 report. LBG said that, in light of present market conditions, no further remedy was required. MBNA said that the impact of the work done by the FSA and the Financial Ombudsman Service (FOS) was increased consumer awareness, which, along with the economic climate and increased competition, meant that transparency remedies alone would be sufficient.

6.4 LBG proposed that the transparency measures could easily be strengthened and made more effective. It suggested that the following additional measures could be introduced:

(a) including a PPI pricing metric in credit advertising, whilst also making clear that the PPI is optional;

(b) recommending to the FSA<sup>16</sup> enhancements to its moneymadeclear price comparisons website, namely: looking at ensuring that the moneymadeclear price comparisons website is one of the first responses on popular Internet search engines when consumers search for PPI products; promoting the 'moneymadeclear' logo more effectively; making the comparison site more user-friendly; and requiring providers to include a 'click through' link from their own websites to the moneymadeclear website.

6.5 The first of these additional measures proposed by LBG (paragraph 6.4(a)) was that all credit advertisements which included the price of credit would contain two pricing metrics: a credit APR, and the amount it would cost the consumer by way of premium to generate a single unit of benefit of £100 from PPI (the unit cost of benefit).

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<sup>15</sup>By 'transparency remedies', we interpret parties as meaning the obligations (a) to include information in marketing materials; (b) to provide a personal PPI quote; (c) to provide customers with an annual review; (d) to provide information to the FSA for publication on its website and (e) to provide claims ratios to any person on request.

<sup>16</sup>As of 26 April 2010, responsibility for operating the moneymadeclear price website and the comparison tables for PPI passed from the FSA to the newly created Consumer Financial Education Body (CFEB).

- 6.6 The unit cost of benefit pricing metric is fundamentally the same as the ‘monthly cost/£100 monthly benefit’ metric which the remedies require PPI providers to disclose in PPI marketing materials, personal PPI quotes and annual reviews, albeit with a different name and the suggestion of more prescriptive (though unspecified) rules about how it would be calculated.
- 6.7 The LBG proposal is to require the price of PPI to be included alongside the advertised price of credit (ie where an APR for the credit is included in the credit advertisement).
- 6.8 We considered this remedy during the original investigation—option 1 of the [Notice of Possible Remedies](#) published on 5 June 2008, which would have required distributors which offer PPI and credit products to disclose, in advertising and marketing material:
- (a) the annual cost to the customer of the interest and charges payable on the credit product;
  - (b) the annual cost to the customer of taking the PPI product;
  - (c) the annual cost to the customer of the combination of the credit product with the PPI product;
  - (d) along with providing key messages.
- 6.9 Our views on it were set out in paragraphs 10.193 to 10.199 of the 2009 report. As set out in paragraph 10.69 in the 2009 report (and also in paragraphs 10.466 to 10.471), while informational/‘transparency’ remedies would help remedy the AEC identified, we did not think that the informational remedies set out in the 2009 report alone would be sufficient to remedy the lack of competition we saw between PPI providers as it would not address the point-of-sale advantage.

- 6.10 We considered the changes in the market in Sections 4 and 5. We concluded that the adverse effects on competition identified in the 2009 report remain. We concluded that all features of the AEC remained, and required remedying.
- 6.11 Apart from the argument about changes in the market since the 2009 report meaning that informational remedies would suffice, the thrust of LBG's argument was that it thought we had rejected advertising PPI prices alongside credit prices because the remedy might lead some people to think that the offer of credit was conditional on taking out PPI, and that this could be avoided by requiring providers to make clear on the advertisement that PPI was optional, and requiring them to provide the price of PPI alongside the price of credit (see paragraph 6.8(b)).
- 6.12 We set out in paragraph 10.199 of the 2009 report our concerns regarding including PPI content in credit advertisements. These concerns related to issues raised by parties, which were more than just whether it was clear that PPI was optional. They also included concerns about: how this would impact on the sale of other products which might be sold alongside credit, such as household or fraud insurance (paragraph 10.195 of the 2009 report), and the extent to which we could require information to be provided in credit advertisement because of the Consumer Credit Directive (paragraph 10.197). There were also concerns about the number of exemptions that would be needed to the remedy on grounds of practicality in different media. We were, therefore, not convinced by LBG's arguments. Similarly, we were not persuaded that LBG's suggested changes to the design of the moneymadeclear website, while helpfully intended, would be sufficient to overcome the serious shortcomings that we had found in competition in PPI markets.
- 6.13 We said in paragraph 10.70 of the 2009 report: 'We concluded that a package of information remedies alone would not be sufficient and an additional structural

measure would be needed to achieve a comprehensive solution to the AEC that we found’.

6.14 This finding was not quashed by the Tribunal. The Tribunal noted:

the Commission evidently regarded the POSP as lying at the heart of its remedy package rather than on the periphery, albeit that it was the most costly to implement. It is equally apparent that the Commission considered, after due analysis, that the remedy package would be ineffective as a cure for the AEC without the POSP.<sup>17</sup>

6.15 Nor did we see any new evidence that would lead us to change this conclusion. As a result, the conclusion that information remedies alone would not be effective stands. Our analysis of what has happened since the 2009 report led us to conclude that we still need to remedy all parts of the AEC, and that informational remedies alone remain insufficient. Further, we did not agree that making clear on advertising that PPI was optional would be sufficient to remedy the negative aspects of the point-of-sale advantage.

6.16 We did not find new evidence that would lead us to change our view that a remedy package based on information remedies would not be effective in addressing the point-of-sale advantage, nor did we find a material change in circumstances, or a special reason, which should lead us to reach a new conclusion that information remedies alone would create a substantially effective remedy package.

### ***A clear break in the sales process***

6.17 In its response to our consultation on the proposed approach to reconsidering the POSP as part of its remedy package, HSBC requested that we analyse the effective-

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<sup>17</sup>Paragraph 119 of the PPI judgment.

ness of alternative packages of remedies, referring to the proposals set out in the 2009 report and a proposal that, instead of imposing a POSP, we require a clear break between the sale of credit and of PPI—the credit sale would have to be concluded before the PPI sale could commence. In addition, a standard quote would be provided which the customer can either accept (with the opportunity to shop around and cancel the policy during the cooling-off period but with protection in place from the date of the credit purchase) or take away and use to shop around. The two sales could, however, be conducted by the same person within the same meeting or phone conversation.

6.18 We considered this proposal in the 2009 report in paragraph 10.69, where we concluded that:

without a point-of-sale prohibition, providing a personal PPI quote at the point of sale, after the consumer has taken out the loan and during the sales process for a linked PPI product, would not have a sufficient effect on a consumer's searching behaviour for such a remedy package to be effective in remedying the AEC identified.

6.19 We do not believe that this 'clear break' proposal would address the point-of-sale advantage held by distributors and intermediaries arranging credit. It would, at best, partially address questions as to whether consumers think that taking out PPI would improve their chances of obtaining credit, though it would still be very difficult to monitor effectively whether a perception of obligation was created within a particular meeting or phone conversation.

6.20 Moreover, we would expect distributors and intermediaries subject to such a measure, as now, to seek to maximize sales made at the credit point of sale, rather than encourage customers to search the market and revert to purchase the product at a

later date. Once customers had decided to purchase PPI from their distributor or intermediary, we would expect their appetite for further search to diminish substantially. As such we concluded that this was not a proposal which could, with transparency remedies, form part of a substantially effective remedy package.

### ***Annual renewals on an opt-in basis***

- 6.21 During the remittal, LBG proposed that, instead of imposing a POSP, we should allow PPI sales at the credit point of sale but require that policies last no longer than one year and have an annual renewal on an opt-in basis (we refer to this as the ‘opt-in remedy’ as opposed to an opt-out model, proposed by Lloyds TSB during the original investigation).
- 6.22 LBG said this would be a more effective remedy, when included in a remedy package with transparency measures (‘the LBG package’), than the POSP. LBG said that it would reduce the point-of-sale advantage. It would limit what kind of PPI could be sold at the credit point of sale to a maximum one-year policy. The point-of-sale advantage would, LBG said, be reduced to a unique advantage in selling PPI to a consumer for one year, and a limited incumbency advantage in offering a renewal at the first anniversary.
- 6.23 LBG said that the remedy would have advantages over the POSP—credit providers would continue to educate consumers about the benefits of PPI and maintain demand for the product, which would benefit stand-alone providers seeking to sell policies to customers at renewal time.
- 6.24 However, LBG said that the opt-in remedy risked consumer detriment relative to the current situation, because customers who did not renew policies due to inertia risked losing cover, even if they would be better served by having insurance. But LBG said

that this risk was smaller than the risk associated with the POSP of consumers not buying PPI in the first place and being without cover at all times.

6.25 LBG provided us with some modelling which, it said, showed that a remedy package including an annual opt-in would create a market sufficiently significant in scale to attract stand-alone providers to compete with credit providers to offer PPI cover upon renewal, and that it would therefore form part of an effective set of remedies to the AEC.

6.26 It went on to say that its modelling showed that the imposition of a POSP could lead to a very much more significant fall off in the purchase of PPI with the result that credit providers might well decide not actively to market PPI at the credit point of sale, with a consequential diminution in the population of consumers likely to shop around for PPI after the credit point of sale.

6.27 We considered the LBG package carefully. Our detailed consideration of the LBG package is at Appendix B.

6.28 We noted that the opt-in remedy was not a new remedy option and that we had considered it during our original investigation. However, we looked afresh at the likely effectiveness of the LBG package in the light of LBG's further submissions.

6.29 We looked at the extent to which the LBG package would address the features that we had found gave rise to the AEC that we had found. We found that the LBG package would not deal directly with the point-of-sale advantage or the adverse effects on competition arising from it. We also found that the removal of the POSP from the remedies package was likely to reduce the effectiveness of the informational remedies in reducing barriers to search. This was because we had found that

addressing the point-of-sale advantage was necessary for informational remedies, such as the personal PPI quote, to be effective in stimulating competition through search (see paragraph 10.471 of the 2009 report and paragraph 6.18 above).

6.30 This failure to deal directly with important features of the AEC—including the point-of-sale advantage, which lies at the heart of the AEC—and their adverse effects on competition led us to be concerned that the LBG package would not be effective in remedying the AEC.

6.31 Nonetheless we recognized that there was a possibility, at least in principle, that the LBG package might still be substantially effective in addressing the AEC, even if it did not directly address important features that contributed to the AEC. This might be the case if the opt-in remedy resulted in a competitive switching market in relation to existing customers, and if the competition for consumers at the point of renewal had beneficial feedback effects that increased competition or improved outcomes for consumers at the initial point of sale.

6.32 Our analysis of this possibility led us to the view that, while the opt-in remedy would increase opportunities for competition to attract existing consumers, there was a risk that these opportunities would not be sufficiently taken up by providers or consumers, if the remedy package did not also contain effective measures to promote competition at the initial point of sale.

6.33 Without our intervening to break the link between PPI and credit at the initial point of sale, we were concerned that many credit arrangers would choose to pursue commercial strategies that focus on maximizing sales of PPI to their own credit customers and on retaining those customers at the point of renewal, rather than seeking to take these opportunities to win new business from others. Likewise we

were concerned that consumers' awareness of the opportunities to switch—and their motivation to take up these opportunities—would be reduced if they were not given the opportunity to consider alternatives when they first took out PPI.

6.34 Moreover, even if the LBG package were effective in promoting competition for existing customers at the point of renewal, the mechanism by which such competition would be transmitted to new business was uncertain and, in our judgement, was unlikely to operate effectively in practice.

6.35 We therefore concluded that, although the LBG package could in principle, and under certain conditions, be an effective remedy to the AEC that we found, there were a number of factors which, in our judgement, meant that these necessary conditions would not hold in practice.

6.36 In conclusion, we found that the LBG package does not deal directly with important elements of the AEC. We considered whether it could nonetheless be effective in addressing the AEC through indirect mechanisms, but we found that the necessary conditions for this would not hold in practice. We therefore concluded that the LBG package would not be effective in remedying the AEC that we had found. In these circumstances, we further concluded that the conditions necessary for the comparative modelling exercise carried out by LBG (see paragraphs 6.25 and 6.26 above) did not obtain.

### ***Conclusion on alternatives to a POSP***

6.37 We concluded that none of the alternative remedy packages put to us would form a substantially effective remedy package.

## **7. Loss of convenience**

- 7.1 In this section we address the question of whether putting in place the remedy package including a POSP would result in a loss of convenience for customers. The Tribunal asked us to take account of any loss of convenience which would flow from the imposition of a POSP in assessing whether it was proportionate to include it in our proposed remedy package.
- 7.2 Many parties said that a POSP would result in a loss of convenience for consumers. We were told that PPI was sold, not bought, and that customers would therefore not buy it unless encouraged to do so at the point of sale. We were told that consumers will only buy PPI when a trigger event occurs—such as taking out credit, or a claimable event occurring (at which point it would be too late to get cover for that event)—and that imposing a POSP would reduce take-up significantly to the detriment of those consumers. We were also told that many consumers would simply not get round to buying PPI later, even if prompted and even if they genuinely intended to buy PPI. We were told that this loss of convenience would result in a significant drop in sales.
- 7.3 We consider first the evidence submitted by the parties on the possible impact of the POSP on PPI take-up. This evidence consists of experiments (including pilots specifically run to look at what would happen with a POSP), internal estimates of the impact of the POSP on take-up rates, and survey evidence. This evidence does not show the direct impact of convenience on sales, or the impact of the package of remedies on sales. Rather, it generally examines the impact of a split in the sales process (in some cases the introduction of a POSP-type sales process, in other cases different types of breaks between the sales of credit and PPI) on take up of PPI, without attempting to separate out the different factors that might contribute to the change in take-up. Overall, the evidence submitted by the parties does suggest

that a split in the sales process might lead to some reduction in sales of PPI if nothing else changes.

7.4 However, evidence that a split in the sales process might lead to a reduction in PPI take-up is not necessarily evidence of a loss of convenience. We therefore go on to examine the causes of any possible reduction in sales arising from the split in the sales process, and in particular the importance of the loss of convenience. Finally, we report the results of a survey we commissioned, which attempts to quantify the value for consumers of buying PPI at the credit point of sale.

7.5 We conclude that, if a POSP were introduced but all else were held equal, there would be some drop-off of sales of PPI—although we did not expect all else to be held equal if the remedy package were introduced. We thought that drop-off in sales would have two causes: first, there would be a reduction because consumers have more time and space to consider their needs, and some would decide that they either did not want or need PPI; and second, there would be some customers who found it inconvenient to have a POSP in place and would not buy PPI as a result. We have carefully considered the arguments put forward by the parties and concluded that they are overstating the loss of convenience that would result from the introduction of a POSP. Whilst some consumers do prefer to buy PPI at the same time as credit, many of these do not attach significant weight to this preference, and many other PPI consumers would prefer to buy PPI later.

***Would there be a reduction in the number of policies sold with a POSP in place?***

7.6 We considered whether there would be a reduction in the number of PPI policies sold with a POSP in place. We considered evidence from three sources:

- the experiments put to us;
- parties' internal estimates of the likely take-up of PPI with a POSP in place; and

- survey evidence on the possible impact of selling PPI away from the credit point of sale.

## *Experiments*

- 7.7 Many parties told us that a POSP would result in a loss of convenience and that there were ‘natural experiments’ which would give an indication of the size of that reduced take-up. In addition, LBG conducted a pilot of the POSP sales process for the remittal process.
- 7.8 The evidence put to us looks at how distributors’ penetration rates might fall if the credit and PPI sales processes were split in different ways. The evidence inevitably does not generally look at the dynamic ways in which the market might develop with a POSP in place—for example, distributors offering better-value products, a larger and more dynamic stand-alone market developing to attract business lost by distributors, or the impact of consumers having more information about PPI policies—or inform us of what the impact of those dynamic effects might be.
- 7.9 We considered evidence from several sources. Details of the experiments and our analysis of them are set out in Appendix C.
- 7.10 In particular we noted experiments conducted by HSBC and LBG, which attempted to look at the impact on sales of issuing a personal PPI quote, inviting consumers to call back after 24 hours (LBG only), and calling customers after seven days. These were particularly interesting experiments and we considered them closely. However, in both cases we concluded that we were limited in what we could learn from them. In both cases one of the factors that caused us concern related to how sales staff implemented the pilots. In the case of HSBC there was evidence of [✂], and only [40–50] per cent of customers received a personal PPI quote, compared with the

HSBC target of all customers receiving a personal PPI quote. In the case of LBG, fewer customers received a personal PPI quote than we thought should have done: the proportion of loan customers receiving a quote for PLPPI was around one-third of the penetration rate for PLPPI generally in branches, suggesting to us either that sales staff did not put anything like the same effort into trying to sell PLPPI to their customers in the pilot, or that a significant proportion of LBG's normal PLPPI purchasers are taking out PPI policies that if they had time to reflect, they would not take out. Similarly, in the telephony channel we would have expected a larger take-up of personal quotes than was achieved. We thought it most likely that the way sales staff bonuses had been guaranteed had a negative effect on the effort made to encourage customers to take a personal quote.

7.11 Overall, we concluded that the experiments were not very informative on the impact of the package of remedies on PPI take-up rates. The reasons for this are in Appendix C; one of the main reasons is that these experiments do not generally look at the dynamic ways in which the market might develop with the package of remedies in place, and the fact that we would expect the price of PPI to fall when the remedies are in place, and we would expect distributors to compete in order to maximize take-up rates. We did not think, either, that these experiments provided much information on the importance of convenience to consumers, because they do not generally inform us about the cause of reduced PPI penetration. We could, however, conclude from the experiments that:

- There could be a reduced take-up of PPI if the sales process between credit and PPI was in some way split, with nothing else changed. However, we could not quantify from these experiments how large a reduction there might be and its cause or causes.
- Some current PPI purchasers might not purchase it with a split in the sales process between credit and PPI because they are difficult to contact by telephone—

although how many of these would have taken out PPI if contacted we were unable to quantify. Conversely, some customers have been both willing and able to engage with distributors about PPI away from the credit point of sale, either by initiating contact or by responding to contact initiated by distributors—although we were unable to quantify this from the experiments.

- The detail of how distributors choose to set up their sales processes—including the motivation of sales staff and the number of different members of staff to whom a customer talks during a sales process—can have a material impact on the penetration rates that can be achieved.

### *Parties' internal estimates of PPI take-up with a POSP*

7.12 We looked at internal documents submitted by parties to see what assumptions they had made about take-up rates of PPI with the remedies in place. Details of what we found are in Appendix D.

7.13 The internal documents showed that, for PLPPI, parties expected sales to decrease significantly. Estimates of the immediate impact of the remedies suggested a significant reduction with, for example, [redacted] projecting a 50 to 60 per cent drop in PPI sales before mitigation.<sup>18</sup>

7.14 For MPPI we found limited internal documentation. It suggested the parties expected that the remedies would not have a significant impact on penetration rates—in March 2009 [redacted] estimated that MPPI penetration rates would not drop very much from then current levels as there was a multi-stage sales process; later in 2009 it modelled the implications of the remedies as a 40 per cent drop in sales (20 per cent due to using a two-stage sales process at the credit point of sale and a further 20 per cent with a POSP in place); and [redacted] estimated penetration rates similar to those it achieved

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<sup>18</sup>However, an internal presentation suggested that the number of policies sold if [redacted] 'make the most of the opportunity' could mitigate the reduction, with the policies sold reducing by 20 per cent from the high levels seen in previous years.

currently, but by April 2010 it was expecting take-up to fall with the remedy package in place. However, following a pilot of the PLPPI sales process, LBG told us that it was assuming there would be an 80 per cent reduction in MPPI sales, [REDACTED].

- 7.15 For CCPPI estimates ranged from a 30 to 70 per cent reduction in sales with the remedies in place. In the case of CCPPI, one party ([REDACTED]) assumed that the information on the personal PPI quote would cause a significant proportion of the fall off in sales it expected, and also took account of an expected attrition as a result of the annual review.
- 7.16 For retail PPI we only saw estimates from one party ([REDACTED]), stating that it expected a significant decline.
- 7.17 We noted these estimates. Some of these were developed in light of experiments conducted by parties (see paragraphs 7.7 to 7.11). Others seemed to be based on individual executives' assessment. For PLPPI, CCPPI and retail PPI they showed that parties were assuming that there would be significant decreases in sales of PPI. For MPPI the evidence was mixed but the internal documentation indicated that parties thought that the impact of the POSP on PPI take-up would generally be less than the impact on PLPPI, and somewhere between a minimal drop and a 40 per cent drop (and in evidence prepared for us a larger reduction was proposed, though for the reasons set out in Appendix C we did not think that much could be inferred from those numbers). We noted that the documents looked at the expected reduction in sales with a POSP in place, and not specifically why there would be a reduction (we consider separately what would be the causes of a reduction in take-up among existing customers).

## Survey evidence

7.18 We considered evidence from surveys on the possible impact of selling PPI away from the credit point of sale.

7.19 The evidence we found from parties indicated that many customers express a preference for buying PPI at the credit point of sale, or think this is a good time to buy it, but there are also many who would prefer to buy it with a gap between credit sale and PPI sale. Some who expressed a preference for buying at the credit point of sale said that they would not buy it at a later time—either because they thought they would forget to, or for unspecified reasons.

- In June 2008, [X] conducted quantitative research into customers' views on buying PPI. For [70–80] per cent of respondents the best time actually to purchase PPI was when applying for the loan. This did not tell us that these customers would not buy PPI at any other time, but we recognized that some might not. Qualitative research conducted for [X] in 2008 found that the majority of consumers would like to take out PPI when getting a loan; however, consumers do want the option to purchase at any time.
- In contrast, September 2008 research for [X] asked whether respondents would prefer to take out immediate cover there and then or not to get cover straight away because they would want to think about it. [20–30] per cent of the 948 respondents indicated that they would prefer to take immediate cover and [70–80] per cent indicated that they would prefer not to take cover straight away.<sup>19</sup>
- In October 2009, [X] commissioned quantitative research which found that, with a POSP in place, around eight out of ten respondents would be more comfortable taking out protection after a seven-day period. Whilst [60–70] per cent of respondents said that they would actively seek cover from other providers during

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<sup>19</sup>This sample of 948 included a sample of PPI customers (509 respondents) and a sample of non-PPI customers (439 respondents). For the sample of PPI customers, [30–40] per cent indicated that they would prefer to take immediate cover and [60–70] per cent indicated that they would prefer not to take cover straight away.

the seven-day period, around four out of ten respondents would be less likely to take up cover after a seven-day period. Of [30–40] respondents who had purchased a credit product with PPI, there was a roughly equal split between those who said that they would have taken out the PPI if there had been a POSP and those who said they would not have done.

- In November 2008 ABI commissioned a survey of 1,978 GB adults. The majority of respondents (58 per cent) said that they would prefer to buy PPI from their debt provider at the same time they take out their mortgage, personal loan or credit card. When asked what they would do if they were not able to buy PPI at the same time they took out their mortgage, loan or credit card, 52 per cent of all adults said they would probably not purchase PPI and a further 19 per cent said they did not know. We do not have evidence of what the other 29 per cent said. When asked for their views on the statement ‘I would rather my lender offered me PPI two weeks after I arranged the borrowing so I have time to consider my options’, 39 per cent strongly agreed or agreed, 37 per cent were neutral or didn’t know, and 24 per cent disagreed or disagreed strongly.
- In April 2009, [X] commissioned qualitative research which found that some respondents thought that if they did not purchase PPI at the credit point of sale, the likelihood they would remember to do so later was minimal.

7.20 Evidence from the survey of PLPPI and MPPI customers conducted for us by Accent (see paragraph 7.91) 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. 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.

7.21 For those MPPI customers that expressed a preference for buying at the credit point of sale, there was not a statistically significant value attached to this preference. This seemed to be in line with the evidence from parties' internal documents that they did not on the whole expect a significant reduction in take-up with a POSP in place. For those PLPPI customers who expressed this preference there was a 'cost of convenience' associated with not being able to buy PPI at the same time as credit, which was between 23 and 30 per cent of the average monthly cost of their PPI policy. Once again the results from this survey appeared to be in line with the parties' expectations and survey evidence, though the Accent survey also shed light on the significant proportions of people who attach a positive value to having a break between the purchases of credit and PPI.

7.22 In our judgement the survey evidence produced some conflicting results, but it is possible to draw some broad conclusions. Many customers like buying PPI at the same time as credit ([redacted] and ABI research). Equally, however, many customers either like the option of being able to buy PPI later ([redacted] qualitative research), and many or most prefer to take it out later ([redacted]) or are more comfortable taking it out later ([redacted]). The Accent survey findings were in line with some of these other pieces of research (though it found smaller proportions preferring to buy later than the [redacted] and [redacted] research), and the stated preference element of the survey helped explain some of the differences between surveys by showing how customers who prefer to buy after the credit point of sale attach significantly greater value to this preference than those who prefer to buy PPI at the same time as credit.

*Conclusions on whether there would be a reduction in PPI take-up with a POSP in place*

7.23 We concluded that the evidence from natural experiments, parties' internal documents and surveys (including the Accent survey we commissioned during the remittal) showed that some customers do prefer to buy PPI at the credit point of sale,

and that, if all else were held equal, there would be some drop-off of sales of PPI to existing customers.

7.24 We also concluded that many customers prefer to have a gap between buying PPI and credit.

7.25 We were also able to reach some conclusions about the strength of consumer preference using evidence from the Accent survey. The survey found that, although 50 per cent of MPPI consumers preferred to buy PPI at the credit point of sale, the valuation that these consumers associated with the ability to buy at the point of sale was small and not statistically different from zero. This showed that the preference for buying at the credit point of sale for MPPI consumers was not strong. For PLPPI customers, the reduction in price needed to compensate those customers who preferred to take out PPI at the credit point of sale for the loss in convenience was between 23 and 30 per cent of the monthly premium.

7.26 We also concluded from the evidence on experiments that the detail of the sales processes used could have a significant impact on sales and that firms would have incentives to optimize these processes with the POSP in place.

***What would be the causes of any reduction in the number of policies sold?***

7.27 We considered what might cause a drop-off in sales with a split in the sales process. We thought it was important to identify the reasons for any decline in sales with a POSP in place, and to distinguish between the exercise of consumer choice not to buy, and reductions resulting from either a loss of opportunity for the consumer or a loss of convenience for the consumer. We looked at the evidence for each of these reasons. In doing so we took the view that any fall-off in take-up as a result of customers deciding not to purchase once they have had time to reflect away from the

credit point of sale did not mean that these reduced sales equated to consumer detriment; but that loss of opportunity (following distributor withdrawal from the market) or loss of convenience might equate to consumer detriment.

### *Consumers not wanting or needing PPI*

7.28 We considered first the possibility that consumers would decide they either did not want or need PPI that they would have bought at the point of sale.

7.29 If some consumers buy PPI at the point of sale but, if there were a POSP in place, would not buy it because they decided they either did not want or need it, it could be for a number of reasons. For example:

- where a customer cannot benefit from the policy at all (for example, because the customer is ineligible to claim on age grounds); and
- where the customer is put, or feels, under pressure to take out the policy—for example, a survey conducted for us in late 2007 by BMRB<sup>20</sup> found that between 25 and 47 per cent of consumers of PLPPI, MPPI, CCPPI and SMPPI believed that their credit application was more likely to be accepted if they took out PPI. In addition, the Accent survey noted that 11 per cent of PLPPI customers and 4 per cent of MPPI customers had taken out the PPI policy when they had because either they thought they had to or felt somewhat pressurized.

7.30 We noted in our overall consultation that we planned to look at mis-selling. We received many responses from parties saying that we should not—responses are summarized in Appendix E. Of particular note, [X] said that we had not proven that any mis-selling had taken place, and [X] took issue with any assumption that there had been significant mis-selling in the past, and would be in the future.

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<sup>20</sup>[www.competition-commission.org.uk/inquiries/ref2007/ppi/pdf/consumer\\_research\\_ppi\\_feb.pdf](http://www.competition-commission.org.uk/inquiries/ref2007/ppi/pdf/consumer_research_ppi_feb.pdf).

- 7.31 However, our interest in this information is not to assess whether or not one or more policies were mis-sold, but the extent to which, were there a POSP in place, we might expect the number of policies sold to decrease because customers who would buy PPI at the point of sale would, given the time and space to think about their protection needs, actively decide that they either do not need or do not want PPI. Data on customer complaints and regulators' actions on mis-selling will shed some light on this question. In our judgement it is a relevant consideration to look at sales quality from this perspective.
- 7.32 We looked at evidence on sales quality. We looked at any internal documents we received from parties which related to sales quality, and the work of the FSA and FOS in relation to PPI sales. Details can be found in Appendix E.
- 7.33 There does not appear to be agreement between on the one hand the regulators (the FSA and the FOS) and on the other hand at least some distributors of PPI as to the extent of mis-selling of PPI, or indeed whether there has actually been any systemic problem with mis-selling.

#### *The FSA*

- 7.34 The FSA took over responsibility for General Insurance regulation from the General Insurance Standards Council in 2005.
- 7.35 The FSA has conducted three thematic reviews of PPI, which involved mystery shopping exercises. The outcomes are set out in Appendix E. By the third review, the FSA had found improvements in some areas: most firms were making it clear to customers that PPI was optional; and firms were offering cancellation refunds on virtually all single-premium PPI policies. However, the FSA found that many firms were still not giving customers clear information about the product and its cost; the

extent they were eligible for cover; what they were covered for; and why the recommended PPI policy met their demands and needs.

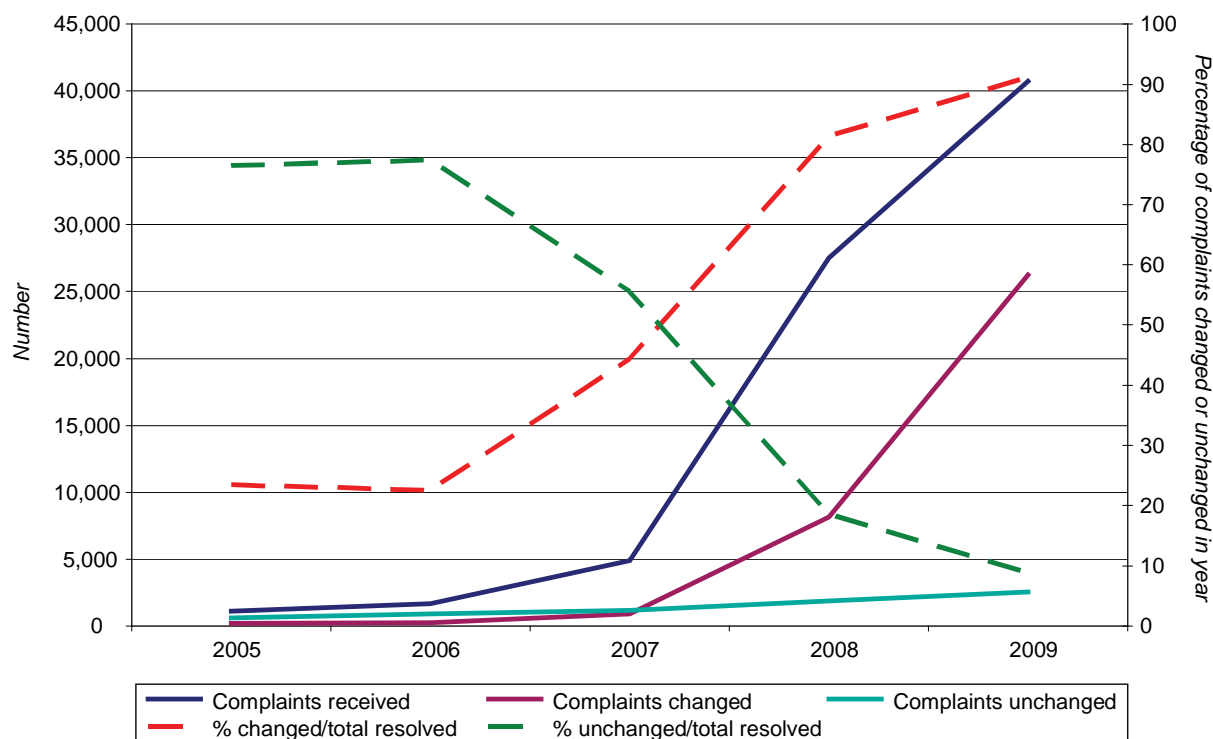
7.36 The FSA has taken 23 enforcement actions over the period September 2006 to October 2009, largely as a result of its thematic reviews. The largest fine was £7 million in October 2008, when Alliance & Leicester was fined for serious failings in its telephone sales of PPI. In total, fines have amounted to £12.6 million. The FSA considered that in each case several of its principles for business (see Appendix E) had been breached.

### The FOS

7.37 We received data from the FOS on the number of complaints about PPI received and the outcomes of those complaints. Figure 7.1 summarizes the results.

FIGURE 7.1

### Trends in FOS complaints



Source: Data supplied by FOS and CC analysis.

- 7.38 The number of complaints about PPI has risen dramatically since 2005. There are also a significant number of complaints waiting to be resolved. At March 2010 there were 33,000 complaints unresolved. The FOS told us that it made change decisions (that is to say, cases where it has changed the decision reached by the PPI provider) in 89 per cent of cases in 2009. It said that this was a far higher proportion of change decisions than were made in other sectors where changes were considered.
- 7.39 We were told by, for example, Barclays that the industry had raised concerns with the FOS that it had changed the standards it used to decide complaints. The FOS indicated that the increase in case volumes and the number where there was a change in favour of the consumer was broadly as a result of the change in the nature of the cases referred to it.
- 7.40 In July 2008 the FOS wrote to the FSA raising the issue of PPI complaints as a wider implications issue (wider implications issues are those issues which affect a large number of consumers or firms. It requires the FSA to consider whether a regulatory solution may be more appropriate than the FOS deciding individual cases). The FOS asked the FSA to consider whether industry-wide action was required to redress past mis-selling. This was one of the reasons for the FSA's consultation exercise on the assessment and redress of PPI complaints (see paragraph 4.3).

*Parties' data on complaints*

- 7.41 We asked the large distributors of PPI for data on all complaints about PPI in 2007, 2008 and the first 11 months of 2009. The results are summarized in Table 7.1. In 2009 the total redress paid for complaints by the large distributors was over £177 million.

TABLE 7.1 PPI complaints—detail\*

	CCPPI	MPPI	PLPPI	Retail PPI	SMPPPI	Total
<i>2007</i>						
Customer complaints made to firm	20,423	7,347	39,671	3,423	2,858	73,722
Complaints upheld by firm	2,403	1,405	8,285	844	334	13,271
Total redress paid by firm (£'000)	1,076	244	10,427	67	1,092	12,906
Complaints referred to the FOS	1,002	407	2,052	44	394	3,899
Complaints upheld by the FOS	247	42	822	11	30	1,152
Total redress paid for complaints referred to the FOS (£'000)	394	19	476	2	347	1,238
<i>2008</i>						
Customer complaints made to firm	31,818	7,905	81,975	3,908	4,242	129,848
Complaints upheld by firm	7,774	1,397	21,310	601	396	31,478
Total redress paid by firm (£'000)	7,096	709	31,187	155	5,164	44,312
Complaints referred to the FOS	6,089	784	13,027	152	534	20,586
Complaints upheld by the FOS	1,488	149	9,499	10	124	11,270
Total redress paid for complaints referred to the FOS (£'000)	2,349	399	6,603	4	1,364	10,719
<i>2009 Jan—Nov</i>						
Customer complaints made to firm	63,217	10,235	161,374	4,101	8,210	247,137
Complaints upheld by firm	18,649	1,637	65,738	438	781	87,243
Total redress paid by firm (£'000)	27,166	638	105,491	160	19,183	152,638
Complaints referred to the FOS	7,024	878	14,360	162	731	23,155
Complaints upheld by the FOS	3,368	76	5,122	5	872	9,443
Total redress paid for complaints referred to the FOS (£'000)	3,935	116	9,375	3	10,981	24,409

Source: CC based on data supplied by the parties.

\*Note: represents figures from the parties that submitted a spreadsheet reporting complaints. The figures do not show unresolved complaints.

7.42 We also asked the companies to provide details of the nature of the complaints received by them. We are satisfied that a large majority were related to the sales process, and not to other issues such as claims handling. We assessed the proportion of complaints that were related to the sales process for six of the larger distributors. Our assessment indicated that, with the exception of [redacted], over 90 per cent of each of the distributors' claims were sales-related. [redacted] appeared to have a higher proportion of complaints related to the management of disputes.

7.43 We also saw evidence from some parties of work they had carried out, either of their own volition or at the request of the FSA, to deal with sales issues. Examples are included in Appendix E.

*Conclusions on consumers not wanting or needing PPI*

- 7.44 Evidence from parties' internal documents and on the volume of consumer complaints upheld suggests that there have been significant sales quality issues in the market (and, as noted in paragraph 7.43, we saw evidence of work to deal with sales issues). As noted in the 2009 report, we expected that the high profits available on PPI would reduce the incentives to have high-quality sales processes.
- 7.45 The FSA considers there to be a problem with mis-selling (as evidenced by its thematic reviews, mystery shopping, enforcement actions, and the request to stop selling single-premium PLPPI). Similarly, while the FOS recognizes that it only sees a relatively small and potentially skewed proportion of complaints (and so an even smaller proportion of sales), from its casework it has seen evidence of mis-selling, as evidenced by the large proportion of cases where it reaches a change decision.<sup>21</sup> [X] told us that we had not proven mis-selling and [X] said that we should treat the issue of mis-selling as being unproven. However, we attached weight to the large body of evidence amassed, and the opinions clearly expressed publicly, by both the FSA and FOS. As explained in paragraph 7.31 our interest is not in how many policies have been mis-sold, but in the extent to which, were there a POSP in place, we might expect the number of policies sold to decrease because customers who would buy PPI at the point of sale would, given the time and space to think about their protection needs, actively decide that they either do not need or do not want PPI. We also noted that many of the complaints dealt with by the FOS have related to PLPPI, which has historically been sold on a single-premium basis. Parties stopped selling single-premium PLPPI policies after FSA intervention in the market. The number of complaints made relating to PLPPI policies sold in 2009 and onwards may therefore reduce as a result of this intervention.

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<sup>21</sup>The FOS reported in its 2009 annual report that in 89 per cent of PPI complaints that it received the decision was changed in favour of the complainant.

- 7.46 The evidence from the parties also shows that the parties settle a large number of complaints. Table 7.1 shows that in January–November 2009 the parties settled 35 per cent of complaints internally (however, we recognize that this may partly be a commercial response rather than an admission of mis-selling).
- 7.47 These sales quality issues have primarily related to PPI sales made at the credit point of sale. If a POSP were imposed we would expect some resultant drop in sales as, for example, customers became clear that the granting of credit was neither contingent on taking PPI nor made more likely if PPI is taken out, and customers felt less pressured by the sales environment and felt able to take a more considered view of whether the PPI offered by the distributor was the best policy for them—or indeed whether they actually needed PPI when they considered their protection needs. In this regard we noted an internal document from a large distributor ([redacted]) in relation to CCPPI which noted that ‘The business [redacted] faces a real challenge every day from PPI Redress—CoCo<sup>22</sup> could be used to resolve this issue for the future’. It also noted that ‘Post CoCo all sales will go through a two-stage process—reducing the number of unwanted policies sold’.
- 7.48 We were unable to quantify the scale of this effect; moreover, we recognized that past levels of mis-selling are not necessarily a good guide to future levels, and that many complaints in the past have related to single-premium PLPPI policies, a type of policy which is not currently being sold. As noted in paragraph, 7.30 some of the parties told us that there had not been significant levels of mis-selling.
- 7.49 To the extent that any decline in take-up of PPI is as a consequence of the elimination or reduction of unwanted sales at the credit point of sale—ie where a customer would not have bought the PPI had they had full knowledge of the product

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<sup>22</sup>The Competition Commission.

and there was no mis-selling, no pressure on the customer, and the customer had been able to think through their protection needs properly—we do not regard those lost sales as indicative of any consumer detriment resulting from the POSP.

7.50 We also noted that there was at least a possibility that, if the sales process is split and a personal PPI quote introduced, some consumers who do not currently buy PPI would take a quote and subsequently take out a policy even without any other changes (such as a change in price). This would be because those consumers would have time to consider the policy without responding to the pressured sales environment by automatically declining to take out the policy,

### ***Loss of choice***

7.51 The second reason for a possible drop in sales is that distributors would stop offering PPI and consumers might not take out PPI elsewhere.

7.52 We asked parties for internal documents relating to their reactions to the remedies set out in our Notices of Possible Remedies, our provisional decision on remedies and the 2009 report. We looked at these to understand parties' plans, and to enable us to take a judgement on the extent to which parties were likely to remain in the markets for supply of PPI if a POSP were put in place. We also thought that this evidence was useful in gauging parties' views on the scale of any reduction in convenience—if parties intended to continue supplying PPI we thought that they must take the view that the reduction in sales likely in a world where remedies, including a POSP, were put in place would not be so large as to render the supply of PPI uneconomic.

7.53 We set out the evidence we found on parties' intentions in Appendix F. We summarize our findings here.

7.54 All of the main parties to our investigation have been actively considering for some time how to respond to the remedies we were either considering or that we set out in the 2009 report. The parties also responded to the FSA’s action on single-premium PLPPI.

7.55 Several parties showed us customer research they had conducted. Highlights from this research are summarized in Table 7.2. This evidence indicates that they found consumers to be strongly supportive of the development of short-term IP products, with consumers valuing the flexibility and choice that these products would give them.

TABLE 7.2 Research related to the introduction of short-term IP products

<i>Distributor</i>	<i>Research comments</i>
[REDACTED]	<p>Respondents generally reacted positively to the proposition of covering income</p> <p>People liked idea of cover being centred around their income rather than their outgoings—they retain control of their bills</p> <p>Seen as a product which protects their lifestyle</p>
[REDACTED]	<p>The key strengths of the proposition that was tested were the related elements of:</p> <ul style="list-style-type: none"> <li>• Flexibility/tailoring of cover in relation to needs—which improves perceptions of value and cover quality</li> <li>• Focus on Life-Style—which improves and widens appeal and relevance</li> <li>• Its perceived status as a standalone product—which instils more confidence in the purchase/sales process</li> </ul>
[REDACTED]	<p>Market research indicated that customers would also like a more flexible product that covered more than their loan repayments. This product would be similar to a Lifestyle or Bill Protector product and would allow customers to protect their monthly outgoings which could include payments such as mortgages, loans and utility bills however this would be the subject of future discussions with [REDACTED].</p>
[REDACTED]	<p>The Customer research revealed that customers perceive real value in the areas covered by PPI and that they would welcome a new product that will give confidence and peace of mind in this challenging economic time.</p> <p>The research suggested that the new product should offer more flexibility and transparency than PPI and should represent good value for money. There would be real value in a product offering protection of income rather than being related to a credit product.</p> <p>There appears to be a strong rationale to launch short-term IP—the format tested does appear clear and understandable. Keeping descriptions clear and simple help to differentiate &amp; distance from PPI ... Combating (PPI) mistrust &amp; generating explicit rationale. The call to action is helped by [its] standalone nature, this should be emphasised.</p>
[REDACTED]	<p>A research presentation in April 2009 concluded that a menu driven protection product was likely to be popular, with the opportunity to receive discounts for multiple policies, the opportunity to mix short and long term cover, and the flexibility to tailor the cover to a customer’s needs being attractive features.</p>

Source: Parties’ internal papers.

7.56 An internal [REDACTED] document noted a benefit of selling PPI away from the point of sale: ‘The quotation and application sales process provide customers with suitable time to

“walk away” and think about the policy without being pressurised into purchasing cover’.<sup>23</sup>

- 7.57 LBG noted that there were potentially many more opportunities to sell a product not directly related to an underlying credit product. It identified that there were up to [REDACTED] million branch interviews that did not involve the sale of a credit product compared with less than half that number of branch interviews ([REDACTED] million) where a credit product was discussed/taken out.
- 7.58 We looked at how the various main parties to the investigation responded to our likely remedies. We look at how retail banks, monoline credit card providers, retail PPI providers, underwriters and stand-alone providers responded.
- 7.59 The internal documents we received indicated that [REDACTED] the retail banks that are main parties to this investigation reacted to the remedies we considered by developing new products. These products were often ones that are not linked to a specific credit product but offered wider and/or more flexible cover. The products were also often designed with sale to a distributors’ non-credit customers (or sale to customers with whom they had no existing relationship) in mind. Table 7.3 summarizes the new product development work conducted by the retail banks that are main parties to this inquiry.

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<sup>23</sup>[REDACTED] said that the context for this was that it was written specifically for the purposes of obtaining sign-off [REDACTED] from the [REDACTED] marketing department, and that it did not constitute an internal view on whether or not customers felt pressured into purchasing PPI.

TABLE 7.3 **New income protection initiatives—retail banks**

<i>Company</i>	<i>Product/project</i>	<i>Covers</i>	<i>Present status</i>	<i>Comments</i>
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Source: Parties' internal papers received in January 2010.

7.60 In terms of the main credit card companies (Capital One and MBNA) we found the following strategies for responding to the CC remedies.

7.61 [REDACTED]

7.62 [REDACTED]

7.63 In terms of retail PPI, [REDACTED].

7.64 In terms of underwriters, we saw evidence that [REDACTED] have been active in marketing short-term income/lifestyle protection products to the distributors, with products that are menu driven for the customer to select from options that vary from protection against specific loan products to more general income protection. [REDACTED] sees the development of these products as necessary to address the needs of distributors for a more flexible income-based product.<sup>24</sup> [REDACTED] also appears to have been considering alternative products but appears less advanced in its thinking. [REDACTED] appears to be taking a less dynamic approach to the new environment for PPI although [REDACTED].

7.65 No new product proposals have been identified from those existing stand-alone providers which do not also offer credit or underwrite distributors' PPI products. To

<sup>24</sup>[REDACTED].

some extent, the products being developed by distributors and underwriters are becoming more similar to existing stand-alone products, so this is not entirely surprising. As noted in Appendix A, Post Office Financial Services (POFS) and Churchill have exited the stand-alone market since the 2009 report was published. Other stand-alone providers appear committed to the market and likely to seek to expand, if the CC's remedies are introduced.

- 7.66 We also looked at who would take part in the stand-alone market.
- 7.67 We noted in paragraph 7.65 that there have been some parties that have stopped offering stand-alone PPI or reduced their product offering, and in Appendix A we found that the number of stand-alone policies sold in 2009 had almost halved compared with 2008 levels.
- 7.68 We noted the withdrawals from the stand-alone market, and the reduced sales in 2009. We also noted that there was a different type of stand-alone PPI provider that could supply customers—distributors which currently offer PPI at the credit point of sale. As noted in paragraphs 7.59 to 7.64, we found that several distributors have been developing policies that can be sold to their non-credit customers, and to customers with whom they do not currently have an existing relationship. Cardiff Pinnacle told us that online providers were preparing for a world where remedies were in place.
- 7.69 We noted documents from some parties commenting on the opportunities available. For example, an internal [REDACTED] document noted that: '[t]here is a significant revenue opportunity in providing payment protection to customers, outside of the process for selling and fulfilling credit products. Current modelling predicts £120Million pa, (income after claims)' (July 2009). An internal [REDACTED] document said that its new

product project ‘creates commercial opportunities in both new and existing markets for new and existing products’. An internal [X] document said:

The proposed CoCo remedies will introduce measures to drive comparison and switching behaviour—more akin to other GI products. It is expected that this will open up opportunities to acquire customers through different approaches, separate to the traditional associated credit product.

7.70 We obtained data from GfK NOP Consumer Services (GfK)—from its FRS survey—on the number of different financial institutions with which consumers have a relationship.

7.71 The data is shown in Table 7.4. Financial institutions have been grouped by brand ownership, so that, for instance, if a person has accounts with both Lloyds TSB and HBOS, this counts as only one relationship.

TABLE 7.4 The number of financial institutions with which customers have relationships

Number of relationships with financial institutions*	<i>PPI</i>						
	Total (all 18+)	MPPI customers	CCPPI customers	PLPPI customers	SMPPPI customers	Mail order loan customers	Any form of PPI
None	1	-	-	-	-	-	-
1	17	3	6	8	6	2	5
2	20	10	16	17	13	21	14
3	18	17	17	19	17	24	18
4 or more	<u>41</u>	<u>71</u>	<u>62</u>	<u>57</u>	<u>63</u>	<u>52</u>	<u>61</u>
Total†	100	100	100	100	100	100	100
Average number of relationships	3.6	5	4.5	4.1	4.6	4.2	4.5

Source: GfK FRS database.

\*Financial institutions have been grouped by brand ownership, so that if a customer has a relationship with both Lloyds TSB and HBOS, for instance, this counts as only one relationship.

†Sums do not quite equal to 100 per cent due to rounding.

7.72 This shows that 18 per cent of the overall population has relationships with one financial institution or none. PPI customers tend to have relationships with more

financial institutions, with only 5 per cent of PPI customers overall having a relationship with only one financial institution.

- 7.73 On average, PPI customers have relationships with four or five different financial institutions.
- 7.74 As noted in paragraph 7.57, LBG found that there were up to [§] million branch interviews that did not involve the sale of a credit product compared with less than half that number ([§] million) of branch interviews where a credit product was discussed/taken out. More generally, data from GfK showed that there is significant scope for cross-selling. For example, 59 per cent of PLPPI customers also have a credit card and 22 per cent also have a CCPPI policy. And as noted in paragraphs 7.70 to 7.73 most PPI customers have multiple relationships with credit providers, optimizing the opportunities for them to be approached by distributors to buy PPI even if they do not hold credit with that provider. The evidence suggested to us that the cross-sales opportunities for distributors are significant.
- 7.75 We considered whether customers would be faced with a loss of opportunity to buy PPI because of market exit. In paragraphs 10.53 to 10.57 of the 2009 report we reported the views of many PPI distributors that the CC remedies would cause them to consider whether to withdraw from the market. The evidence from the parties obtained during this remittal is that several considered strategic options, including withdrawal from the market, but the vast majority have decided to continue to develop products that could be sold with a POSP in place.
- 7.76 The work conducted, and the views on market opportunities, show that nearly all the main parties to our investigation have actively considered how they could sell PPI products with a POSP in place. We considered this evidence carefully, and we

concluded that we expected those main parties to stay in the market, offering the products they have been developing to their credit customers, if a POSP were put in place. The exception to this is [REDACTED].<sup>25</sup>

7.77 In terms of stand-alone provision, the evidence suggested to us that, with the remedy package in force, we would expect some of the traditional stand-alone providers to remain in the market (with underwriters supporting them), although we noted that there have been some recent exits. But, there would be, in our view, a key development: large PPI distributors would enter the stand-alone market. For customers this would mean that suppliers which have been providing most PPI policies available will now be making stand-alone offerings available, increasing choice and increasing the number of household names offering them stand-alone policies.

7.78 We therefore concluded that, if a POSP were imposed, there was not going to be a loss of choice resulting from market exit—we expected nearly all large distributors to continue selling PPI at the same time as credit, and moreover, to start offering stand-alone policies in competition with one another.

### ***Loss of convenience to consumers***

7.79 The third reason why there might be a drop in sales is if the introduction of a POSP introduced a loss in convenience to consumers such that they would simply not get around to buying PPI.

7.80 We considered whether there was a loss of convenience associated with the POSP which would result in a reduced take-up of PPI. We set out first the issue regarding loss of convenience, as summarized by the Tribunal. We then consider the extent to which there would be market exit as a result of the introduction of a POSP. We then

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<sup>25</sup>[REDACTED]

consider the impact of putting a POSP in place on consumers, including the value they ascribe to the convenience of taking out PPI at the same time as credit. We also consider whether there are issues arising as a result of an increase in complaints that might have an impact.

### *The possible consequences of a loss of convenience*

7.81 The Tribunal summarized the issue of loss of convenience in paragraph 123 of its judgment:

Opponents of the POSP argued during the investigation that, since the convenience of being able to purchase PPI insurance at the same time as the credit being insured was a major attraction to consumers which contributed to the level of PPI sales, the inconvenience to consumers arising from being unable to do so after the imposition of the POSP would lead to a reduced take-up of PPI, to the serious detriment of the PPI market.

### *Whether the loss of convenience would lead to market exit*

7.82 We considered whether the introduction of a POSP would lead to market exit. In the 2009 report, in paragraphs 10.54 and 10.55, we reported that several parties suggested that, if we imposed a POSP, they would at least consider exiting the PPI market.

7.83 Our analysis of what the main parties have considered since seeing our proposed remedies is set out in Appendix F and in paragraphs 7.54 to 7.76. The evidence strongly suggests that following the introduction of a POSP, most of the main parties (and certainly those accounting for the majority of current PPI sales) would stay in the market, selling PPI to their credit customers and in many cases introducing new policies available on a stand-alone basis.

7.84 It follows therefore that we do not expect significant market exit, at least among the main players which account for significant proportions of each product segment, as a result of putting a POSP in place. This further indicated to us that they do not consider the likely loss of sales to be of such a magnitude as to render the sale of PPI products unattractive.

### *The value of convenience to consumers*

7.85 During the original investigation, parties put forward evidence in relation to the convenience associated with purchasing PPI at the credit point of sale: Convenience featured prominently in reasons given for purchasing PPI at the credit point of sale. For example, in GfK research [redacted] 91 per cent of respondents cited convenience as a reason for simultaneous purchase of PPI and credit. Barclays submitted that 75 per cent of its PLPPI consumers considered that the best time to purchase PPI was before or at the same time as applying for the loan. As noted in paragraph 7.19, an ABI-commissioned YouGov survey found that 58 per cent of respondents said they would prefer to buy PPI at the point of sale.

7.86 AXA (and others) referred us to behavioural research it had commissioned (*Turning Good Intentions into Actions*, by Decision Technology)<sup>26</sup> which showed that, in certain experimental situations, even small delays could significantly reduce the likelihood of taking action.

7.87 We looked at evidence from surveys, both quantitative and qualitative, regarding consumers' attitudes to buying PPI at the point of sale received during the remittal. The evidence is set out in Appendix G.

7.88 As noted in paragraph 7.19, the quantitative evidence showed a mix of results:

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<sup>26</sup>[www.dectech.org/Links/Brief-AxaPart2.pdf](http://www.dectech.org/Links/Brief-AxaPart2.pdf).

- [redacted] evidence showed that [70–80] per cent of consumers thought that the credit point of sale was the best time to take out PPI;
- [redacted] evidence showed that fewer (but still more than half) would like the opportunity to take out PPI at the credit point of sale (when it is not available there); but
- [redacted] and [redacted] surveys showed that [70–80] per cent of consumers preferred not to take cover out straight away, or felt more comfortable taking it out after a gap; and
- an [redacted] survey showed that around 90 per cent thought that a waiting period would make the sales process fairer.

7.89 The qualitative evidence also shows different results depending on what is asked, and how. Data gathered from face-to-face/branch/group surveys indicated the following:

- Some customers had concerns about a delay in the sales process and the fact that they could not purchase the product immediately.
- In terms of the perceived opportunity to shop around, [redacted] found that customers said they would be more likely to shop around for the best deal with the POSP change, but [redacted] found that only a minority of the 40 to 45 customers interviewed said that having an interim period would result in them shopping around.
- [redacted] found that customers were not happy that they had to take further action themselves, to call back, but [redacted] found that phoning the provider back after 24 hours to take out PPI was one of the preferred options. [redacted] research also found that most respondents felt that in reality they would get caught up with other things or forget to call back to take out the cover, and the majority of respondents were not averse to the provider contacting the customer to prompt purchase of PPI.

7.90 Data gathered from telephony surveys ([redacted]) and evidence of consumer reactions provided by agents who participated in a POSP test in the telephone channel ([redacted])

indicated that consumers thought that it was helpful to have time to think about purchasing the product and the opportunity to shop around.

7.91 We commissioned a survey from Accent on the attitudes of recent customers to buying PLPPI and MPPI, and the value they attach to buying PPI at the same time as credit or later. We did not conduct the survey for SMPPI, CCPPI and retail PPI customers, for the reasons set out in Appendix G.

7.92 The objectives of the survey were to:

- understand consumer likes and dislikes in purchasing PPI at the same time as the loan to which it is connected;
- understand how consumers view the convenience associated with taking out PPI at the time of the loan, and any consequent loss of convenience if they have to wait a period of at least 24 hours after the conclusion of the credit sale before they can purchase PPI from the same provider; and
- quantify any potential loss in convenience from the consumer perspective.

7.93 The Accent consumer research consisted of initial qualitative research, which helped inform the design of a quantitative questionnaire. The quantitative questionnaire used a stated preference exercise to understand both the preference of customers and the strength of that preference. We consulted the parties on the questionnaire.

7.94 The quantitative questionnaire was piloted with 50 customers (26 MPPI and 24 PLPPI) to test the clarity, flow and language of the questions as well as the design and understanding of the stated preference exercise. Following the pilot a few changes to the wording were incorporated and the range of costs, for the premium, in the stated preference exercise was altered. The main programme of research involved interviewing over 400 recent purchasers of each of PLPPI and MPPI.

- 7.95 The results of the survey<sup>27</sup> were that many customers prefer to buy PPI at the credit point of sale—with the main advantage of doing so being perceived as the ability to obtain immediate cover—but many other customers would prefer to buy later in order to shop around and to make an informed decision. It concluded that introducing a POSP led to a loss of convenience for those PLPPI customers who preferred to buy at the credit point of sale, but the preference of those who prefer to buy later was stronger. For MPPI there was no significant loss of convenience associated with introducing a POSP for those who prefer buying at credit point of sale, but the preference of those who preferred to buy later was strong. The overall effect was that both MPPI and PLPPI customers in aggregate would actually be willing to pay for a delay in PPI purchase.
- 7.96 For PLPPI 60 per cent of customers said they preferred to buy PPI at the same time as credit, whilst 31 per cent said they would prefer to buy it later. For MPPI 50 per cent of customers said they preferred to buy PPI at the same time as credit, whilst 36 per cent said they would prefer to buy it later. In both cases there were some customers who were indifferent to whether they bought it at the same time as credit or later.
- 7.97 Looking at only those customers who preferred to buy PPI at the credit point of sale, for PLPPI the research found that the value of taking out PPI at the credit point of sale was £9.00 per month when compared with calling back after 24 hours and £7.30 per month when compared with being called after seven days, compared with a mean monthly PLPPI premium of £30.50 per month. The research found that the lower cost of convenience after seven days was a reflection of a preference for a longer delay, if there was to be a delay, rather than a preference for being called by the distributor over making contact with the distributor on their own initiative.

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<sup>27</sup>[www.competition-commission.org.uk/inquiries/ref2007/ppi/pdf/100505\\_Accent\\_Survey\\_report\\_2FINAL.pdf](http://www.competition-commission.org.uk/inquiries/ref2007/ppi/pdf/100505_Accent_Survey_report_2FINAL.pdf).

- 7.98 MPPI customers did not attach a significant value to their stated preference for buying PPI at the same time as credit.
- 7.99 Looking at customers who expressed a preference for buying PPI either 24 hours or seven days after the credit point of sale, PLPPI customers expressed a willingness to pay £25.20 a month more to buy it seven days after the credit sale, and £19 per month more to buy it 24 hours after the credit sale. For MPPI customers the equivalent figures were £30 and £18.70 per month.
- 7.100 We noted that the consumers' valuations of the cost or value of buying PPI after the credit point of sale tended to be high, when expressed as a proportion of the amount that consumers paid on policies over the life of the policies (this applied both to the positive valuations of those who prefer to buy later and the negative valuations of consumers who prefer to buy at same time as credit). We considered whether these high valuations may be due to respondents misinterpreting the price of buying later as a one-off cost rather than a monthly cost. However, respondents were presented both with the monthly cost and the annual cost comparisons in the stated preference exercise, so should have been aware of the fact that it was a monthly price. We thought that the relative values of the cost of buying later for consumers preferring the point of sale and the value of buying later for consumers preferring a delay found in the survey were likely to be a good indicator of the relative strength of preference of the different groups of consumers. In the absence of other measures of the costs and values of buying later, we therefore used the Accent survey results, but conducted some sensitivity tests to check that our results were robust to lower valuations of the cost and value of buying later.
- 7.101 The survey evidence led us to conclude that:

- Many PLPPI customers express a preference for buying PPI at the same time as credit. Those who do attach a value of around one-quarter of the monthly premium to this preference. However, many PLPPI customers also attach substantial value to the possibility of being able to buy PPI away from the credit point of sale.
- Many MPPI customers express a preference for buying PPI at the same time as credit. However, there is not a significant loss in convenience for these customers associated with not being able to buy PPI at the same time as credit. Over one-third of MPPI customers attach substantial value to the possibility of being able to buy PPI away from the credit point of sale.
- Across both products, whilst more customers expressed a preference to buy PPI at the same time as credit, the strong preferences shown by those who preferred to buy later meant that on aggregate customers associated a positive monetary value with buying PPI at some time after the point of sale of credit, rather than at the same time as credit.

### *Rise in complaints*

7.102 Parties also said that consumer complaints might or would rise; different reasons were put forward by different parties, including that consumers would not understand why they could not purchase at the point of sale and that some consumers might become suspicious of the product. We saw some consumer research which said that some customers were unhappy at the prospect of being unable to buy PPI at the credit point of sale. On the other hand, as noted elsewhere, many consumers like the idea of a break between the sales of credit and PPI.

7.103 We recognized that there would be some people who know they want PPI from their credit provider, but would be delayed in buying it by the imposition of a POSP. However, we thought that the number of additional complaints is unlikely to be

significant given that the Accent survey shows that MPPI customers do not attach significant weight to this preference. Whilst some PLPPI consumers do attach weight to their preference to buy PPI at the same time as credit, we saw no reason to assume that the number who would complain about not being able to buy it at that time would be significant. In this respect we noted that the qualitative research conducted by Accent found that the initial reaction of respondents to a POSP was one of inconvenience, but after consideration respondents readily traded off other benefits, such as the ability to shop around and the reduced pressure to buy PPI at the credit point of sale, against inconvenience.<sup>28</sup> Further, we did not hear of experiments leading to significant complaints volumes.

7.104 Further, we noted the high level of customer complaints currently associated with selling PPI at the credit point of sale and thought that our remedies were likely to reduce this type of complaint at source. We also concluded that we could not impose a POSP with an exception for consumers who know that they want to buy PPI straight away. This would be impossible to monitor or enforce effectively and we believed that there would be a significant risk of circumvention of the remedy package through what consumers were asked about their attitudes to purchasing PPI during the credit sale and how the answers were interpreted.

*Our view on whether there will be a reduction in sales and its causes*

7.105 We concluded that if a POSP were imposed it is likely that, if nothing else changed, some people who currently take out PPI will not take it out.

7.106 We concluded that the loss in take-up among existing customers would have two causes.

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<sup>28</sup>See section 3.8 of the Accent survey report.

- 7.107 First, there would be a reduction because consumers have more time and space to consider their needs and some would decide that they either did not want or need PPI.
- 7.108 Second, there would be some customers who found it inconvenient to have a POSP in place and did not buy PPI as a result.
- 7.109 We did not quantify the first of these effects. One possible way of quantifying some of this first reduction would be to look at the extent of mis-selling, on the assumption that customers who had been mis-sold policies would have been among those who would not have bought PPI if they had had more time and space to consider their needs. Parties told us that there has not been a significant level of mis-selling, though we also noted the FSA and FOS concerns regarding mis-selling. We were unable to quantify the extent of mis-selling; moreover, we recognized that past levels of mis-selling are not necessarily a good guide to future levels, and that many complaints in the past have related to single-premium PLPPI policies, a type of policy which is not currently being sold. We proceeded on the assumption that there were not significant volumes of policies being sold which would not have been sold if consumers had had more time and space to consider their needs, which we considered to be a conservative assumption that was highly unlikely to overstate the potential benefits of intervention, but we tested the sensitivity of our modelling results for this.
- 7.110 On the second factor, our survey suggested that the value placed on the loss of convenience for MPPI customers was not statistically significant, and for those PLPPI consumers who preferred to buy PPI at the credit point of sale was of the order of one-quarter of the monthly premium.

7.111 In our judgement the impact of the loss of convenience for CCPPI customers is likely to be similar to that for MPPI customers, as like MPPI customers they have multiple points of contact with the distributor—in particular, the CCPPI provider may be able to use the activation call to carry out the PPI sale [✂] or offer PPI to existing customers, through regular account management processes. However, for modelling purposes (in Section 9) we used the (conservative) assumption that CCPPI customers attached the same value as PLPPI customers to the convenience of buying PPI at the credit point of sale, rather than the lower value placed on convenience by MPPI customers. For SMPPI customers we thought that the impact of the loss of convenience is likely to be similar to that for PLPPI customers, as the SMPPI sales process was, we thought, more similar to that of PLPPI than MPPI. For the reasons set out in Section 9 we did not have to take a view on how retail PPI customers would behave.

7.112 As we found that nearly all distributors intend to continue selling PPI if we put the remedy package in place (paragraph 7.78), we expect that distributors would take action to ensure that as many sales are achieved as possible—that is to say, we do not expect that, as we put it in paragraph 7.105, nothing else would change. Such action might include maximizing effort to contact consumers after the prohibition period, offering products more suited to consumers' needs (see paragraph 7.55, which shows consumer research into customer preferences, and paragraphs 7.59 to 7.64 where we note how some parties have responded in developing new products).

7.113 Further, we concluded in paragraph 10.477 of the 2009 report that the introduction of our remedy package would lead to greater price competition between PPI providers. As prices reduce we would expect PPI take-up to increase.

7.114 Finally, as noted in paragraph 7.50, we also recognized that there is at least a possibility that some people who do not currently take out PPI at the point of sale might receive a quote, consider the quote and decide to take out PPI even without any other changes (such as a change in price).

7.115 We have carefully considered the arguments put forward by the parties and concluded that they are overstating the loss of convenience that would result from the introduction of a POSP. Whilst many consumers prefer to buy at the point of sale, that does not mean that many of them will not buy later, and the evidence shows that many other consumers would prefer to buy later. We consider whether, when this and other factors are taken into account, the remedy package would result in a net welfare benefit to consumers in Section 9.

## **8. The effectiveness of the POSP for PPI products where the premium tracks the credit balance**

8.1 In this section we consider the issue raised by the Tribunal with respect to retail PPI, regarding how effective the POSP could be for PPI products where the premium tracks the credit balance.

8.2 This was raised by the Tribunal as an issue we might wish to explore in our remittal in relation to retail PPI. The Tribunal explained the issue in paragraph 178 of its judgment:

The point which caused us concern was this. The Commission's decision that the proposed remedies package would be substantially effective to remedy the AEC in relation to all types of PPI, including retail PPI, involved a judgment that stand alone providers would be able to offer real competition to distributors. Yet its findings included recognition that, in relation to retail PPI, competition by stand alone providers was adversely affected by their inability to know the level of

credit being extended by the retailer, on a constantly fluctuating credit account, so that they could not tailor a stand alone PPI policy to the amount owed from time to time by the consumer. Shop Direct's submission was that the Commission's remedies package contained no solution to this conundrum, so that it could not therefore rationally be expected effectively to remedy the AEC in relation to retail PPI.

8.3 The issue was raised by SDGFS in the remittal. SDGFS said that there was no substitute for retail PPI—as there was no alternative policy its customers could take out which would insure exactly the outstanding balance—and therefore imposing remedies, such as the POSP, which were predicated on customers being able to find alternative policies, would be ineffective and therefore disproportionate.

8.4 We considered the issue first for retail PPI (paragraphs 8.5 to 8.14). Then we considered it for CCPPI (paragraphs 8.15 to 8.17), as some parties (eg MBNA) told us during the remittal that the same issues arose for CCPPI as for retail PPI. Finally we considered it for other PPI products (paragraphs 8.18 and 8.19), as LBG said that the difficulty which the Tribunal identified with the CC's reasoning in respect of retail PPI applies not only to retail PPI and CCPPI, but also to MPPI and PLPPI, where monthly payments may vary with changes to interest rates and rescheduling of the underlying credit.

### *Retail PPI*

8.5 In paragraph 6.170(a) of the 2009 report we identified one of three barriers to switching to be

the inability of stand-alone providers to offer insurance which tracks the outstanding balance on a credit account, or to offer merchandise cover, means that retail PPI policy-holders cannot find a perfect substitute for

their policy; instead they can only find a policy which insures a set amount, leading them to be over- or under-insured in any given month and which does not include merchandise cover.

- 8.6 In paragraph 6.183 of the 2009 report we found that the ability to tailor premiums to the changing balance was one of three substantial advantages from ‘selling retail PPI at the initial point of sale and subsequently, by virtue of supplying the credit to which the retail PPI relates’ and consequently that, in paragraph 6.184 of the 2009 report, the sale of retail PPI at the initial point of sale and continued exclusive access to customer accounts restricts the extent to which other PPI providers can compete effectively and is therefore a feature of relevant markets which prevents, restricts and distorts competition in the supply of retail PPI.
- 8.7 In effect we concluded that the tailoring of PPI premium to the outstanding credit balance gave the retail PPI distributor an incumbency advantage. We did consider and reject in the 2009 report one remedy option that was directly aimed at this particular issue: namely a requirement on credit card and retail credit providers to share information about current consumer balances with other PPI providers (the ‘information sharing remedy’, see paragraphs 10.366 to 10.370 of the 2009 report). We also considered and rejected price caps for these sectors on the grounds that the package of remedies would be substantially effective in addressing the AEC and would do so in a timely manner (paragraph 10.373 of the 2009 report).
- 8.8 We commissioned qualitative research in January 2010 from GfK into retail PPI customers’ attitudes to searching for alternative policies. The results of this survey gave a clear steer that many customers (most in this survey, although we recognized that this was a qualitative survey) actually preferred fixed-balance policies. The

reasons cited for this included that they knew their exact monthly outgoing, which would help them to budget their finances, and they liked the flexibility to choose how the payout was used.

- 8.9 In addition, we have observed that several large distributors of CCPPI<sup>29</sup> have been developing, in response to the 2009 report, income protection policies which do not track outstanding balances, for sale to their credit customers including their credit card customers (and ultimately other companies' credit customers).
- 8.10 These pieces of new evidence convinced us that the advantage held by retail PPI providers by their ability to tailor insurance premiums to outstanding credit balance was not significant—in effect there is no significant incumbency advantage associated with knowing the outstanding balance on the credit product. As a result, as noted in paragraph 5.21, this new evidence casts doubt on whether the lack of access to consumers' balance information, allowing stand-alone providers to create policies which track balances, is in fact a feature—as in practice consumers do not appear to attach significant value to policies tracking the outstanding balance.
- 8.11 The GfK survey also found that retail PPI customers would welcome time and space to think about their policies, and search for alternatives. However, the qualitative research showed that only one interviewee had actually tried to find PPI anywhere else and no interviewees said that they would actually use these opportunities to search for alternative policies.
- 8.12 A key driver for this attitude to searching appeared to be that retail PPI customers generally pay small insurance premiums each month and most take a monthly view of their finances. This is consistent with evidence from retail PPI providers (see

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<sup>29</sup> [X]

paragraph 6.8 of the 2009 report). SDGFS told us that average monthly premiums were between £[redacted] and £[redacted] per month. Other distributors told us that their average premium income was lower: JD Williams receives on average £[redacted] per year in premium income per customer, consistent with average monthly premiums of between £[redacted] and £[redacted] per month. As these are average figures, many customers will be paying less than this.

8.13 To customers paying small monthly premiums, retail PPI is not a significant monthly outlay, and therefore not something to which they pay much attention, or for which they would be likely to seek a better deal. In our view this evidence suggests that there would not be many retail PPI customers who would in practice search for alternative policies. Those more likely to search would be those whose retail PPI premiums were larger than average, and/or who held other PPI policies or short-term IP policies already.

8.14 The evidence therefore suggested to us that, for retail PPI, the inability of stand-alone policies to track customer balances was not an important issue for the effectiveness and proportionality of the remedy package including the POSP. However, the new evidence did suggest that in practice, customer inertia, driven by low balances, would be an important issue for the effectiveness and proportionality of the remedy package including the POSP. We consider this in Section 9.

### *CCPPI*

8.15 Having found that the ability to track customer balances was not a significant issue for retail PPI, we considered whether it would nevertheless be a significant issue for CCPPI customers.

8.16 We saw no reason to expect that CCPPI customers would value tracking of balances significantly more than retail PPI customers. Moreover, as noted in paragraph 8.9, several distributors of CCPPI have been developing, in response to the 2009 report, income protection policies which do not track outstanding balances, for sale to their credit customers, including their credit card customers. We thought that distributors would not do this if they did not expect to be able to attract credit card customers with such an offer.

8.17 We concluded in Section 5 that there are a number of features giving rise to an AEC in PPI markets. In our view, if the features which do not relate to policies tracking credit balances are remedied, the ability to track customer credit balance would not prevent stand-alone PPI providers from attracting CCPPI customers.

#### *PLPPI and MPPI*

8.18 In its response to the CC's consultation document, LBG told us that the difficulty for stand-alone providers to ascertain the amount of credit requiring to be insured from month to month also applied to MPPI and PLPPI where monthly payments might vary with changes in interest rates and rescheduling on the underlying credit. LBG told us that it would expect the CC to take account of this issue in respect of these PPI product types.

8.19 We did not think that this was a strong argument. As with CCPPI and retail PPI, credit providers have a potential advantage over other PPI providers in so far as their access to ongoing information about the credit means that they are able to offer products which would automatically adjust the level of cover provided if the underlying credit repayments were to change. However, this is unlikely to be a significant form of incumbency advantage for the following reasons:

- We would normally expect changes to credit repayments on personal loans or mortgages to take place at discrete intervals, triggered by a specific event—for example, moving house or, if for variable rate loans, a change in base rates. Given the nature of the credit obligation, there is unlikely to be the same level of month-by-month variation in monthly repayments, as would be the case for some credit card accounts.
- To the extent that consumers value products which provide cover that is aligned with consumers' obligations under specific credit agreements, stand-alone providers are able to approximate this product feature by offering periodic reviews of the level of cover provided.
- Stand-alone providers may choose to market products to cover a range of obligations, rather than tailoring cover closely to individual credit products.
- We did not identify this element of incumbency advantage as a feature that restricts, prevents or distorts competition in MPPI or PLPPI (or indeed SMPPI) markets. It has not been raised with us by any of the parties whose interests might be adversely affected if it were a material consideration—for example, stand-alone providers or consumer groups.

*Conclusions on the effectiveness of the POSP for PPI products where the premium tracks the credit balance*

8.20 We concluded that there was limited preference for PPI products where the premium tracks the credit balance and that as a result stand-alone products which do not track balance could be effective substitutes for these policies.

## **9. Revised assessment of proportionality**

### ***Introduction***

9.1 In this section we assess whether we should impose the remedy package set out in the 2009 report for the different PPI markets. In doing this we draw on the 2009 report, and focus new analysis primarily on the questions the Tribunal required us to

answer or suggested we consider (paragraphs 1.3 to 1.5) and consider the impact of any relevant developments in the market.

9.2 We set out in Section 3 the different ways that we could approach proportionality, as put to us by parties to the investigation, and why we have decided to look at the proportionality of the remedy package set out in the 2009 report on its own before considering the proportionality of any alternative packages.

9.3 As set out in paragraphs 10.478 and 10.479 of the 2009 report, the remedy package proposed in the 2009 report is an integrated package with elements which mutually reinforce one another. We consider therefore whether to impose the full remedy package set out in paragraph 2.4. In order to do this we considered first the need to remedy all features of the AEC.

#### ***The need to remedy all features of the AEC***

9.4 We considered first whether we need to address all features of the AEC, in light of the developments in the market seen since our original investigation (see Section 4).

9.5 First, as noted in paragraphs 5.4, 5.15, 5.24 and 5.25, all of the features comprising the AEC which were addressed by the remedy package remain, and (with the exception of the single-premium barrier to switching which is more of a potential barrier at this point in time) remain as significant as they were at the time of the 2009 report. We noted that the largest retail PPI provider is currently offering an unbundled retail PPI product, but that the other large retail PPI provider does not currently offer such a product. And we found that new evidence cast doubt on whether the lack of access to consumers' balance information, allowing stand-alone providers to create policies which track balances, is in fact a feature, though no part of the remedy package set out in the 2009 report directly addressed this feature.

- 9.6 We considered whether the recent reduction in sales and increases in claims should cause us to impose no remedies, or less stringent remedies.
- 9.7 We noted that 2008 and 2009 have been years of particularly low levels of credit sales, and this has been a significant driver of lower PPI sales. Whilst sales of credit and PPI have been depressed, we found in Appendix A that distributors continue to earn the same levels of commission as a percentage of GWP in all PPI products save MPPI, where worsening claims experience has led to a higher proportion of GWP being paid out in claims. Whilst the number of policies sold has decreased significantly, the stability in the contractual rates of commission payable to distributors has meant that PPI distributors have continued to earn very significant amounts of commission for each policy sold—especially so for CCPPI, PLPPI, SMPPI and retail PPI, but also for MPPI despite the reduction in GWP.
- 9.8 Whilst sales of credit have been very low, it is generally held that sales will start to recover during 2010 and 2011<sup>30</sup> and all the major credit providers are planning on the assumption that there will be a recovery in credit sales. We would expect this to lead to an increase in PPI sales relative to sales achieved in 2008 and 2009.
- 9.9 We were satisfied therefore that the low level of GWP in 2009 compared with previous years was not something which in itself indicated that distributors were no longer able to earn significant economic profits from PPI and therefore was not something which should cause us not to impose remedies.
- 9.10 Whilst for MPPI and, to a lesser extent PLPPI, the claims ratio has been significantly higher than previously, claims have been largely driven by the rise in unemployment and we were confident that claims would reduce over time as the economy improves.

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<sup>30</sup>For example, the 2009 pre-budget report (published in December 2009) stated that 'credit conditions are expected to recover into 2010 and 2011 and so support the recovery'. (See p159 of [www.hm-treasury.gov.uk/d/pbr09\\_annexa.pdf](http://www.hm-treasury.gov.uk/d/pbr09_annexa.pdf).)

We also noted that even in 2009, during the recession, the claims ratios experienced for all PPI policies save MPPI were lower than the claims ratios in 2006 for motor, liability, accident and health and property insurance, as set out in Table 4.3 of the 2009 report. And, importantly, we noted that even in the middle of a recession, distributors were still making significant excess profits on the sale of PPI (see Table 4.1). We were satisfied, therefore, that the claims experience of 2008 and 2009 was not something which should cause us not to impose remedies.

9.11 We thought carefully about whether we needed to remedy the barriers to switching associated with single-premium policies. We decided we did, because single-premium SMPPI can still be sold, and because the FSA's request to distributors not to sell single-premium PLPPI is not a legally-binding regulation. Moreover, to the extent that there is doubt about whether we need to impose a prohibition on selling single-premium PLPPI, we also noted it would be a largely costless remedy to impose since PLPPI providers have ceased selling such policies and as a result no such provider would have to cease sales and start developing a new policy as a result of the prohibition. There is currently only one large provider of SMPPI and it offers monthly-premium SMPPI, so a single-premium prohibition would similarly be costless if imposed on it. However, the prohibition would prevent the detrimental effects on competition associated with single-premium PPI policies from reoccurring in the future.

9.12 Finally, we noted that prices have not come down to competitive levels. Most price changes we saw from distributors in 2009 were increases; there were no price decreases we saw that were suggestive of increased competition between distributors.

9.13 The evidence led us to conclude that, whilst the recession had clearly impacted on PPI providers, all the features of the AEC that our remedy package addressed remained and all aspects of the AEC required remedying.

***Whether to impose a remedy package including the POSP***

9.14 In order to reach a decision on whether to impose a remedy package imposing a POSP we look first at the evidence relating to four key decisions:<sup>31</sup>

- is the remedy package effective?;
- is the remedy package no more onerous than needed to achieve the aim of remedying the AEC?;
- is the remedy package the least onerous if there is a choice?; and
- whether the remedy package produces adverse effects which are disproportionate to the aim.

9.15 Finally we conclude on whether we should impose the remedy package for the five types of PPI.

*Is the remedy package effective?*

9.16 We concluded in the 2009 report that the remedy package was effective for all products. Our conclusions on this were not quashed by the Tribunal. In reaching these conclusions we had regard to how each element of the package contributed to addressing the AEC, both individually and in combination (see paragraphs 10.322 and 10.477 to 10.478 and, for the POSP, 10.36 to 10.38 and 10.72 to 10.74 of the 2009 report).

9.17 We considered whether there was nevertheless any reason to change our minds on effectiveness of the remedy package for any product. We therefore looked at whether

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<sup>31</sup>These correspond to the principles set out in paragraphs 19 & 20 of the Tribunal's judgment.

there was any new evidence relating to any of the five PPI products which was relevant to this assessment.

### *Retail PPI*

- 9.18 We did find new evidence that caused us to reconsider the effectiveness of our remedy package for retail PPI. That new evidence came from the GfK survey, relating to customers' interest in searching for alternative PPI policies if our remedies were in place (see paragraphs 8.11 to 8.13).
- 9.19 This evidence suggested that there would not be many retail PPI customers who would in practice search for alternative policies. Those more likely to search would be those whose retail PPI premiums were larger than average, and who held other PPI policies or short-term IP policies already. Moreover, we noted that retail PPI is, unlike other forms of PPI, the tertiary product sold by the distributor. The primary transaction relates to the consumer goods being offered; credit is then offered with a subset of customers taking up the offer of credit; and a further subset take out retail PPI as a tertiary product.
- 9.20 We found that retail credit customers have, on average, relationships with more than four financial institutions (Table 7.4), and thought that their relationships with other financial institutions might encourage retail PPI customers to consider alternative PPI products offered by those financial institutions. However, given that customers perceive the cost per month to be low, we were not confident that retail PPI customers would search proactively, and given that there are relatively few retail PPI customers for other financial institutions to target, we thought that there was unlikely to be significant levels of marketing by stand-alone providers targeted at retail PPI customers and their use of retail PPI.

9.21 The new evidence therefore suggested to us that customer inertia, driven by the low balances typically paid for retail PPI, and the fact that retail PPI is a tertiary product sold by retail PPI providers (after goods and credit), meant that we could not be sure that by imposing a POSP we would encourage sufficient customers to search to generate competition between providers. As a result, we could no longer be confident that our remedy package would be substantially effective for retail PPI.

#### *CCPPI*

9.22 We considered whether there was any difference in likelihood of search for retail PPI and CCPPI customers.

9.23 We noted first that a quantitative survey of 601 CCPPI customers conducted for us in 2007 by BMRB<sup>32</sup> found that:

- 16 per cent of CCPPI customers had considered income protection as an alternative to CCPPI to protect credit card repayments; and
- 20 per cent of CCPPI customers had considered bill payment protection as an alternative to CCPPI to protect credit card repayments.
- 15 per cent of CCPPI customers had considered PPI and decided to purchase it before approaching the lender;
- 6 per cent of CCPPI customers had considered PPI before approaching the lender and decided that they wanted to discuss it with the lender; and
- 2 per cent of CCPPI customers had considered PPI before approaching the lender and decided they did not want to purchase it (but nevertheless did after discussing it with the lender).

9.24 Whilst we thought that these percentages were currently small, they show that at least some CCPPI customers can already see value in searching and in alternative

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<sup>32</sup>Payment Protection Insurance Market Investigation Research Project Report, February 2008, BMRB.

policies and that at least some CCPPI customers already give active consideration to their PPI purchase before approaching a lender. We would expect the remedies to increase the proportions that would see value in searching for the best-value policy for them.

9.25 We noted further that, unlike retail PPI, CCPPI is not a tertiary product, is not bundled with merchandise cover and is offered by a larger number of providers than retail PPI. We also noted that the amounts insured by CCPPI policies are around four to six times greater than the amounts insured by retail PPI—the average outstanding balance insured by CCPPI policies in 2008 was around £1,100 (if nil balance accounts were included) or £1,700 (if nil balance accounts were excluded), compared with typical outstanding balances insured by retail PPI policies of around £300.

9.26 In light of the substantially greater amounts insured, we also found that the potential benefits for CCPPI customers from searching and switching—in terms both of the cover provided and the premiums paid—were typically greater than for retail PPI customers. In the 2009 report, we found that, while there was relatively little variation in the price of CCPPI expressed as a percentage of outstanding balances covered, the amount of benefit received each month received if a customer made a valid ASU claim varied substantially between providers, ranging between 3 and 15 per cent of the outstanding balance at the time of making a claim.<sup>33</sup> Based on these figures, a customer with a typical outstanding credit card balance of £1,500 when they became unemployed would receive £225 per month if they had chosen a policy with the most generous policy terms, as compared with £45 per month if they had chosen a policy with the least generous policy terms. While the level of cover also varies between retail PPI providers (see paragraphs 6.96 to 6.98 of the 2009 report), the potential improvement in monthly benefit achievable by a typical CCPPI customer from

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<sup>33</sup>Appendix 5.1 paragraph 74, of the 2009 report.

shopping around or switching is at least double that achievable by a typical retail PPI customer. Similarly, we found that typical monthly premiums for CCPPI customers—which we estimate at around £8.50 (if nil balance accounts are included—the figure is around £13.50 if nil balance accounts are excluded)—are also around two to three times the level of typical monthly premiums (excluding merchandise cover) for retail PPI customers which we estimate to be around £4–£4.50 (based on a typical outstanding balance of around £300).

9.27 We concluded that the cumulative effect of all these differences was that CCPPI customers were substantially more likely than retail PPI customers to take the opportunity provided by the remedy package to focus on the cost and product features of different PPI products.

9.28 We also thought that CCPPI consumers were significantly more attractive to stand-alone providers than retail PPI customers. The GWP of the CCPPI market is an order of magnitude larger than that of retail PPI (in 2007: £750 million compared with £78 million); there are far more CCPPI customers to seek (in 2007 there were 6.8 million CCPPI customers with the 12 largest distributors alone, compared with 1.4 million retail PPI customers), and average income among CCPPI customers was twice that of the average income of retail credit customers (we do not know the average income for retail PPI customers). Moreover, CCPPI is held by 11 per cent of personal loan customers, 22 per cent of PLPPI customers, 9 per cent of mortgage customers and 15 per cent of MPPI customers. This suggested to us that significant numbers of CCPPI customers have other types of PPI policies that they can combine into lifestyle protection policies if these come to their attention, and that they have active relationships with other PPI providers who can use those relationships to offer new products to them (bearing in mind our findings that some of the large distributors are moving towards offering products to their non-credit customers). In contrast retail

credit is held by 1 per cent or less of each of these customer groups (and retail PPI by fewer still).

- 9.29 This led us to conclude that there is significantly more general interest among CCPPI customers than retail PPI customers in alternative policies, and that if the remedy package is introduced, this level of interest is likely to grow. Further, there is likely to be significantly more interest among stand-alone providers in targeting CCPPI customers with alternative policies, and similarly more opportunities for stand-alone providers to make contact with CCPPI customers. We therefore concluded that the new evidence regarding retail PPI customers should not cause us to change our decision on the effectiveness of the remedy package for CCPPI.

*PLPPI, MPPI and SMPPI*

- 9.30 We did not find evidence that caused us to revisit our decisions on effectiveness of the remedy package for the other PPI products.

*Conclusions on effectiveness*

- 9.31 We conclude, therefore, that for PLPPI, MPPI, CCPPI and SMPPI the remedy package set out in the 2009 report would be substantially effective. For retail PPI we cannot be confident that the remedy package would be substantially effective.

*Is the remedy package no more onerous than needed to achieve aim of remedying AEC?*

- 9.32 In paragraphs 10.466 to 10.479 of the 2009 report we considered whether we needed to implement all the elements of the remedy package. We concluded that addressing the point-of-sale advantage was central to remedying the AEC (paragraph 10.471) and that all elements of the remedy package set out in the 2009 report were required. We also concluded that the remedies interact positively with one another to enhance the overall effectiveness of the remedy package (paragraph

10.478) and that there are synergies between the applications of the remedies across different PPI sectors (paragraph 10.479).

9.33 We also considered whether each element of the package was no more onerous than necessary. For example, paragraphs 10.80 to 10.142 of the 2009 report deal with issues relating to the specification of the POSP and include, at paragraph 10.96, our decision that we should allow distributors to decide how much detail about PPI they should go in to at the credit point of sale (rather than specifying only a general terms discussion).

9.34 We saw nothing in how markets have developed since we conducted our original analysis which led us to think that for PLPPI, MPPI, CCPPI and SMPPI anything had changed such as to cause us to change our mind about the analysis conducted and conclusion reached in the 2009 report on this issue.

9.35 For retail PPI we did not need to answer this question because we were unable to conclude that the remedy package for retail PPI was proportionate (see paragraph 9.118).

*Is the remedy package the least onerous if there is a choice?*

9.36 We found in paragraph 6.37 there were no alternative remedy packages excluding a POSP that were substantially effective. We did not have a choice of other substantially effective packages for PLPPI, MPPI, CCPPI and SMPPI, and therefore the remedy package is the least onerous remedy package for these products that is also substantially effective.

9.37 For retail PPI we did not answer this question because we were unable to conclude that the remedy package for retail PPI was proportionate (see paragraph 9.118).

*Does the remedy package produce adverse effects which are disproportionate to the aim?*

9.38 We looked at whether the remedy package would produce adverse effects disproportionate to its aim of remedying the AEC found in PPI markets. We focused on the following factors:

- the extent of customer detriment;
- the benefits of intervention;
- relevant customer benefits
- the quantification of benefits, taking account of the loss of convenience and the loss of relevant customer benefits;
- the time frame over which the remedy package would become effective; and
- other economic risks

*The extent of customer detriment*

9.39 We looked at the extent of gross customer detriment (ie the extent of customer detriment before consideration of relevant customer benefits). We took this to be the average annual pre-tax economic profits earned by distributors over the period 2005–2009. We calculated this using the same methodology used in the 2009 report, as shown in Appendix A. The extent of customer detriment is set out in Table 9.1.

TABLE 9.1 **Gross customer detriment per year**

<i>Product</i>	<i>Extent of customer detriment per year £m</i>
PLPPI	826.4
MPPI	130.8
CCPPI	428.6
SMPPPI	114.3
Retail PPI	13.5

*Source:* Average excess profits 2005–2009, CC calculations based on information provided by the parties.

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9.40 The data shows that for all five products there is a customer detriment, and that for four of the products the annual detriment is extremely high. We noted that for PLPPI in particular the average was brought down by the 2009 profitability, which we

considered to be an anomalous number because of what happened in the PLPPI market in 2009 (see paragraph 4.14). If we had used an average of the years 2005–2008 instead, the extent of customer detriment per year would have been in excess of £1 billion.

### *Benefits of intervention*

- 9.41 We set out customer detriments being addressed by the remedy package in paragraphs 10.493 to 10.495 of the 2009 report. There are three categories of customer detriments that we aim to address through our remedies:
- ‘Static’ welfare implications of the current high PPI prices—inefficiencies associated with high PPI prices and low credit prices (ie the ‘deadweight losses’ that stem from people not buying PPI at high prices who would buy it at competitive prices and, similarly, people being offered credit at lower prices than would be the case if PPI profits were not being used to fund the sale of credit).
  - A further static detriment, that high PPI prices were likely to have resulted in adverse selection in the markets for PPI, resulting in increased claims costs on PPI policies and increased impairment costs on credit sold to PPI customers, compared with the levels that would arise given the lower PPI price levels that we would expect in a well-functioning market. A further detriment to consumers as a result of high PPI prices was therefore the increased costs of supplying PPI at high prices due to adverse selection.
  - There was also a large category of further detriments to consumers arising from the lack of competition in the provision of PPI, for instance the decline in the size of the PPI sector that results from the current lack of competition (for example, negative publicity associated with high prices), and the lack of selection pressure in the absence of effective competition, so that companies are not encouraged to develop products which benefit consumers. We expect that the remedies would produce large dynamic benefits to consumers because of increased competition in

the provision of PPI. Such benefits would arise, for example, from arresting any decline in the size of the PPI sector that results from the current lack of competition. We expected greater competition to bring about increased advertising and far more interest in (and awareness of) the sector, such that the demand for PPI should increase, once it is sold at competitive prices. A further example of the benefits we expected to accrue is from selection pressure, encouraging companies that develop products which benefit consumers and punishing those that develop poor products. Given the considerable size of the PPI sector even at the current high prices, we expected these dynamic benefits of competition to be on a very large scale.

9.42 We concluded in paragraph 9.31 that the remedy package including the POSP would be substantially effective for PLPPI, MPPI, CCPPI and SMPPI (but could not conclude this for retail PPI). Therefore the extent of gross customer detriment being addressed is a good indicator of the extent of gross customer benefit arising from implementing the remedies for these four products, and we consider what would be the detriment net of the loss of the relevant customer benefit of lower credit prices (for PLPPI, MPPI, CCPPI and SMPPI) and any loss of convenience in the section on quantification of benefits (see paragraphs 9.50 to 9.92).

9.43 We estimate the scale of the static benefits to consumers arising from the current high PPI prices from the remedies using a static model. We take account of the possible adverse effects of the remedies on the consumers arising from the removal of the waterbed effect and the loss of convenience to consumers who prefer buying at the point of sale. We do not quantify the further static benefits from the removal of adverse selection, nor did we quantify the dynamic benefits in our modelling.

*Relevant customer benefits*

- 9.44 In paragraph 10.460 of the 2009 report we concluded that the features that we had identified as giving rise to the AEC in PPI markets resulted in a relevant customer benefit within the meaning of the Act, namely lower credit prices for personal loans (unsecured and secured), mortgages and credit cards. The only credit products on which we thought that such a waterbed effect might result in an appreciable reduction in credit prices were unsecured and secured personal loans.
- 9.45 We concluded in paragraph 6.186 of the 2009 report that prices for retail PPI were not significantly distorting prices for credit or retail goods, on the basis that all parties we asked told us that the income earned on retail PPI did not affect prices set for retail credit or the underlying goods.
- 9.46 SDGFS told us that this was incorrect and pointed us to a paper from its economic advisers (Oxera) which said that there were no excess profits in relation to retail PPI, but that, if there were excess profits, then because of the way prices were set and profitability assessed by SDGFS they were competed away on other products.
- 9.47 Since we had received evidence from SDGFS that there was a cross-subsidy, but also evidence that there was not a cross-subsidy, we had to take a view as to which evidence to attach more weight. We decided that the more relevant and compelling evidence was that from the Directors of SDGFS themselves, who told us in a hearing that there was not a cross-subsidy, and whose evidence was confirmed and our interpretation of it strengthened by SDGFS's legal advisers during the production of a summary of that hearing.
- 9.48 In the 2009 report, we considered whether to retain the relevant customer benefit of lower credit prices for PLPPI, MPPI, CCPPI and SMPPI by altering the remedies in

some way. We noted in paragraph 10.482 of the 2009 report that a distortion in credit prices is not intrinsically beneficial, and that nobody suggested to us that the cross-subsidy from PPI affects the competitive intensity of credit markets; parties which discussed this issue with us told us that the credit market would not be less competitive if the cross-subsidy were removed, but that credit prices and credit cut-off scores would reach a new equilibrium based on the competitive conditions in credit markets at that time.

- 9.49 In the 2009 report we conducted some modelling to see whether we thought that the remedy package might be expected to have a positive or negative impact on total consumer welfare. We repeated this modelling looking at the impact of a waterbed effect at the same time as looking at the effects of accounting for a loss of convenience. This analysis is reported in the section on quantification of benefits.

#### *Quantification of benefits*

- 9.50 In the 2009 report we quantified the scale of the static benefits arising from the remedy package, but were unable to quantify the dynamic benefits (set out in paragraph 9.41). We were again unable to quantify the dynamic benefits, but we updated our analysis of the scale of static benefits, taking account of more recent data and the issues raised by the Tribunal.
- 9.51 In the 2009 report, we used a series of models in order to quantify the scale of the static consumer benefits arising from our remedy package. The modelling approach in the 2009 report, and the results from the modelling, were presented in paragraphs 10.480 to 10.496 and appendices 10.9 to 10.11 of the 2009 report.
- 9.52 We decided to use a similar approach to modelling static consumer benefits as was used in the 2009 report. In particular, we continued to use as our base case for

modelling the effects from the remedy, a model where we assumed that all consumers are myopic before and after the remedies, in the sense that they do not anticipate the price of PPI prior to making decisions about credit. We acknowledge that this is not a realistic assumption, because there is evidence that some consumers currently search for PPI before the point of sale of credit, and we think that the remedies will increase this type of search. This assumption should therefore be thought of as a simplifying assumption, which reflects a cautious approach to the modelling of benefits. Indeed, the consumer welfare after the remedies increases if the remedies increase the amount of search and/or awareness of PPI prior to the credit point of sale.

9.53 The Tribunal, in its decision, asked us to include certain factors in the model used for the quantification of static consumer benefits from the remedies, and therefore we modified some of the inputs and some of the assumptions in the modelling. We also updated some of the inputs of the model to reflect more recent market conditions. We conducted a consultation on the changes to the models, and our approach was informed by the responses we received.

9.54 The Tribunal, in its decision, asked us to include the following factors in the model:

- the one-off and ongoing costs of implementation;
- marketing costs;
- the loss of convenience to consumers from not being able to purchase PPI at the same time as credit; and
- an elasticity of demand of the type derived from an assumed price change by all players in the relevant market, rather than of a type appropriate when considering a price change implemented by a single distributor within a competitive market which included other distributors.

9.55 We set out here how we addressed each of these issues, as well as other changes which were put to us by the parties. Details of the modelling are set out in Appendices H, I and J.

- *Costs of implementing the remedies and marketing costs*

9.56 We set out an assessment of the cost of the remedy package in paragraphs 10.497 to 10.508 of the 2009 report. Our consideration of costs included ‘policy costs’ as well as implementation costs.

9.57 During the remittal we received internal documentation from the parties which provided the largest estimates of costs of implementation which allowed us to update some of these estimates. We also looked more closely at the estimates of implementation costs provided by the two main retail PPI providers. Our analysis of this is set out in Appendix K.

9.58 In relation to retail PPI we concluded that the one-off costs of implementing the remedy package would be around £0.8 million with the ongoing costs of £6 million per year.<sup>34</sup>

9.59 For PLPPI, MPPI, CCPPI and SMPPI, in light of the new evidence available to us we concluded that the one-off costs of implementing the remedy package in relation to PLPPI, MPPI, CCPPI and SMPPI would be in the range £61–£69 million with ongoing costs of £37–£42 million per year.

9.60 We split the costs of implementing the remedies between PLPPI, MPPI, CCPPI and SMPPI according to the proportion of new policies sold in a year, using the number of PLPPI, MPPI, CCPPI and SMPPI policies sold in 2007. The results are set out in

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<sup>34</sup>[§] did not provide estimates of one-off costs of implementing the remedies package; thus this figure only relates to [§] and [§]. The ongoing costs figure relates to [§], [§] and [§].

Table 9.2. On the basis of these calculations we attributed 48 per cent of the costs of implementing remedies to PLPPI, 37 per cent to CCPPI, 12 per cent to MPPI and 2 per cent to SMPPI.

TABLE 9.2 **Proportion of new policies sold for different product types**

<i>Type of PPI</i>	<i>Number of policies sold</i>	<i>Proportion of all policies sold</i>
PLPPI	1,667,123	48
MPPI	427,354	12
CCPPI	1,293,514	37
SMPPI	<u>78,524</u>	<u>2</u>
Total	3,466,515	100

Source: CC based on data provided by the parties.

- 9.61 We noted in paragraph 10.503 of the 2009 report that most of the set-up costs were for IT system changes (likely to be largely fixed costs); whereas most of the ongoing costs related to marketing and communication (likely to be largely variable).
- 9.62 In so far as most ongoing costs appeared to be variable, these could be expected to be reflected in the pricing of PPI, and therefore we added the estimated ongoing costs of implementation to our calculation of the post-remedy unit price in the model. Details of how we did this are in Appendix I.
- 9.63 We found that adding the ongoing costs of implementation of the remedies to the costs of selling PPI, the total costs per policy increased by between 1 per cent (for SMPPI) and 6 per cent (for CCPPI).
- 9.64 We also included an allowance for marketing and advertising costs to increase after the remedies are in place, and for these additional costs to be included in the price of PPI after the remedies (as these are ongoing costs). To do so, we examined evidence on advertising-to-sales ratios in related industries to get an order of magnitude for the level of marketing and advertising that will take place after the remedies are in place. We were conservative in our approach to marketing and advertising: we would

expect marketing and advertising to result in an increase in PPI sales (by raising awareness of PPI prior to the credit point of sale, for instance). However, the model only takes into account the costs of advertising and marketing without modelling the resulting increase in PPI demand which could be expected to occur as a consequence.

- 9.65 We used the estimates of the unit ongoing cost of implementing the remedies and of marketing and advertising in our calculation of the price for PPI after the package of remedies is in place.
- 9.66 Regarding the one-off implementation costs of the remedies, a number of parties told us, in response to the modelling consultation, that one-off implementation costs might in future be passed on to consumers, and should therefore be taken into account in the modelling in the form of higher costs after the remedies. Barclays told us that spreading the one-off costs over a number of years would be the appropriate way to model the impact of the one-off costs on PPI pricing.
- 9.67 We did not agree that one-off costs would be reflected in PPI pricing. Indeed, we would not normally expect one-off fixed costs to be passed on through higher prices to consumers, unless the one-off implementation costs affect the long-term profitability of selling PPI. The evidence from distributors' plans did not suggest that this was the case: we concluded in paragraph 7.78 that we do not expect significant market exit as a result of putting the POSP in place. We asked distributors for evidence of where they had passed through the one-off costs of changes required by regulation to consumers, but we received no such evidence in response. Therefore, we did not incorporate an allowance for the one-off costs of implementation in our calculation of the post-remedy unit price in the model. Instead, we used the model to

calculate a net benefit or detriment to consumers, and compared that number with the one-off implementation costs.

9.68 We also conducted some sensitivity analysis to see whether the inclusion of one-off costs into the pricing of PPI after the remedies would change the results of the modelling. To do so, we included an allowance for the one-off costs in the average cost pricing after the remedies, so that the one-off costs are spread over a period of three to five years. The results are in Appendix J; we found that including the one-off costs does not materially change the results from the modelling. We were therefore able to conclude that whether we included the one-off costs within the model or took account of them outside the model did not make a difference to our conclusions on proportionality.

- *The loss of convenience*

9.69 We set out the details of how we modelled the impact of the loss of convenience with the remedy package in place in Appendix I. We modelled the loss of convenience as a cost to those PPI consumers who prefer to buy PPI at the credit point of sale: at any given PPI price, the surplus that these consumers derive from PPI will decrease due to the cost of convenience, so that the demand for PPI by these consumers effectively shifts down.

9.70 Barclays and LBG told us that convenience should be modelled as a cost both to those who cease buying and those who continue buying. Our modelling of the loss of convenience as a shift down of the demand curve of consumers who prefer to buy at the point of sale addresses this concern. Indeed, the modelling takes into account both the effect of loss of convenience on quantities consumed by consumers who prefer to buy PPI at the point of sale, and the effect on the surplus for consumers who prefer to buy PPI at the point of sale but continue to take out PPI.

- 9.71 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.
- 9.72 With our approach to modelling, we find that, if for instance the costs from convenience are equal on average to 10 per cent of the current price of PPI for all PPI consumers, the shift in the demand curve would be such that we would expect a reduction in volumes of PLPPI purchased of about 15 per cent at constant PPI prices and constant credit volumes.
- 9.73 To model the change in the demand curve for PPI pre- and post-remedy, in the base case model we continued to assume that all consumers are 'myopic', that is they do not anticipate the reduced price of PPI when making decisions about credit. We relaxed this assumption in our extended model, bearing in mind that we know this is not the case for all customers even before the remedy package is in place.
- 9.74 We used the results from the survey conducted for us by Accent to derive an estimate of the possible costs of the loss of convenience to consumers arising from the POSP. As noted in paragraph 7.95, for PLPPI and MPPI consumers, the Accent survey found that, on average, consumers associate the delay between credit and PPI purchase with a monetary gain rather than a cost. Therefore, the results from the Accent survey would suggest that the demand curve for PPI shifts up (rather than down) after the remedies are in place.

- 9.75 Further analysis of the Accent results showed that there were broadly three categories of PPI consumers (see paragraph 7.96):
- those who prefer to buy PPI at the point of sale of credit (all other things being equal), and who associate a cost with the delay in the purchasing of PPI;
  - those who prefer to buy PPI after a delay of 24 hours or seven days, and who associate a monetary gain with the delay in the purchasing of PPI; and
  - those who are indifferent between buying at the point of sale and buying after a delay, and who do not associate any significant cost or gain with the delay in the purchasing of PPI.

9.76 Although the consumers who prefer to buy after a delay are fewer than those who prefer to buy at the point of sale of credit, their preferences for delaying the purchase are stronger, which drives the average positive valuation for the delay. Given the diversity in consumer preferences for buying at the point of sale of credit, we considered that using the average positive value associated with the delay in the purchase in the modelling would hide the fact that the POSP is likely to impact consumers differently. We therefore decided to model the impact of the remedies on the three categories of consumers identified in paragraph 9.75. The details of how we did this are presented in Appendix I, and we set out below some of the key inputs to the modelling. The results of our modelling are shown from paragraph 9.86.

9.77 We thought that the positive valuations associated with the buying PPI after the point of sale by consumers who prefer to buy later were a benefit from the POSP, given that consumers' ability to buy after the credit point of sale is very limited at the moment.

- *Elasticity of demand for PPI*

9.78 The model in the 2009 report used the firm-level price elasticity of demand for PPI to estimate the impact of a general reduction in the price of PPI after the remedies on the aggregate demand for PPI. The Tribunal said that we should have used a different elasticity of demand in the model, namely the market-level price elasticity of demand for PPI.

9.79 We agree that, in principle, the market-level price elasticity of demand is the correct measure to be used in the modelling. The difference between the market-level price elasticity and the firm-level price elasticity is the amount of cross-substitution in the event of a price increase by a PPI distributor: if a PPI distributor increases PPI prices, the overall effect on this distributor's sales of PPI (ie the firm-level elasticity) will be a combination of the market level substitution (amount of sales which are lost to PPI) and cross-substitution (amount of sales which are diverted to a different PPI distributor). Although there are no direct estimates of the market-level price elasticity of demand for PPI, the indirect evidence suggests strongly that the proportion of consumers who will switch to a different PPI provider if their current provider increases prices by a small amount is likely to be very low. This evidence is presented in Appendix I.

9.80 For these reasons, we think that the market-level price elasticity of demand is very similar to the firm-level price elasticity of demand. In the modelling, we therefore adjust the firm-level price elasticity estimates to allow for some limited cross effects; such that the market elasticity of demand is 10 per cent lower than the firm-level elasticity of demand. We also conduct some sensitivity testing to check whether our results are robust to lower levels for the market elasticity of PPI demand.

- *Updating the inputs to reflect more recent market conditions*

9.81 Many distributors put to us that we should update our analysis to account for recent market conditions. We set out what has happened in the market since our original investigation in Section 4 and Appendix A.

9.82 We updated the inputs to our model on margins, penetration rates, prices and excess profits to take into account more recent market conditions. Our general approach was to use averages over a number of years, rather than one-year data, for updating the inputs—therefore taking into account both periods of high credit and low credit sales. Our detailed approach to updating the inputs in the model is set out in Appendix I.

- *The waterbed effect*

9.83 In the modelling, we assumed for our base case that there would be a substantial, but less than complete waterbed effect between PPI and credit. For the reasons set out in paragraph 56 of Appendix I we thought that 80 per cent was a conservative assumption for the pass-through to credit prices. We tested the sensitivity of our results to this assumption.

- *The price of PPI policies with remedies in place*

9.84 In the modelling, we assumed that the price of PPI policies, after the remedies are in place, would go down to the competitive level, ie a price such that PPI distributors would no longer make economic profits on PPI (taking into account all recurring costs, as well as the costs of capital). This assumption reflected our belief that the package of remedies would be substantially effective in remedying the AEC and thereby the resulting the customer detriment.

9.85 We used the results from the updated profitability analysis to estimate the price that we would expect to prevail if there was competition between PPI distributors. The

profitability analysis erred on the cautious side by using estimates for the costs of selling PPI which are likely to be overestimates.<sup>35</sup> Based on the results of the profitability analysis, and taking into account both the ongoing costs of implementation of remedies and increased marketing and advertising costs after the remedies, our modelling assumed that the price of PLPPI would reduce by 52 per cent; the price of CCPPI would reduce by 54 per cent; the price of MPPI would reduce by 38 per cent; and the price of SMPPI would reduce by 41 per cent after the remedies are in place. We tested the sensitivity of our results to smaller reductions in the price of PPI after the remedies.

- *Results from the modelling*

9.86 We calculated the results from the model for a 'base case' for PLPPI, SMPPI, MPPI and CCPPI separately. The details are in Appendix J. The base case assumes the following after the remedies are in place:

- (a) The price of PPI reduces after the package of remedies is in place to the level for which PPI distributors no longer make excess profits.
- (b) The reduction in PPI prices results in an increase in the price of credit because of the existence of a waterbed prior to the remedies; we use an 80 per cent pass through of PPI profits to credit prices in our base case.
- (c) In the base case, we assume that all credit consumers are myopic, in the sense that they do not anticipate that the price of PPI has reduced before making decisions on whether to purchase credit.
- (d) We use the results from the Accent survey regarding the proportion of consumers who prefer to buy at the point of sale and those who prefer to buy later; and their respective valuations.

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<sup>35</sup>We assumed the fully-allocated costs of selling a PPI policy at £100, which was between 1 and 5 [redacted] times higher than the evidence on the fully allocated cost of selling a PPI policy submitted by [redacted].

- 9.87 For the base case, we found that the model predicts that the package of remedies will increase net consumer welfare for PLPPI, SMPPI, MPPI and CCPPI. We found that the results from the modelling in the base case predicted an increase in consumer welfare of about £170 million per year for PLPPI, £30 million per year for SMPPI, £70 million per year for MPPI and £145 million per year for CCPPI.
- 9.88 We then ran sensitivities to test the robustness of the results to changes in the values of the inputs or changes to the assumptions in paragraph 9.86(a) to (d) above. We therefore tested whether the results were robust if the price of PPI after the remedies reduced less than to the competitive price, if the extent of pass through was more or less than in our base case, if a proportion of consumers search for PPI prior to making credit decisions after the remedies and if the valuations found by the Accent survey were different.
- 9.89 For MPPI and CCPPI, we found that the results of the model were robust to all the sensitivities we ran, ie the model predicts that the package of remedies will increase net consumer welfare for all sensitivities that we tested.
- 9.90 For PLPPI and SMPPI, the results of the model were robust to most of the sensitivities that we ran, but not all. For PLPPI, there were two departures from the base case where the model predicted that consumer welfare might decrease: if the pass through of PPI profits to credit was 100 per cent prior to the remedies (ie all PPI profits are competed away in the form of lower credit prices), or if we completely ignored, in the model, the positive valuations associated with the POSP by consumers who prefer to buy later. For SMPPI, the model predicted that consumer welfare might decrease if we ignore most of the positive valuations associated with the POSP by consumers who prefer to buy later (so that their positive valuation was less than 10 per cent of current price).

9.91 As in the 2009 report, we therefore modelled whether these results continue to hold if we remove the assumption that all consumers are myopic in the modelling. Indeed, in paragraph 10.487 of the 2009 report, we noted that none of our remedies was aimed at reducing PPI prices without also improving the ability to search for PPI price at the same time as credit price, and we were confident that we would not be in a situation of imposing an effective remedy which had no impact on search. We therefore examined what would happen if we assume that a proportion of credit consumers search for PPI—or otherwise anticipate the cost of PPI—prior to making decisions on credit after the remedies are in place.

9.92 For PLPPI, we found that, if just over 10 per cent of credit consumers or more searched for PLPPI—or otherwise anticipated the cost of PLPPI—prior to buying credit, the model predicted that consumer welfare would increase for any individual sensitivity checks of the inputs and assumptions that we considered. For SMPPI, we found that, if 20 per cent of credit consumers or more searched for SMPPI—or otherwise anticipated the cost of SMPPI—prior to buying credit, the model predicted that consumer welfare would increase for any individual sensitivity checks of the inputs and assumptions that we considered.

*Time frame for remedies to come into effect*

9.93 The Tribunal asked us to address the timescale over which the remedies would be effective in more detail in the remittal (paragraph 1.2). We looked at the likely timescales over which the various elements of the remedy package would have effect. Our analysis is set out in Appendix L. We concluded:

- The remedy package will only have a limited effect on competition before the point at which all elements of the package are implemented (expected to be the second half of 2011).

- The remedy package may be expected to have a substantial and immediate effect on competition for **new sales** from the date on which all elements of the remedy package come into force. Competition for new sales is likely to develop and grow from this point on.
- We would expect the remedy package to have a substantial effect on competition for **existing PPI policies** within two to three years of all elements of the remedy package coming into force.
- Some dynamic benefits may take longer to realize, particularly restoring the reputational damage caused by years of high prices and mis-selling. However, we would expect some substantial **dynamic benefits** to materialize within five years of all elements of the remedy package coming into force.
- Overall, we would expect our remedies to be substantially or fully effective within a timescale of around two to three years of all elements of the remedy package coming into force.

9.94 We looked at the results of our modelling, taking into account the time frame over which remedies would be become substantially effective for all types of policies, and also taking account of the one-off costs of implementation. To take into account the time frame over which remedies would become substantially effective, we assumed that benefits would be realized in relation to new sales only in the first year. In the second year, we assumed that benefits would be realized in relation to new sales in the second year as well as the new sales from the previous year. From Year 3 onwards, we assumed that the static benefits would be realized on all existing PPI policies. The results are shown in Table 9.3.

TABLE 9.3 Results of modelling, taking account of the one-off costs of implementation and the time frame for the remedies to be substantially effective

	<i>£ million</i>			
	<i>One-off costs</i>	<i>Year 1 benefits*</i>	<i>Year 2 benefit*</i>	<i>Year 3+ benefit</i>
PLPPI	-33	+57	+114	+170
SMPPPI	-2	+10	+20	+30
MPPI	-9	+9	+18	+70
CCPPI	-26	+25	+50	+145

Source: CC analysis.

\*To calculate Year 1 benefits, we used the data in Table 1 of Appendix L, according to which, for PLPPI and SMPPPI, about one-third of existing policies in a year are new policies; for MPPI, about 13 per cent of existing policies are new policies, and for CCPPI, about 17 per cent of existing policies are new policies.

### *Other economic risks*

9.95 In paragraphs 10.39 to 10.79 of the 2009 report we considered other economic risks that might arise with the implementation of a POSP. These were risks put to us by parties to the investigation.

9.96 In paragraphs 10.40 to 10.45 of the 2009 report we dealt with concerns regarding whether the POSP addressed all aspects of the point-of-sale advantage and whether it would be effective at promoting search among customers. We were content at the time that the remedy package would deal with these issues sufficiently to form a substantially effective remedy package, and we found that nothing has changed since the 2009 report was published to alter that analysis in any way.

9.97 In paragraphs 10.46 to 10.52 of the 2009 report we covered issues relating to a reduced take-up of PPI, due to a loss of convenience or an inability to re-contact customers after the credit point of sale. We covered this in Section 7, and take account of our conclusions on loss of convenience in our modelling of the quantification of benefits.

9.98 In paragraphs 10.53 to 10.57 of the 2009 report we looked at whether the POSP would result in a reduction in consumer choice, and concluded that it would not. We concluded in paragraph 7.78 that in fact there was not going to be a loss of choice

resulting from market exit—we expected nearly all large distributors to continue selling PPI at the same time as credit, and moreover, to start offering stand-alone policies in competition with one another.

9.99 In paragraphs 10.58 and 10.59 of the 2009 report we covered concerns that the introduction of a POSP would lead to lower-quality products, on the basis that stand-alone products then in the market were of lower quality than products sold alongside credit. We found at that time that stand-alone products were not necessarily of lower quality and we did not expect the remedies to lead to lower-quality products. Nothing has happened since the 2009 report to suggest that the POSP would result in lower-quality products. Indeed, the opposite may be true, as several distributors have conducted consumer research to find out what customers want from PPI and have been developing new products (see Tables 7.2 and 7.3), many of which are aimed not just at their credit customers but for non-credit customers and possibly the open market. In our judgement it is more likely that with the remedy package in place there will be a greater variety of stand-alone PPI products available and some of those are likely to be responding directly to consumer research as to what customers would like from such policies.

9.100 In paragraphs 10.60 to 10.62 of the 2009 report we looked at whether the remedies would result in higher costs for distributors. We have input the ongoing costs of implementing remedies, and the costs of marketing, into our modelling, as requested by the Tribunal.

9.101 In paragraphs 10.63 and 10.64 we covered the question of whether the remedies would have different impacts on different providers—in particular whether point-of-sale providers would be disadvantaged compared with stand-alone providers. We acknowledged that some disadvantage might accrue, but considered it necessary in

order to remedy the AEC, and introduced the option for consumers to call back proactively after 24 hours to complete the transaction in order to mitigate the level of disadvantage felt by distributors. Nothing has changed since the 2009 report to suggest that this is more of an issue than it was when we considered it in the 2009 report. Moreover, during the remittal we have seen parties' consumer research aimed at developing more tailored products for consumers, many of which would be available to at least some consumers on a stand-alone basis. We concluded in paragraph 7.78 that with the remedy package in place nearly all large distributors will continue selling PPI at the same time as credit, and moreover, will start offering stand-alone policies in competition with one another, and hence the boundary between point-of-sale and stand-alone providers will be blurred, further reducing the different impact on different providers.

9.102 In paragraphs 10.65 and 10.66 we covered one party's suggestion that the imposition of a POSP would amount to a restriction of the right of freedom of establishment under EU law, and our response to that. Nothing has changed since the 2009 report to alter our analysis of this point.

9.103 In paragraphs 10.67 to 10.69 we considered alternatives to a POSP put to us by other parties. We have covered those alternatives, and alternatives put to us since then, in Section 6, and found that none of the alternatives would form substantially effective remedy packages.

### *Conclusion on effectiveness and proportionality of the remedy package*

9.104 We considered for each product whether the remedy package was effective and proportionate, by considering how it met the four tests set out in paragraph 9.14. Having done this, we revisited the issue of whether we needed to perform an

additional modelling exercise comparing the remedy package with any of the alternative packages that had been put to us in Section 6.

### *PLPPI*

9.105 For PLPPI we concluded that the remedies would be substantially effective (paragraph 9.31) and therefore that the detriment to be remedied would be the same as the benefits of implementing the remedy package. The detriment identified for PLPPI was £826.4 million per year (Table 9.1). We looked at whether the remedies would be welfare enhancing or welfare reducing, taking account of the loss of the relevant customer benefit of lower credit prices and the loss of convenience identified by some customers, and found that in our base case the remedies created a welfare benefit of £170 million per year (paragraph 9.87) even before dynamic benefits of the remedies were taken into account. We found that the benefit remained positive, even allowing for the remedy package taking up to three years to become substantially effective for all policies and taking account of the one-off costs of implementation (Table 9.3).

9.106 We did find that in some sensitivity checks our modelling predicted a negative welfare outcome, before taking account of the dynamic benefits associated with the remedy package. This was the case if a 100 per cent waterbed effect was assumed or if no account was taken of the positive value placed by some consumers on having a gap between the sales of credit and PPI (paragraph 9.90). We found that even in these circumstances, if just over 10 per cent of credit customers or more searched for PPI prior to the purchase of credit—or otherwise anticipated the cost of PPI before making decisions about credit—then the remedies would be welfare enhancing (paragraph 9.92). Given that research we conducted during the original investigation found that 29 per cent of PLPPI consumers considered buying it before the credit point of sale and 12 per cent had actually compared either protected loans

or stand-alone PPI policies (paragraphs 31 and 32 of Appendix I), and research by LBG following up consumers who were involved in its 2010 pilot showed that 18 per cent of customers who received quotes but did not make a purchase said that they searched for and compared products elsewhere (many of these searched using the Internet, others visited an LBG branch),<sup>36</sup> we were confident that with the remedies in place there would be sufficient customers searching such that even if there were a 100 per cent waterbed or no positive value associated with a gap between sales the remedy package would be welfare enhancing, even before taking account of the dynamic benefits.

9.107 Taking account of all the evidence, both quantitative and qualitative, and all the issues raised regarding proportionality, we were confident that the remedy package would not produce adverse effects which were disproportionate to the aim, and hence we therefore conclude that for PLPPI the remedy package is proportionate.

#### *MPPI*

9.108 For MPPI we concluded that the remedies would be substantially effective (paragraph 9.31) and therefore that the detriment to be remedied would be the same as the benefits of implementing the remedy package. The detriment identified for MPPI was £131 million per year (Table 9.1). We looked at whether the remedies would be welfare enhancing or welfare destroying, taking account of the loss of the relevant customer benefit of lower credit prices and the loss of convenience identified by some customers, and found that in our base case the remedies created a significant welfare benefit of £70 million per year (paragraph 9.87) even before dynamic benefits of the remedies were taken into account. We found that the benefit remained positive, even allowing for the remedy package taking up to three years to become

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<sup>36</sup>See paragraph 28(c) of Appendix C.

substantially effective for all policies and taking account of the one-off costs of implementation (Table 9.3).

9.109 We did a range of sensitivity checks to our modelling results and found that in all these scenarios our modelling still predicted a positive welfare outcome, even before taking account of the dynamic benefits associated with the remedy package.

9.110 Taking account of all the evidence, both quantitative and qualitative, and all the issues raised regarding proportionality, we were confident that the remedy package would not produce adverse effects which were disproportionate to the aim, and hence we therefore conclude that for MPPI the remedy package is proportionate.

#### *CCPPI*

9.111 For CCPPI we concluded that the remedies would be substantially effective (paragraph 9.31) and therefore that the detriment to be remedied would be the same as the benefits of implementing the remedy package. The detriment identified for CCPPI was £429 million per year (Table 9.1). We looked at whether the remedies would be welfare enhancing or welfare destroying, taking account of the loss of the relevant customer benefit of lower credit prices and of a loss of convenience, and found that in our base case the remedies created a significant welfare benefit of £145 million per year (paragraph 9.87) even before dynamic benefits of the remedies were taken into account. We found that the benefit remained positive, even allowing for the remedy package taking up to three years to become substantially effective for all policies and taking account of the one-off costs of implementation (Table 9.3).

9.112 We did a range of sensitivity checks to our modelling results and found that in all these scenarios our modelling still predicted a positive welfare outcome, even before taking account of the dynamic benefits associated with the remedy package.

9.113 Taking account of all the evidence, both quantitative and qualitative, and all the issues raised regarding proportionality, we were confident that the remedy package would not produce adverse effects which were disproportionate to the aim, and hence we therefore conclude that for CCPPI the remedy package is proportionate.

#### *SMPPI*

9.114 For SMPPI we concluded that the remedies would be substantially effective (paragraph 9.31) and therefore that the detriment to be remedied would be the same as the benefits of implementing the remedy package. The detriment identified for SMPPI was £114 million per year (Table 9.1). We looked at whether the remedies would be welfare enhancing or welfare destroying, taking account of the loss of the relevant customer benefit of lower credit prices and a loss of convenience, and found that in our base case the remedies created a significant welfare benefit of £30 million per year (paragraph 9.87) even before dynamic benefits of the remedies were taken into account. We found that the benefit remained positive, even allowing for the remedy package taking up to three years to become substantially effective for all policies and taking account of the one-off costs of implementation (Table 9.3).

9.115 We did find that in some sensitivity checks our modelling predicted a negative welfare outcome, before taking account of the dynamic benefits associated with the remedy package. This was the case if we did not take full account of the positive value placed by some consumers on having a gap between the sales of credit and PPI (paragraph 9.90). We found that even in these circumstances if 20 per cent of credit customers searched for PPI prior to the purchase of credit then the remedies would be welfare enhancing (paragraph 9.92). Given that research we conducted during the original investigation found that 32 per cent of SMPPI consumers considered buying it before the credit point of sale and 11 per cent had actually compared either protected loans or stand-alone PPI policies (paragraph 32 and Table 1 of

Appendix I), we were confident that the remedies would increase the level of search such that even if in these circumstances the remedy package would be welfare enhancing, even before taking account of the dynamic benefits.

9.116 Taking account of all the evidence, both quantitative and qualitative, and all the issues raised regarding proportionality, we were confident that the remedy package would not produce adverse effects which were disproportionate to the aim, and hence we therefore conclude that for SMPPI the remedy package is proportionate.

#### *Retail PPI*

9.117 We concluded that we could not be confident that the remedy package would be substantially effective for retail PPI (paragraph 9.31). The detriment identified for retail PPI was £13.5 million per year (Table 9.1), and so we assumed that the static customer benefits arising from the remedy package would be less than £13.5 million per year. We estimated the one-off costs of implementation of the remedies to be £0.8 million with the ongoing costs of £6 million per year (see paragraph 9.58).

9.118 Given the costs of implementation, our finding on effectiveness and the implications of this for the likely scale of benefits, we were not sure whether the remedy package would produce adverse effects which were disproportionate to the aim. We therefore found that we could not yet conclude that for retail PPI the remedy package is proportionate.

9.119 We have published a new Notice of Possible Remedies for retail PPI, in order to gather views on what remedies might form a proportionate remedy package which either would be substantially effective in remedying the AEC, or if this is not feasible, would mitigate the AEC or resulting consumer detriment as far as is reasonable and practicable.

*Implications for need to carry out comparative analysis*

9.120 We considered whether we needed to perform an additional modelling exercise comparing the remedy package with alternative remedy packages, and in particular the extent to which we needed to consider LBG's comparative modelling of the remedy package and its alternative remedy package (see paragraph 3.11). LBG's analysis arrived relatively late during our deliberations leading up to this provisional decision, and we have not studied its analysis of the POSP remedy in depth yet, although we note that a number of the assumptions used by LBG are not consistent with our conclusions regarding appropriate assumptions. As regards its comparison of the customer benefits of the two remedy packages, we thought that such a comparison was not appropriate or necessary in this remittal, given our conclusions that the remedy package is substantially effective for PLPPI, MPPI, CCPPI and SMPPI and does not involve costs that are disproportionate to the aim, whereas the LBG remedy package and other alternative remedy packages put forward by parties would not be effective in remedying the AEC we found.

***Provisional conclusions on the imposition of a remedy package including the POSP***

9.121 We provisionally conclude that the remedy package including the POSP would be a substantially effective remedy package for PLPPI, MPPI, CCPPI and SMPPI, but we cannot conclude that it would be substantially effective for retail PPI.

9.122 We provisionally conclude that the imposition of the remedy package including the POSP would be proportionate for PLPPI, MPPI, CCPPI and SMPPI, but we could not yet conclude that it would be proportionate for retail PPI.

9.123 We therefore provisionally conclude that we should require the introduction of the remedy package set out in the 2009 report, including the POSP, for PLPPI, MPPI, CCPPI and SMPPI. For retail PPI we cannot yet conclude that we should require the

introduction of the remedy package including the POSP. We have therefore published a new Notice of Possible Remedies for retail PPI, in order to gather views on what remedies might form a proportionate remedy package which either would be substantially effective in remedying the AEC, or if this is not feasible, would mitigate the AEC or resulting consumer detriment as far as is reasonable and practicable.