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Speech: Alasdair Smith on competition and Open Banking

It's now 10 months since the Competition and Markets Authority (CMA) published the final report of the retail banking market investigation which I chaired. In a short speech, I cannot do justice to 18 months' intensive work and so I will focus on 3 issues:

1. I first outline some of the implications of the Open Banking programme which we launched and which is now well under way.
2. Then I'll say a little about the implications of Open Banking for regulation.
3. And finally, some comments about the relationship between the CMA and the Financial Conduct Authority (FCA).

The fact that our report got a rather negative initial reception was probably not a surprise to many people in this room. There's a justified public perception that the disappointing performance of the UK economy over the past 9 years is a consequence of the financial crisis of 2008 which in turn was caused by poor behaviour by and poor regulation of the banking system. There's an appetite for retribution, and any proposals for change to the banking market that fall short of that retribution will be badly received.

Now one of the reasons for having independent regulators is precisely so that decisions are made on the basis of evidence rather than on the basis of what will win short-term applause. I therefore make no apologies for the fact that we rejected populist prescriptions such as breaking up the big banks or banning the free-if-in-credit (FIIC) current account.

However, the tone of informed discussion in subsequent months has been strikingly and gratifyingly different. As you all know, the centrepiece of the measures which we are introducing to improve competition in retail banking is the Open Banking programme. Open APIs (application program interfaces) will put customers in charge of access to their banking data, will encourage the development of new services and new providers, and will

make it much easier for customers to make the right decisions for them. It's not going to solve all the competition problems in the current account market, but it is tackling the central problem. Let me explain what I mean by that.

When the CMA or other agencies seek to improve the working of markets by encouraging consumer switching, the criticism is often made that we are blaming consumers for the fact that markets are not working well and putting on consumers the burden of improving market outcomes. That's emphatically not the case with Open Banking: many banking customers cannot make the right decisions about choosing accounts or services not because they are lazy or under-motivated but because they cannot access the information needed to be a smart customer. This is the central problem of competition in personal banking and by addressing this problem head on, Open Banking will make it easier to be a smart customer.

Open Banking therefore has the potential to radically change the competition landscape. Two groups of personal current account customers make disproportionate contributions to the revenue of retail banks: those who have high average current account balances, and those who make frequent use of overdrafts, especially unarranged overdrafts. If these 2 groups of customers find better resting places for their credit balances and better-value sources of emergency borrowing, there will be a competitive rebalancing in the market; indeed it's possible that the FIIC personal current account could disappear. Note that there's no contradiction between our view that FIIC should not be banned and the possibility that competition might drive the product out of the market: we believe that the survival of the product should be decided by the market (that is to say, by customer decisions) not by regulators.

The changes will not be for personal customers only. We also expect major improvement in banking for small businesses; we're supporting the NESTA Open Up Challenge to drive these improvements, and we were delighted that the Open Up Challenge attracted twice as many applicants as expected.

I now turn briefly to the fact that Open Banking will have implications for financial regulation. New services delivered digitally by new intermediaries open up new horizons for competition, but also new challenges for regulatory oversight. Customers must have confidence in the intermediaries to whom they grant access to their banking data. We want new services that deliver better customer outcomes, not just better sales channels for suppliers of financial products. There are well known consumer biases which are endemic in financial markets. Human beings' choices are influenced by how choices are framed, by loss aversion, and by overestimating tiny risks, to take 3 of the best-known examples; and we need to be aware of the risk that new services find new ways to exploit these biases.

There are understandable anxieties about Open Banking being only of benefit to the digitally sophisticated: the young and the better-educated. There's a fear that some customer groups will get worse service as the banking system provides better services to the digitally enabled. That should not be so, because the benefits of Open Banking can and should extend beyond the

digitally enabled: one can imagine a debt counsellor sitting down with a client, and, with permission of course, using the tools enabled by open APIs to give advice about how to avoid incurring overdraft charges.

There's food for thought then about what changes in financial regulation might be needed in the world of Open Banking.

When the CMA undertakes a market investigation in a regulated sector, we have to be alive to the risk of regulatory overlap. We worked closely and productively with the FCA throughout the life of the market investigation, and the fruits of that collaboration are visible in our remedies programme. Most of our remedies are being implemented by the CMA using our legal powers. But for some others we have handed the implementation, and sometimes even the design, of remedies to the FCA, with their agreement of course.

This is partly a matter of timescale: we were determined that any behavioural remedies we introduced should be thoroughly tested in advance, but the time needed for a programme of randomised control trials (RCTs) goes well beyond our statutory remedies timetable, and when the time comes for detailed implementation of remedies, it is the FCA's legal powers which need to be used. Furthermore, the FCA has an established and admired expertise in the behavioural testing of remedies – their work on overdraft alerts was a strong influence on our thinking.

Our current account switching prompts remedy will therefore be tested and implemented by the FCA using its legal powers, while our overdraft remedies are being implemented by the CMA, but with further testing and development to be undertaken by the FCA.

One of our more controversial remedies is the monthly maximum charge (MMC) on unarranged overdraft charges. This is a transparency measure – the level of the MMC is not regulated – but we think it could have a significant impact on overdraft charges. I was pleased last month, as a personal current account customer of one of the major banks, to be sent a notice of their MMC, together with a description of the significant reduction in charges they are implementing alongside the introduction of the MMC.

Some commentators think we should have capped the MMC at a level which would help the most financially vulnerable customers. We appreciate the strength of feeling about this issue, but thought it would be premature to regulate the MMC. We think that the combined effect of Open Banking, of overdraft alerts, and of the MMC has the potential to make a significant difference for overdraft customers, including those in vulnerable groups. Direct price regulation remains an option but it always has the risk of reducing the availability of products, and while there are concerns about the pricing of unarranged overdrafts, this is a product which provides a necessary source of emergency funds to many customers. An MMC cap set at a level low enough to make a real difference to the most financially vulnerable customers could have a negative impact on banks' willingness to offer unarranged overdrafts. This could lead to consumer harm over the longer term, even if the initial impact were positive.

That’s a challenging issue which we have now passed to the FCA. They might well want to wait and see what impact our remedies have on the market – and whether banks react constructively to our remedies – before coming to a view on whether a regulated MMC is the right way forward.

The FCA has recently begun a strategic review of the retail banking business model in order, in its own words, to enhance its understanding of the state of competition and conduct in retail banking. I know that there is some concern in the sector about apparent overlap between this FCA review and the work undertaken in the CMA market investigation. None of us want there to be unnecessary regulatory duplication, and in the end it’s by its results that the FCA’s retail banking review will be justified.

Which takes me back to where I started: the CMA’s market investigation was a major project, which was costly both to the CMA and to the banking industry, and which attracted much negative comment. For the reasons which I have sketched in this brief presentation, I am confident that the measures which we have undertaken as a result of the investigation, especially the Open Banking programme, will have a truly transformational impact on the competitive landscape in UK retail banking over the next decade.

News story: Industry Board members contract extended

Vic Emery OBE, the Chairman of the Civil Nuclear Police Authority (CNPA), is pleased to announce that the appointment of Industry Member Gwen Parry-Jones OBE has been extended for a further two years. The extension was approved by Minister for Energy and Industry Jesse Norman in May.

Gwen Parry-Jones joined the CNPA Board in June 2014 and the two year extension means she will now be in post until 31 May 2019.

Vic Emery OBE said: “I am delighted that Gwen’s appointment has been extended. She has proved a valuable asset to the Authority since joining as an Industry Member and I look forward to continuing to work alongside her for the next two years.”

Gwen began her career as a reactor physicist and has since held a variety of positions within the nuclear industry. In 2007, Gwen became the Plant Manager for the Pressurised Water Reactor site at Sizewell B and in 2008, she was appointed as the Station Director at Heysham 1 Nuclear Power Station, being the first woman in the UK to hold either of these two posts.

Gwen subsequently undertook the role of Campus Project Director, to further develop the training and skills framework for EDF Energy. In 2012 Gwen returned to EDF Nuclear Generation as Safety and Assurance Director and is

now Generation Development Director. She is also a Fellow of the Institute of Physics.

Press release: Deadline extended for Ipswich Flood Barrier artwork project

The project will see bespoke creations installed at 2 locations – across the 3 doors of the barrier's control building, and within a circular space on the West Bank of the New Cut.

The successful designs, which should have a maritime and/or Ipswich theme, must be able to withstand any potential vandalism and sufficiently durable to have a lifespan of 25 years.

The commissioned art work is expected to be installed by early next year.

The deadline for submissions is 28 July.

Work on the £58 million Ipswich Flood barrier scheme is already well under way and is due to be completed in 2018.

EA project manager Andrew Usborne said: "We want this art work to be a visual representation of Ipswich's maritime past and also to mark the creation of this new vital infrastructure for the town.

> These 2 commissions will provide a lasting legacy for the town's most important flood defence scheme in recent history.

The next major phase of the project will be the arrival of the tidal gates from Holland in the summer.

The scheme, which will reduce the risk of flooding to 1,608 homes and 422 businesses and support key infrastructure, has been partnership funded by: the Environment Agency, Ipswich Borough Council, Department for Communities and Local Government, the Haven Gateway Partnership, and the New Anglia Local Enterprise Partnership.

Any artists interested in finding out more about the art project and how to make a submission should email enquiries_eastanglia@environment-agency.gov.uk.

Media enquiries: For more details about the specifications or for further details, contact the East Anglia press office (24 hours) on: 0800 917 9250

News story: No new inquest into military deaths

After careful consideration, the Attorney General Jeremy Wright QC MP has decided not to provide his authority for an application to be made to the High Court for new inquests covering the deaths of four Royal Military Policemen.

The families of the four men – Corporals Simon Miller and Russell Aston, and Lance Corporals Benjamin Hyde and Thomas Keys – submitted applications under the Coroners Act 1988 to request a new inquest into the deaths of their sons on the grounds of new evidence.

The men were killed during an incident at a police station in Majar Al Kabir, Iraq, on 24 June 2003. Two other military personnel were also killed.

An application for a fresh inquest may be made only with the authority of the Attorney General. The Attorney can provide his authority only if he is satisfied there is sufficient admissible evidence that there is a reasonable prospect of the Court being persuaded to order a new inquest.

The Attorney concluded that none of the grounds of challenge set out in the applications had a reasonable prospect of success. Therefore he would not be able to provide his authority for the applications to be made to the High Court.

The Attorney General said:

“I offer my deepest sympathy to the families for their loss – and my gratitude for the sacrifices that their sons made for this country.”

“I have given this matter considerable thought but, as disappointing as it will be for the families involved, it would not be right to pass this matter to the High Court when the tests for a new Inquest are not met.”

The original inquests were held by the Oxfordshire Coroner Nicholas Gardiner in March 2006. The inquests concluded with the verdicts of unlawful killing in respect of each of the six deaths, on 31 March 2006.