Financial Services Consumer Panel
AN INDEPENDENT VOICE FOR CONSUMERS OF FINANCIAL SERVICES

# Financial Services Consumer Panel

# Submission to Independent Commission on Banking

## Introduction

The Financial Services Consumer Panel is pleased to take this opportunity to contribute to work of the Independent Commission on Banking.

The Panel's role, which is based in statute, is to advise and challenge the Financial Services Authority from the earliest stages of its policy development to ensure they take into account the consumer interest. In order to do our job effectively we have to consider the wider financial services environment and policy changes that are driven from outside the FSA, such as central EU and UK government initiatives. But our focus is always the interests of retail consumers, including small businesses.

We are presenting in this submission our views on the good consumer outcomes that a retail banking service must deliver and we are asking the members of the Commission to take particular account of the impact of potential structural and non-structural changes on individual households, individual consumers and small businesses. Retail consumers have borne the brunt of almost every failing within the banking sector, from unacceptably high fees to mis-sold Payment Protection Insurance to picking up the bill for the Government bail-out of failed banks. There is now a climate of real change in banking and regulation and an opportunity to be seized for consumers to have access to a fair and affordable banking service.

Adam Phillips
Chair
Financial Services Consumer Panel

15 November 2010

## Executive summary

In this submission we have set out a brief commentary on the key concerns we have about today's banking sector, together with a short list of good consumer outcomes that banks should deliver. Where we can we have commented on the impact of any possible reforms or structural changes on the prospects for successful delivery of those outcomes.

None of the good consumer outcomes is, in our view, controversial or particularly new. Some are being delivered to an extent by individual firms already, but others are still aspirational. In addition to recommending essential and effective change where the sector has failed consumers, we would like the Commission to take steps to guard against unintended consequences that might adversely affect the successful banking services that already exist.

The key outcomes, which are explored in more detail later in this submission, are:

- ✓ A banking culture that is consumer-focused, and banking products and services that meet customers' needs and do not exclude those unable or unwilling to use on-line facilities and those who need branch access
- ✓ Fair treatment of customers, including value for money, particularly for those facing financial difficulty
- ✓ A resilient transactional payment service akin to other basic utilities available to all
- ✓ Fair bank charges which are transparent and proportionate to the product or service provided
- ✓ Real choice of banking services, supported by easy account switching
- ✓ Deposit guarantees through the Financial Services Compensation Scheme in relation to each banking brand, rather than each authorised firm
- ✓ Swift and fair treatment of complaints, together with the publication of contextualised complaints data per brand

## The banking sector today

We endorse the Commission's assessment of banks and banking in Annex 1 to and Chapter 2 of the Issues Paper. It is clear to the Panel that some fundamental changes have to be made if consumers are to be able to engage confidently with banks in the future. While we have focused this submission on the specific good consumer outcomes that we believe banks can and should deliver, we are of course aware of the much wider function of banks and the markets in which they operate.

### *Competition*

While we do not regard competition as a panacea, we believe that there are barriers to entry into the retail banking sector that must be removed if consumers are to have a real choice of banking services. When consumers are in a position to exercise effective choice the pressure will be on banks to improve customer service, introduce fairly priced products that meet consumer needs and this will, ultimately, drive down charges. This is a fundamental issue in banking.

There needs to be resolution too of the implicit Government subsidy of banks that are "too big to fail", which distorts competition by weakening the ability of small or new entrants to become real challengers and destroys the functioning of an effective market. The pricing of banking services, including the erroneously named "free banking" model, is another barrier. There is a perception that so-called free banking has become a basic customer and market expectation and this has the potential to restrict the development of different models by fledgling market participants. In other retail sectors, where effective competition prevails, consumers benefit from lower costs and genuinely innovative products designed to meet their needs. So-called "free banking" makes it hard for new entrants to offer fee-based current accounts even though this might provide some customers with better value for money overall. This is an example of a market with ostensibly competing businesses where competition is ineffectual in achieving good consumer outcomes.

The Commission is aware of the issue of regional monopolies in both Scotland and Northern Ireland, which warrant specific attention.

In our response to HM Treasury's paper[1] on a new approach to regulation we called for[2], amongst other things, a clearer remit and stronger powers for the new Consumer Protection & Markets Authority to protect and uphold the interests of consumers. Such powers will be needed to deliver real regulatory change in the retail banking sector that will encourage effective competition.

### *Mutuals*

We would not wish to see building societies, co-operatives, credit unions and other mutuals put at a disadvantage by structural or other changes that are

[1] CM7874 A new approach to financial regulation at www.hm-treasury.gov.uk
[2] At www.fs-cp.org.uk

put in place to address failures and risks in the banking sector. These institutions provide valuable services to many consumers that are unable or unwilling to entrust other banks with their money and as a sector we would like to see them continue.

### *Contagion*

Recent experience has shown that steps need to be taken to prevent contagion between losses in a bank's wholesale or trading activities and retail services, which include payment and savings accounts. Currently we are ambivalent as to the mechanism by which this can be achieved most effectively, but it is clear that there must be change.

### *Structure of the banking sector*

We do not propose to comment on the advantages and disadvantages of alternative structures that have been proposed for the banking sector. We would, however, point to two aspects where structure may impact on the welfare of consumers.

First, we are concerned that including retail and investment banking in a single organisation may create cultural incentives for the managers of retail business to seek returns and rewards comparable to those secured on the investment banking side. Retail bankers should compare themselves against the best high street and online retailers, both for customer service and return to shareholders.

Second, wholesale banking is one remove from consumers. Nevertheless, savings and pensions investments in aggregate are traded in wholesale markets, the transaction costs of which are born by consumers. Market making has become oligopolistic, allowing high returns to market makers. Product innovation in wholesale markets has been the source of high returns to the innovators on account of lack of transparency and asymmetries of information. Agent/principle issues are also of concern in the management of consumers' funds. The sum of transaction costs born by consumers and pensioners can be substantial in relation to cumulative returns to savings, particularly in an era of low interest rates. One objective of banking reform should be efficient and competitive wholesale markets which allow consumers to secure value for money from their savings.

A more detailed exposition of the Panel's views on wider banking and market issues is set out in Section 1 of our recent position paper[3].

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[3] "Retail Banking: Position Paper" available at www.fs-cp.org.uk

## Good consumer outcomes

A banking culture that is consumer-focused, and banking products and services that meet customers' needs and do not exclude those unable or unwilling to use on-line facilities and those who need branch access

*What do we mean?*

We would like to see a banking industry driven by and responsive to the needs of its customers. This customer-focused culture needs to pervade all levels within banks. Based on consumers' experience of the banking sector at the moment, this would require a substantial change in culture and approach. Beyond the basic universal requirement for a swift and reliable payment/transaction service, different customers have different requirements and preferences for their banking services. These requirements and preferences will be driven by a range of factors, including location, mobility, wealth and capability. For example, cash-based small businesses and individuals who need face-to-face contact will wish to have accounts with banks that have local branches, or where account access at least will be available through a local Post Office. It is these individual needs that should be driving retail consumer strategies, rather than the primacy of internal banking drivers such as IT efficiencies or inappropriate profit streams. The Panel's research on fairness[4] showed an appetite for personal contact in banking and a criticism of reliance on call centres and unhelpful documentation.

In terms of products, there are two examples where we believe that products have been sold that do not meet consumer needs. There has been a significant growth in recent years in banks offering packaged accounts and in customers who are using them. Headlines from Mintel's June 2010 research[5] showed around one in six current account holders have a fee charging packaged account and that twice as many would be prepared to pay a small fee for certain benefits. Yet earlier research[6] by Which? revealed that only 12% of its members with a packaged account said they used all the benefits it offered, while 78% used some and 10% none. There is a significant risk therefore that many consumers who are sold a packaged account have a product that does not meet their needs. The same research revealed that in 2008 packaged bank account marketing accounted for 42% of all spending on current account advertising, compared with 28% in 2007.

The Commission will be aware too of the extent of mis-selling of Payment Protection Insurance by some banks. Since 2005 the FSA has been taking steps, including enforcement action, to try to ensure that customers are treated consistently and fairly, either when buying new PPI policies or making a complaint about an existing one. In the last five years more than a million

[4] "Consumer perceptions of fairness within financial services", Opinion Leader, at www.fs-cp.org.uk
[5] Mintel at oxygenacademic.mintel.com
[6] www.which.co.uk

complaints have been made to firms (not just banks) about PPI[7], yet the latest action from the British Bankers Association is to launch a judicial review of the FSA's policy on complaints handling procedures, while some banks, such as Lloyds Banking Group, unilaterally and without an FSA rule waiver, have decided to halt complaints handling procedures altogether where they believe the outcome of the review might have some bearing.

*Is this outcome being delivered now?*

There is no doubt that there will be many consumers who are satisfied with at least some aspects of the banking service they receive. The recent Which? People's Choice Poll[8] showed First Direct coming top in three satisfaction surveys (including current accounts) with an overall score of 82% against an average of 59%, but Bank of Scotland scored only 43% and Halifax only 46%. The picture is, at best, patchy and we are mindful of course that "satisfaction" and "fairness" are not necessarily the same thing. We are pleased that some banks at least are providing services that satisfy their customers, but it is clear that there is still some way to go before we can be confident that the sector is truly delivering the products and services consumers really need.

*Is competition an issue?*

Yes, we believe it is in the sense that greater competition should at least create an environment where consumers can make a real choice between more diverse products and services, rather than effectively just switching brands. The current concentration of business levels in the large banking groups throughout the UK, together with common ownership of financial firms, severely limit the options open to consumers for real change.

*Is market or regulatory structure an issue?*

There are a number of debates already underway that could have a profound impact on the banking sector. One of the points we have made in our response[9] to HM Treasury's recent consultation paper on financial regulation[10] is that the new Consumer Protection and Markets Authority should be a strong consumer champion, acting in the consumer interest. Such an approach could help to bring about a significant improvement in banking services for consumers. The current split of regulatory responsibility between the FSA (for deposit-taking activities) and the Office of Fair Trading (for credit products) has clearly made regulatory action more problematic than it needed to be in areas that straddle both these banking services, such as mis-use of the right of set-off by some banks. The Commission may be interested to see the Panel's Report[11] on the first year of the regulatory

[7] FSA press notice 8 October 2010 regarding the BBA judicial review of new PPI complaints handling measures
[8] August 2010 at www.which.co.uk
[9] At www.fs-cp.org.uk
[10] CM 7874 A new approach to financial regulation: judgement, focus and stability at www.hm-treasury.gov.uk
[11] At www.fs-cp.org.uk

framework for banking conduct of business for a wider analysis of the current regulatory framework in this sector.

*What changes might be necessary to achieve or improve this outcome?*

As we have said, genuine competition and real choice should help to stimulate shopping around and switching by consumers, provided they feel confident to do so. Confidence includes trust – where banks will have to work hard to undo much of the detriment consumers and small businesses have suffered following the financial crisis – and belief that they have access to a truly different service, rather than the same service but with a different name. None of this can be achieved overnight, but with a new consumer champion for regulation in the form of the CPMA, it should certainly be achievable in time.

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| Fair treatment of customers including value for money, particularly for those facing financial difficulty |

*What do we mean?*

Earlier this year the Panel conducted research into fairness in financial services[12]. This found that the notion of fairness was closely associated with other concepts such as reliability, value for money and, in particular, good customer service. Fairness was not just seen as the absence of unfairness, with examples of fairness cited where banks had gone above and beyond their contractual obligations. It was noted too that as financial services are an essential part of contemporary life, bank staff inevitably find themselves dealing with some customers with low levels of financial capability and/or low income, as well as those relatively confident about their financial affairs. This requires a degree of training and flexibility on the part of front-line staff that does not seem to be much in evidence.

In the conclusion to the report, four broad themes of fairness were drawn up, which we fully endorse:

- ✓ Transparency of information relating to product provision, risks and charges.
- ✓ Responsible marketing tailored to consumer needs and capabilities.
- ✓ Fair pricing to reflect costs to providers and to reward customer loyalty.
- ✓ Good ongoing customer care, being honest; accountable; and empathetic to customers.

Value for money is an important concept. It is usually a consideration for consumers in almost every aspect of their lives, from buying groceries to buying a car. It is significant, however, that in the Panel's research consumers linked fair pricing to the cost to the bank of providing the product

[12] Opinion Leader – consumer perceptions of fairness within financial services at www.fs-cp.org.uk

or service. Consumers expect banks to make a profit, but they do not think it fair to be overcharged or exploited due to lack of real choice, costs hidden in the long terms an conditions statements and the abuse of the imbalance of knowledge and power between customers and their banks.

Finally on this point, it is in the interests of both the banks and their customers facing financial difficulty that their cases are dealt with by staff with an understanding of their individual circumstances, rather than on the basis of a blanket policy or tick-box approach. For example, customers narrowly in credit who inadvertently go into the red are likely to find themselves struggling to pay a charge far greater than their ‘overdraft’, together with substantial fees for any subsequent returned cheque or failed direct debit. This can escalate a customer’s problems quite unnecessarily and lead ultimately to considerable problems for the customer and possibly the bank itself.

*Is this outcome being delivered now?*

While it would be unfair to claim that all banks are serving all customers badly when they should be treating them fairly, it is evident from both the Panel’s research and the Which? People’s Choice Poll referred to earlier that there is evidence of unfairness across most of the sector. Banks are required to comply with the long-established Principle for Business 6 – Treating Customers Fairly, so fair treatment of customers is not driven by consumer demand alone and is in fact a regulatory requirement.

*Is competition an issue?*

The lack of choice and transparency over product costs and charges, together with the legislative constraints on the regulator’s ability to publish information which it collects in carrying out its duties - for example data on customer complaints - does limit consumers’ ability to shop around and drive down prices, so effective competition is an issue.

A legislative presumption in favour of transparency in the regulation of retail banking could do a lot to support effective competition. Promotion and enforcement of straightforward account transfer by the regulator could also support effective competition, since it can still be quite difficult to transfer an account from one bank to another.

Ultimately, value for money is going to be delivered by properly managed, competitive businesses.

*Is market or regulatory structure an issue?*

Our earlier comments on the current split of regulatory responsibility and the need for positive action for consumers also apply here. The FSA has already begun to include scrutiny of business models and product design within its supervisory work, so we would hope that this will enable the regulator – whether FSA or CPMA - to identify areas where excessive profits and therefore potential mis-selling might occur.

*What changes might be necessary to achieve to improve this outcome?*

It seems to the Panel that there needs to be a fundamental shift in culture within the banking sector that should be helped, but not necessarily achieved alone, by the type of major changes being debated around the future of regulation and the Commission's own key work. We have in mind the points made by consumers during our research around the appetite for rewarding loyalty and greater emphasis on softer skills such as communication with customers and responsible marketing that addresses actual consumer needs.

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| A resilient transactional payment service akin to other basic utilities available to all |

*What do we mean?*

Consumers need to have access to and to have confidence in, a resilient transactional payment service in order to buy basic utilities such as water and electricity supplies – as well as other consumer goods - at the best price. There has to be clarity about the cost of the provision of such a service, which currently tends to be hidden in the overall cost of other banking facilities, or masked by the label of "free banking" and it would have to continue to operate regardless of market failures.

Benefits are generally now paid direct into a Post Office card account or other bank account, which means that individuals in all social and financial groups will almost invariably have to operate some form of payment account. The likely demise of payment by cheque – although we are not yet convinced that banks have put forward a viable alternative available to all – suggests that payment by electronic means will be come more, not less, common.

In a 2008 report for DG Employment[13] there was some discussion of compensatory financial systems designed to ensure that a banking service was available to all and this is an area that could be explored further. More needs to be done to halt the withdrawal of banking services from rural and deprived areas. According to the July 2010 Branch Network Reduction Report by The Campaign for Community Banking[14], 950 communities have lost all banks; 1,050 have only one bank and 500 have only two banks.

Certain customer segments still find access to basic banking difficult. According to the Consumer Focus Report On the Margins[15] the most vulnerable people still face a number of barriers when trying to open a bank account, including identification requirements and low levels of financial capability. The rapid growth in payment cards (which do not require the same ID checks) supports this view. The Panel has been told that in Q1 2008 there were 360,000 pre-paid cards in existence and by Q4 2009 this had grown to 2.8mn. Fears remain too around ID theft and fraud. Yet often these could be

[13] "Financial services provision and prevention of financial exclusion" at www.bristol.ac.uk
[14] At www.communitybanking.org.uk
[15] www.consumerfocus.org.uk

the very individuals who need access to a simple payment account most of all.

In our response[16] to the BIS consultation[17] on Post Office banking we agreed that the Post Office does provide a valuable set of financial products and services and that there was scope for development, including all bank and credit union accounts being available through Post Offices. We believe that this could go some way towards making a payment service accessible to all. We are awaiting the current Government's approach to financial services provided through the Post Office.

*Is this outcome being delivered now?*

As we have said, the Consumer Focus research shows that there is still some way to go in this area, although we have been pleased to see some progress over recent years in the number of consumers accessing basic accounts.

*Is competition an issue?*

In many respects this aspect of banking services is a utility, but the access to customer information which it provides gives the bank holding the information a competitive advantage which works against effective competition in the market for financial services and raises the barriers for new entrants.

*Is market or regulatory structure an issue?*

We do not think that market or regulatory structure is an issue per se, although it would be helpful for consumers if transaction/payment accounts were guaranteed in some way and that in the event of bank failure, the account and all debit/credit facilities and instructions were moved seamlessly to another provider. Integrated financial regulation would also assist in tackling issues around payments and overdrafts that can arise.

*What changes might be necessary to achieve or improve this outcome?*

In terms of access to a payment account this is again an area where banks would need to do far more in ensuring that their front-line staff understand the needs of potential customers who might have difficulty dealing with issues such as ID requirements and how a bank account works and is secure for the account holder. We would also like to see wider recognition of the integral part that access to a payment account plays in consumers' everyday lives.

| Fair bank charges which are transparent and proportionate to the product or service provided |
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*What do we mean?*

We have already commented on fair treatment of consumers by banks and referred to our research in this area. Bank charges, particularly in the context

16 At www.fs-cp.org.uk
17 Developing the banking and financial services available at the Post Office at www.bis.gov.uk

of charges for unauthorised overdraft facilities, are a particular concern for consumers however. A great many consumers are still suffering the consequences of excessive overdraft charges and many more are acutely conscious of the issue and the length of time it took for the test case to be decided. We do not expect the regulator to set maximum tariffs for charges made by banks, but we do believe that one of the roles of the regulator should be to ensure that charges are related to the cost to the bank in providing a particular service and that the charges should be transparent. This means that, when challenged, a bank should be able to break down a particular charge into the nature of component costs and the element of profit that has been applied. If a charge includes some kind of "penalty payment", this should be explained clearly up front and justified.

There is evidence that the current bank charges model impacts disproportionately on the most vulnerable members of local communities[18], typically customers with a low income, those suffering from health problems, being a lone parent, or being a single pensioner. Evidence shows that the bank charges model can trap vulnerable consumers in a cycle of indebtedness and financial exclusion[19]. However, section 172(1)(d) of the Companies Act 2006 provides that in promoting the success of their company, directors must have regard to *'the impact of the company's operations on the community and the environment'*. Ensuring that bank charges were fair and transparent from a regulatory perspective would help directors of UK banks comply with their duties under section 172, and separately, is consistent with the general consensus that financial institutions should do more to contribute to the *'common good'* in society[20].

In addition to being fair, charges should be proportionate to the product or service provided. For example, charges for obtaining copies of paid cheques vary between banks and some will not charge at all for an occasional request. It is difficult for consumers to judge whether a charge is proportionate unless there is greater clarity by the banks.

Finally, under the misleadingly named "free banking" model, no mention is made of the interest earned by the bank on the credit balance held in a customer's current account and on the monies that stand to the credit of the bank during the period between presentation of a cheque and clearance. It should be made clear to the customer that the bank is keeping these monies, how much it amounted to over a particular period and whether and how this is offset against the cost of running the customer's account.

*Is this outcome being delivered now?*

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[18] http://www.publications.parliament.uk/pa/cm201011/cmselect/cmscotaf/memo/banking/bank04.htm

[19] *Fully Charged*, Citizens Advice Scotland report, June 2010: http://www.cas.org.uk/fullycharged.aspx

[20] Speech by Hector Sants, Chief Executive, FSA, 17 June 2010: http://www.fsa.gov.uk/pages/Library/Communication/Speeches/2010/0617_hs.shtml

While there may have been improvements in the information provided by banks, the Panel has yet to see the kind of full transparency and disclosure that we are calling for here.

*Is competition an issue?*

Competition is an issue in the sense that there are few alternatives to the "free banking" model. The growth in packaged accounts can only serve to blur the real cost of products still further. The lack of transparency about charges works against effective competition. A simple summary of all charges and any interest credit applied provided on each statement would help customers understand the true cost of banking. Without this information it is hard to see how customers can make a decision about the quality of service in relation to cost and therefore the value they receive. It also creates a barrier to new entrants who may be offering a different level of service.

*Is market or regulatory structure an issue?*

This is essentially a question of bank behaviour and culture, although the current regulatory split between the FSA and OFT did not help resolution of the unauthorised overdraft charges issue. The case for integrated financial regulation of banking conduct by the CPMA in future seems overwhelming.

*What changes might be necessary to achieve or improve this outcome?*

More openness by banks would help to achieve change in this area, along with greater transparency on specific charges and the way in which they have been calculated. As we have indicated, a comprehensive remit for the CPMA would go some way to creating the right environment to achieve this.

| Real choice of banking services, supported by easy account switching |
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*What do we mean?*

We have used the term real choice throughout this paper and in many ways it is self explanatory, or at least common sense. Customers need to be able to make informed choices from a number of options, which means a wider selection of products and services rather than essentially the same product sold a number of times under different brands. The chances of this coming about would be greatly enhanced if there were more players in the market – there are only five sizeable High Street banks in the UK at the moment, some of them owned by the UK taxpayer, and lack of competition in both Northern Ireland and Scotland in particular has had a direct and unacceptable impact on consumer choice.

It is difficult for consumers to "vote with their feet" when they are dissatisfied with the service provided by their bank when the process is, or at least is perceived to be, problematic and when there is no really different alternative. We have heard lack of account switching described as a result of consumer apathy. We do not think this is necessarily true. Rather it is often a recognition that another bank has nothing new to offer. Consumer Focus published research[21] on 9 October which showed that only 7% of customers moved their current account during the last two years, compared with 31% who switched energy supplier, 26% who switched telecom provider and 22% who switched home insurance., The reasons given for not switching included fear of costs arising when things go wrong. Given the low standing of banks amongst consumers and the adverse publicity surrounding excessive charges and mis-sold PPI, it is not surprising that consumers are pessimistic about banks getting it right.

*Is this outcome being delivered now?*

BACS have produced a helpful guide to switching[22] and have prefaced the guide with assurances about the ease with which this can be done. We wait to see if this encourages consumers to try, but even so **brand** switching in itself is not an indication of healthy competition – that is about real alternatives.

*Is competition an issue?*

Barriers to entry to the market for new participants, such as the prevalence of the so-called “free banking” model and dominance of a small number of sizeable banks with significant market shares, mean that there is little scope for the launch of genuinely innovative or simply just new products for consumers.

*Is market or regulatory structure an issue?*

Not as such, but as we have said a consumer champion in the form of the CPMA together with integrated regulation of the credit market as well as banking, insurance and mortgages, would all support the right environment for change within the market.

*What changes might be necessary to achieve or improve this outcome?*

While progress could be made on areas such as switching, real choice means more market participants offering genuinely different banking products and services and this can only happen over time. But changes of the kind being considered by the Commission and future regulatory change could help to encourage this.

Deposit guarantees through the Financial Services Compensation Scheme in relation to each banking brand, rather than each authorised firm

*What do we mean?*

Currently the guarantee provided for depositors through the Financial Services Compensation Scheme is directly linked to the authorised institution within the group providing the account, rather than to the account brand – it is

[21] “Stick or twist: an analysis of consumer behaviour in the personal account market” at consumerfocus.org.uk
[22] Available at www.thesmartwaytopay.co.uk

limited per authorised firm. For example, Smile, Britannia and Unity Trust Bank are all part of the Co-Operative Bank plc group and in order to ensure that all their deposits were covered in full by the FSCS, customers with accounts at more than one of these banks would have to know that this was the case, and ensure that the total monies held did not collectively exceed the current limit of £50,000 (expected to be raised to £85,000 as a consequence of the Deposit Guarantee Schemes Directive.)

It would be far more logical and sensible from a consumer perspective for the compensation limit to be applied per brand or per company within a group. That is how accounts are sold and the basis on which customers buy them. It would also make for clearer statements about the level of consumer protection in the event of a future bank failure. The resistance to this is largely due to the "moral hazard" introduced by encouraging proliferation of brands under a single authorised entity. The way to resolve this is to require all banking brands to be separately authorised, something those outside the industry would expect to be happening already.

*Is this outcome being delivered now?*

No, the Panel has lobbied for this change but has so far been unsuccessful.

*Is competition an issue?*

Yes, as the dominance of a few large groups within the sector and recent consolidation mean that the chances of a consumer depositing monies with two or more firms covered by the same authorisation is relatively high.

*Is market or regulatory structure an issue?*

Regulatory practice is an issue. If compensation limits are to be fixed per authorisation, the regulator would need to begin authorising brands or individual providers within a group.

*What changes might be necessary to achieve or improve this outcome?*

In addition to the regulatory change already described, there would have to be some recognition of the link between marketing brands and the basis on which services are bought. In other words, banks cannot have it both ways – if marketing a brand, the brand should be authorised.

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| Swift and fair treatment of complaints, together with the publication of contextualised complaints data per brand |

*What do we mean?*

Banks are the most complained about sector of financial services. In the financial year 2009/10 a total of 163,012[23] new cases were referred to Financial Ombudsman Service adjudicators and ombudsmen. Of these, banks were the subject of 61% of all complaints, the second most complained

[23] www.financial-ombudsman.org.uk

about sector being general insurance at 11%. Banks were the most complained about sector for banking and credit issues (83% of complaints); mortgages (64%); and payment protection insurance (70%). The number of complaints against banks upheld by the Financial Ombudsman Service was 52%. In addition we now have a further hiatus on banks addressing some PPI complaints following the Judicial Review application by the BBA and action by Lloyds Banking Group and others.

In April this year the FSA published its report into complaints handling by banks[24]. The main findings included poor standards of complaint handling within most of the banks assessed, resulting "mainly from weaknesses in banks' culture … polices and controls". This suggests fundamental issues relating to senior management within banks, rather than technical or IT problems and is therefore particularly worrying. This lends credence to suggestions that some banks are manipulating the reporting requirements to minimise the number of complaints recorded, or are not recording complaints at all. At any level it cannot be fair to consumers that banks are failing to deal effectively with complaints and it does nothing to build trust and confidence in banks amongst their customers and potential customers.

The Panel was fully supportive of the FSA's work to secure the co-operation of banks to publish complaints data, but this would mean a great deal more to consumers if it was broken down by brand and placed in context, such as market share. This was a missed opportunity by the banks to use the data publicly and constructively.

*Is this outcome being delivered now?*

The FSA's work in the area of complaints has been productive, so we are seeing greater transparency at least about complaints handling. It does appear that complaints handling has spurred at least one bank to engage more staff in complaints handling. But the banks as a sector have not yet addressed our key concerns.

*Is competition an issue?*

Not in this particular area.

*Is market or regulatory structure an issue?*

We would like to see the FSA (or the CPMA in future) to have the necessary powers to require firms to publish complaints data, by brand, on a regular basis.

*What changes might be necessary to achieve or improve this outcome?*

In addition to the change to regulatory powers outlined above, this is yet another area where we see the key to change as a shift in culture within banks.

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[24] Review of complaint handling in banking groups at www.fsa.gov.uk