

CMA publishes findings of 'Lessons Learned' review into Open Banking

The Competition and Markets Authority (CMA) has today published the findings and recommendations of a review by Kirstin Baker, one of its independent non-executive Directors, to identify lessons from Open Banking for the CMA's approach to designing, implementing and monitoring remedies in its market investigations.

Open Banking was introduced following the CMA's Retail Banking Market Investigation, which set out a blueprint for improving the way banks could serve customers and small business. As a result, in 2017 the CMA ordered the 9 largest banks in Great Britain and Northern Ireland (the CMA9) to set up an Open Banking Implementation Entity (OBIE) which would enable customers to share their transaction history data safely and securely with trusted third parties. Today, the UK is a global leader in this area and it is estimated that half the UK's small businesses and over 5 and a half million consumers now use services powered by Open Banking technology.

In 2020, the CMA received allegations relating to conduct at the OBIE and Alison White was appointed to undertake an independent investigation. Her [findings](#) were published in October 2021. The investigation concluded that the then Trustee of the OBIE had not ensured that the organisation was properly managed in accordance with the Retail Banking Market Investigation Order 2017 (the Order). It also found that a lack of appropriate corporate governance had contributed directly to those organisational failings.

Following that investigation a new OBIE Trustee, Charlotte Crosswell, was appointed. Subsequently, the OBIE has strengthened its governance through the appointment of independent non-executive directors and enhancements to its controls, policies and approach risk management. In addition, the OBIE appointed a Chief Executive to strengthen the management and leadership of the OBIE, and a Director of People and HR to drive forward improvements to HR practices and workplace culture. The OBIE also launched a redress process to consider workplace-related complaints by former staff.

When the Alison White report was published, the CMA also announced that Kirstin Baker, a CMA Non-executive Director, would lead a review into the specific lessons for the CMA in its approach to designing, implementing and monitoring remedies in future market investigations. The [Terms of Reference](#) of this review were published in November 2021 and it is the findings of this review that are being published today.

Ms Baker's review has found that the technical solutions to achieve the Open Banking remedy have and continue to be successfully implemented. However, the CMA did not fully anticipate the scale and complexity of its remedy and it failed to foresee or manage some of the key risks inherent in the delivery of the project, in particular in relation to governance at the OBIE and relationships with key stakeholders.

The review makes 7 recommendations to the CMA:

- Recommendation 1: Build more effective Board oversight and risk management of the end-to-end strategy for complex remedies
- Recommendation 2: Set out processes and governance for CMA Board and Executive oversight of the delivery and implementation of remedies
- Recommendation 3: Consider questions relating to implementation at the remedies design phase
- Recommendation 4: Ensure key factors are considered where a remedy establishes a new entity or large and enduring CMA function
- Recommendation 5: Include gateways in the remedy delivery and implementation process
- Recommendation 6: Implement effective and agile internal governance and stakeholder engagement in remedy delivery and implementation
- Recommendation 7: Conduct an evaluation case study of complex market investigation remedies

Kirstin Baker, who led the Lessons Learned review, said:

The Open Banking remedies are some of the most complex ever implemented by the CMA and have been important in opening up competition in retail banking and supporting the growth of UK fintech.

Many stakeholders I spoke to for this review underlined that the CMA should continue to be bold and innovative in using its market powers to benefit consumers. However, the Board recognised that there were lessons for the CMA to learn from the governance failings at the OBIE identified by Alison White and my review has found that the CMA did not match the ambition of the remedy with an appropriate level of oversight or strategic risk management.

The CMA seeks to be a learning organisation and I am pleased that staff at all levels engaged constructively with this review and that changes have already been made or are in progress to address the issues identified.

David Stewart, CMA Executive Director of Markets and Mergers, said:

Since joining the CMA earlier this year, I have become even more convinced of the potential of market investigations to deliver significant positive impacts for consumers.

But however good our analysis and proposed remedies, we will only achieve better outcomes for consumers, businesses and the economy if we follow through on our decisions with effective implementation, monitoring and enforcement.

That is why I am so grateful to Kirstin Baker for her review. It will help shape our work programme on remedies and I am determined that we will deliver on it and report on it publicly.

The CMA will publish a further update next year on its progress in implementing this work programme on remedies.

1. The findings of [Kirstin Baker's review](#) and the [earlier report by Alison White](#) can be found on the CMA's website.
2. Kirstin Baker has served as a Panel Inquiry Chair and Panel Member Non-Executive Director of the Competition and Markets Authority (CMA) Board since 2018. She is also a member of the Audit and Risk Committee. Kirstin had a long career in the civil service and was most recently HM Treasury's Finance and Commercial Director. She has also been a Member of the Competition Appeal Tribunal and a Non-Executive Director of UK Financial Investments. Earlier in her career Kirstin was part of the senior team leading the Treasury's response to the banking crisis and was awarded a CBE for this work. Kirstin has also worked as a competition official in the European Commission, as an EU policy adviser in the Cabinet Office and as a senior civil servant in the Scottish Government, leading work on infrastructure investment banks.
3. Open Banking was part of a package of remedies adopted by an independent Inquiry Group of the CMA in 2017 designed to increase rivalry in the provision of banking services. It requires the 9 largest banks and building societies in Britain and Northern Ireland (the "CMA9") to make transaction data available through a common set of routines, protocols, and tools for building software applications.
4. To implement Open Banking, the CMA made an Order which came into force in February 2017 and required the CMA9 to create and pay for an implementation entity – known now as the Open Banking Implementation Entity ("OBIE") – and to appoint an Implementation Trustee, approved by the CMA, to oversee the process.
5. The OBIE was established by the CMA9 as a limited company, Open Banking Limited ("OBL"). The CMA9 are: AIBG, Bank of Ireland, Barclays, Danske,

HSBC, Lloyds Banking Group, Nationwide Building Society, NatWest Group and Santander.

6. The Open Banking implementation phase will complete later this year. The CMA's [response to the consultation](#) on the future oversight of Open Banking was published on 25 March alongside a [joint statement](#) with HM Treasury, the Financial Conduct Authority and the Payment Systems Regulator, setting out a plan to establish a Joint Regulatory Oversight Committee to oversee the future development of Open Banking after the actions in the CMA's Order are completed and its role draws to a close.