

MARKET INVESTIGATION INTO PAYMENT PROTECTION INSURANCE

Supplementary Notice of Possible Remedies under Rule 11 of the Competition Commission Rules of Procedure

Retail PPI

Introduction

1. On 7 February 2007, the Office of Fair Trading (OFT) referred the supply of all payment protection insurance services (except store card payment protection insurance services) to non-business customers in the UK ('the supply of PPI') to the Competition Commission (CC) for investigation. The reference was made under sections 131 and 133 of the Enterprise Act 2002 (the Act).
2. In our [report](#) published on 29 January 2009 (the 2009 report), the CC found adverse effects 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 (POSP), would form as comprehensive a solution as is reasonable and practicable to the AEC and detrimental effects on customers.
3. On 30 March 2009 Barclays Bank PLC (Barclays) filed a notice of application with the Competition Appeal Tribunal (the Tribunal) challenging certain aspects of the 2009 report.
4. On 26 November 2009, the Tribunal made an order quashing the CC's decision to impose the POSP as part of its remedies 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.
5. In the remittal provisional decision, published on 14 May 2010, we found new evidence that caused us to reconsider the effectiveness and proportionality of our remedies package for retail PPI. That evidence came from qualitative consumer research by GfK, relating to customers' interest in searching for alternative PPI policies. In light of this new evidence and our assessment of it in our remittal provisional decision, this Supplementary Remedies Notice invites comments on the actions that might be taken with regard to retail PPI by the CC or that the CC might recommend for implementation by others, for the purpose of remedying, mitigating or preventing the AEC concerned or any resulting detrimental effect on customers

Remittal provisional decision

6. The remittal provisional decision noted that the GfK research had found that retail PPI customers would welcome time to think about their policies, and search for alternatives, but that in practice they were unlikely actually to search for alternative policies. A key driver for this appeared to be that retail PPI customers generally pay small insurance premiums each month and most take a monthly view of their finances. To these customers retail PPI is not perceived as 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 customers more likely to search would be those for whom

retail PPI premiums were larger than average, and/or who already held other PPI policies or short-term income protection (short-term IP) policies.

7. This new evidence suggested to us that customer inertia, driven by low balances, meant that we could not be sure that by imposing a POSP alongside the other remedies we would encourage sufficient customers to search to generate an effective competitive constraint on retail PPI providers. We found that retail credit customers have, on average, relationships with more than four financial institutions. However, in light of the small monthly premiums paid by consumers and their attitudes as evidenced by the GfK research, we could no longer be confident that our remedies package would be substantially effective in relation to retail PPI.
8. In light of this new evidence we were also not sure whether our original package of remedies, including the POSP, would produce adverse effects which were disproportionate to the aim and as a result we could not yet conclude that for retail PPI the remedy package is proportionate. In light of the nature of the competition problems that we have found in retail PPI we are concerned to identify a remedy package that remedies the AEC and/or resulting consumer detriment to the greatest extent possible while also being a proportionate solution.

Criteria for consideration of remedies

9. In choosing appropriate remedial action, the CC has a duty to achieve as comprehensive a solution as is reasonable and practicable to the AEC and to any detrimental effects on customers resulting from it as set out in section 134(6) of the Act.
10. The CC will consider the effectiveness of different possible remedies and their associated costs and will have regard to the principle of proportionality. Between two remedies that the CC considers equally effective, it will choose that which imposes the least cost or restriction. The CC will seek to ensure that no remedy is disproportionate in relation to the AEC and its adverse effects.
11. The CC will also have regard to the effects of any remedial action on any relevant customer benefits within the meaning of section 134(8) of the Act arising from the feature or features of the market concerned. Such benefits comprise lower prices, higher quality, greater innovation or greater choice of goods or services. In this case relevant customer benefits may arise within PPI markets or in relation to other goods and services, such as credit products. The CC invites well-evidenced submissions on the nature, scale and likelihood of any such benefits and the potential impact of any possible remedies on any such benefits.
12. Some of the remedy options put forward in this Supplementary Remedies Notice would clearly be for the CC to implement. Other remedy options may be capable of implementation by the CC making recommendation to others, for example to the Financial Services Authority (FSA), the Consumer Financial Education Body (CFEB), or the OFT. The CC will seek to achieve a coherent approach, as between the implementation of remedies following this investigation and the existing regulatory framework. However, the CC also notes that where it falls to others to make a decision on a recommendation, there may be uncertainty over whether and to what timescale any recommendation will be accepted and implemented. It will be necessary to take this inherent uncertainty into account when deciding whether to make such a recommendation.

Possible remedies on which views are sought

13. Having found an AEC in retail PPI, the CC is considering whether remedial action is necessary and if so what action should be taken. The possible remedies that the CC is considering to address the AEC and customer detriment in relation to retail PPI, either alone or in combination, are set out below. These include both the remedies as specified in paragraph 10.567 of the 2009 report (see paragraphs 14 to 25 below) and a number of alternatives (see paragraphs 26 to 34 below).

Remedies in the 2009 report

Option 1. A prohibition on selling PPI at the credit point of sale combined with the provision of a personal PPI quote (paragraphs 10.34 to 10.157 of the 2009 report)

14. Based on the information provided by retail PPI providers, the CC considers that these are among the higher-cost remedies in the original remedy package proposed for retail PPI.
15. In light of the new evidence contained in our remittal provisional decision, we are not sure whether these measures would encourage sufficient competition between providers to outweigh the costs associated with imposing them in relation to retail PPI. In light of the mutually reinforcing relationship between these two measures, the CC does not consider that introducing either measure on its own is likely to be appropriate in relation to retail PPI.
16. The CC invites views on whether these measures would be effective in enabling those retail PPI customers who are interested in searching for alternatives to compare PPI products offered by different providers, by giving an opportunity to make such a comparison and raising awareness of the alternatives. The CC also invites further views from parties about the appropriate specification of these measures.

Option 2. Information provision in marketing materials (paragraphs 10.182 to 10.222 of the 2009 report)

17. Based on the information provided by retail PPI providers, the CC considers that the costs associated with this measure are low.
18. The CC invites views on whether this measure would be effective in enabling those retail PPI customers who are interested in searching for alternatives to compare PPI products offered by different providers, by raising awareness of the alternatives. The CC also invites further views from parties about the appropriate specification of such a measure.

Option 3. Provision of information to the OFT and CFEB for monitoring and publication and obligation to provide information about claims ratios to any party on request (paragraphs 10.223 to 10.242 of the 2009 report)

19. Based on the information provided by retail PPI providers, the CC considers that the costs associated with these measures are low. The CC notes that the comparative tables previously operated by the FSA are now operated by the CFEB, so data to enable the provision of comparative tables would now need to be supplied to the CFEB rather than to the FSA.

20. The CC invites views on whether this measure would be effective in enabling those retail PPI customers who are interested in searching for alternatives to compare PPI products offered by different providers, by raising awareness of the alternatives. The CC also invites further views from parties about the appropriate specification of such a measure.

Option 4. A prohibition on the selling of single-premium policies (paragraphs 10.223 to 10.242 of the 2009 report)

21. The CC did not find any single-premium retail PPI products. However, the prohibition on the selling of single-premium policies also included the requirement that no separate charges can be levied on a customer for administration or for the set-up or early termination of a PPI policy. The CC considers that the limited application of this remedy to retail PPI would give rise to minimal costs.
22. The CC invites views on whether the application of this measure to retail PPI would prevent the development of barriers to search and switching and thereby ensure that those retail PPI customers who are interested in searching or switching are able to do so.

Option 5. A requirement to unbundle retail PPI from merchandise cover (paragraphs 10.278 to 10.301 of the 2009 report)

23. Based on the information provided by retail PPI providers, the CC considers that the costs associated with this measure are moderate. The CC notes that SDGFS now offers an unbundled retail PPI product to some customers.
24. The CC invites views on whether this measure would be effective in enabling those retail PPI customers who are interested in searching for alternatives to compare PPI products offered by different providers. The CC also invites further views from parties about the appropriate specification of such a measure.

Option 6. Obligation to provide an annual review (paragraphs 10.302 to 10.322 of the 2009 report)

25. This remedy allows existing retail PPI customers better to compare retail PPI and stand-alone PPI or short-term IP and to switch more easily. However, based on the information provided by retail PPI providers the CC considers that this remedy is one of the higher-cost remedies. In light of this and the new evidence considered in our remittal provisional decision, the CC is not sure whether the costs of introducing this remedy, in its current specification, would outweigh its benefits in relation to retail PPI.
26. The CC is therefore also considering whether an obligation to provide an annual review could be targeted at consumers who have paid retail PPI premiums over the past year above a certain level, on the basis that these customers are most likely to perceive benefits from searching and switching than other customers.
27. The CC invites views on the following issues:
 - (a) How effective would the annual review as originally specified or a more targeted approach be in enabling those retail PPI customers who are interested in switching for alternatives to compare PPI products offered by different providers?

- (b) What should be the appropriate specification of any annual review in relation to retail PPI?
- (c) If a more targeted approach were taken, what threshold of retail PPI premiums should trigger an obligation to provide retail PPI customers with an annual review?
- (d) How would the choice of threshold affect the costs of such a remedy?

Additional remedies which were not in the 2009 report

Option 7. Obligation to remind customers of their cancellation rights and of key messages

- 28. The CC is considering whether, as an alternative to the POSP and personal PPI quote, retail PPI providers should be required to remind consumers towards the end of the cooling-off period about their cancellation rights and of certain key messages (ie that PPI is optional and available from other providers, and that information is available on the CFEB's moneymadeclear website).
- 29. The CC is also considering whether, particularly in relation to consumers who do not receive an annual review, retail PPI providers should be required to remind consumers of their cancellation rights and of these key messages on an annual basis.
- 30. The CC invites views on the following issues:
 - (a) How effective would these measures be in enabling those retail PPI customers who are interested in searching for alternatives to compare PPI products offered by different providers?
 - (b) What would be the cost of reminding customers of their cancellation rights and of other key messages at either of these two stages?
 - (c) What would be the most effective way of reminding customers of their cancellation rights and of other key messages?
 - (d) How might these measures best be implemented?

Option 8. Obligation to renew retail PPI policies annually on an opt-in basis

- 31. This remedy would require customers to opt in to a retail PPI policy every year, with their cover being discontinued if they did not do so. In theory, this might increase the competitive pressure on distributors, by creating an annual break in retail PPI policies and giving customers better defined opportunities to switch.
- 32. The CC invites views on the following:
 - (a) How effective would this measure be in enabling those retail PPI customers who are interested in switching to an alternative provider to do so?
 - (b) What is the likely impact on customers of this remedy?
 - (c) At the point of renewal of the policy, would a customer need to enter into a new PPI contract?

- (d) What implications (if any) would an annual renewal have on waiting periods, and pre-existing conditions qualification periods?
- (e) What would be the costs of this remedy?
- (f) How might such a remedy best be implemented?

Option 9. Price caps

- 33. The CC is considering an additional remedy directly to address consumer detriment associated with high PPI prices. The CC found that, as a result of the features it identified, PPI prices are higher than they would be in a competitive market. The CC's preference in developing remedies is to adopt measures which directly address competition problems at source,¹ rather than remedies which control outcomes, such as price caps.
- 34. However, in light of our provisional findings on the remittal in relation to retail PPI, there is a risk that the measures set out above, whether alone or in combination, may not be substantially effective or act sufficiently quickly on their own in addressing the identified AEC and resulting detrimental effects. A price cap may be able to bring prices closer to competitive levels or to do so more rapidly, directly reducing consumer detriment, while other measures took effect.
- 35. The CC is therefore considering the imposition of price caps on retail PPI. Such a cap could be imposed either alongside or place of some of the remedies outlined above.
- 36. The CC invites views on the following questions:
 - (a) How effective would the remedy be in reducing consumer detriment associated with high retail PPI prices?
 - (b) How should any price cap be designed? For example, should a cap be set on the price of PPI relative to the benefits received by customers or should a cap require a reduction in the price of PPI in relation to existing products?
 - (c) Should a cap relate to the price of retail PPI only or to the price of policies in which retail PPI is bundled with merchandise cover.
 - (d) At what level(s) should any cap should be set, and on what basis should a cap be based (eg by reference to the claims ratio or to distributor profitability)?
 - (e) How long should a price cap remain in force and how should we determine when a price cap could be lifted?
 - (f) What measures would be needed to reduce the risk that any price cap could be circumvented by product redesign or other means?
 - (g) Whether, and to what extent, such a cap would enhance or impede the effectiveness of other remedy options.

¹See *Market Investigation References: Competition Commission Guidelines*, June 2003, (CC3), [paragraph 4.6](#).

- (h) Should there be a staged reduction in price, a step change, or both? If both, what should the balance be between the step change and the year-on-year reduction? How should a price cap be adjusted over time?
- (i) How could such a remedy best be implemented?
- (j) What would be the costs of this remedy option?

The scope of remedial action

- 37. The CC currently considers that any remedies it chooses should apply to all retail PPI providers.

Next steps

- 38. A copy of this Notice will be posted on the CC's [website](#). The parties to this inquiry and any other interested persons are requested to provide any views in writing, including any additional or alternative remedies they wish the CC to consider, by **Friday 4 June 2010**.

(signed) PETER DAVIS
Group Chairman
14 May 2010