



Competition in the (non-investment) banking sector in Ireland

Executive Summary

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Banks in Ireland do not compete aggressively for customers. As an example of how customer “lock-in” and failure to attract new banks can affect the bottom line, small businesses lost out on interest rate reductions worth approximately €255 million between January 2001 and January 2004. This situation will continue unless there is more competition.

The Competition Authority’s objective is to make financial institutions more responsive to the needs of Irish customers. This report identifies particular anti-competitive problems in the sectors examined. The recommendations provide a detailed roadmap for action which will mitigate these problems and make the banking industry more competitive.

This report focusses on three specific areas; personal current accounts, lending to small business and the crucial role of the payments clearing system. The Competition Authority has concentrated on these sectors for a number of reasons. Firstly, these areas are very important. Almost everyone has a current account, and small businesses are vital to the Irish economy. Secondly, in-depth analysis of these important sectors has produced recommendations that will have a wider impact in the banking industry and for consumers of banking services. Finally, concentrating on these areas allowed The Competition Authority to complete its report in a timely manner.

Since the commencement of the Study, numerous changes have taken place within the Irish banking sector. Some of these changes have anticipated The Competition Authority’s recommendations. During 2004, the Irish Bankers Federation (IBF), the Irish Payments Services Organisation (IPSO) and the Department of Finance all announced their intentions to remove some of the more troublesome restrictions on competition in banking. The Minister for Finance endorsed the ending of the double-taxation of stamp duty on

customers who switch banks. Entry barriers to the Payments Clearing System, which inhibit entry into the Irish banking market, have been reduced by the clearing organisations. The Irish Bankers Federation has promulgated a switching code that will facilitate bank rivalry and make switching banks easier for Irish consumers. Clearly there is still a great deal more to be done.

While The Competition Authority cannot force competition to happen (absent a breach in competition law, which was not found here), it has identified those areas where competition is not allowed to develop freely and unencumbered, and makes recommendations accordingly.

The Report on Competition in the (non-investment) banking sector in Ireland delivers a total of 25 recommendations, addressed to the Financial Regulator, the clearing companies, Government and the banks themselves. These recommendations will make a significant impact, and will have pro-competitive knock-on effects in other areas of banking.

PERSONAL CURRENT ACCOUNTS

Consumers with personal current accounts are effectively locked in to their existing service because it is so difficult to change banks. This problem arises from structural arrangements within the banking sector, the behaviour of the banks themselves, and unintended consequences of Government regulation. The result is that banks don’t compete for existing account holders but fight aggressively for customers who are opening accounts for the first time (for example college students).

The personal current account market in Ireland is highly concentrated (see Table 1 below), with two firms sharing well over 70% of the market between them. This is a preliminary indicator of a lack of competition.

TABLE 1: PERSONAL CURRENT ACCOUNTS (MARKET SHARES, 2003¹)

BANK	MARKET SHARE RANGE
Allied Irish Banks	35% - 50%
Bank of Ireland	30% - 40%
National Irish Bank	0% - 5%
permanent tsb	5% - 20%
Ulster Bank	5% - 10%

1 Figures in Table 1 are based on figures from LECG Consultants’ “Study of Competition in the Provision of Non-investment Banking Services in Ireland: Report and Recommendations”, pp.26-27. Appendix B of this report, hereinafter “LECG Report”.

Current accounts are a vital service to almost every household. The role of personal current accounts for bank customers includes bill payments, access to cash, savings, money transmission, and access to short-term credit in the form of overdrafts. The importance of personal current accounts for banks lies in their “gateway” role. Banks tend to use current accounts as a means of cross-selling other, more profitable, products such as loans. Consumers will be more likely to purchase a bank’s products and services if they already have a current account with that particular bank.

The Competition Authority’s recommendations focus on promoting competition by enabling consumers to switch between banks. This will be achieved by concentrating on three crucial areas;

- Making it easier to switch a current account to a different bank;
- Equipping consumers with full account histories;
- Equipping consumers with the information they need to make reasoned decisions about their current account provider.

Once barriers to switching have been tackled, rivalry between existing banks and entry by new banks will be encouraged and facilitated. Reforming the regulation of bank charges will further facilitate rivalry, entry and innovation in personal current accounts. However, this should not be implemented until other recommendations to promote switching and market entry have been implemented.

LOANS TO SMALL BUSINESS

Small businesses are not benefiting from competition, particularly in the vital area of working capital lending. Banks are not passing on interest rate decreases to their Small and Medium Enterprise (SME) lending customers. This problem is costing small businesses an estimated €85 million a year.

Problems in the areas of business current accounts and loan security must be addressed in order to promote competition for small business banking. Because it is difficult to move a current account from one bank to another, small businesses have fewer options when seeking banking services. Also, when a business loan is secured by a mortgage on a property it is unnecessarily complex to move the loan to another bank offering a better deal.

The Competition Authority has focussed on working capital loans because they are particularly suited to small businesses and are not readily substitutable with other forms of lending, such as term loans. Recommendations and reforms are designed to improve

competition in the SME lending market. Three areas have been identified as critical to achieving this goal;

- Making it easier for small businesses to move loans and current accounts to a different bank;
- Giving small businesses access to accurate, reliable and understandable information on alternative banking products;
- Facilitating the transfer of security to another bank in order to facilitate switching loans.

PAYMENT CLEARING SYSTEM

The Competition Authority is concerned that the structure of the payment clearing system has inhibited new banks offering services in Ireland. The payment clearing system performs a crucial role in the Irish banking system. Financial institutions who want to offer a broad range of banking services need access to the payment clearing system to process the transactions their customers conduct with customers of other banks.

Clearing company governance structures and application procedures can discourage new banks from joining the clearing system. In addition Ireland’s continued high reliance on paper transactions, such as cheques, means that new banks need to invest in expensive paper sorting technology which raises costs and reduces competitiveness.

Since the commencement of The Competition Authority’s study, IPSO has acted to remove some of the more egregious barriers to entry and restrictions on competition in clearing systems.² IPSO is engaged in further reforms of the organisational structure of the clearing companies. These initiatives are to be welcomed, and, in tandem with The Competition Authority’s recommendations, should lead to a more open and flexible payment clearing system. Recommendations focus on the following objectives;

- Facilitating new members joining the payment clearing system;
- Improving the corporate governance structure of the payment system;
- Increasing the transparency of the payment system;
- Promoting a more efficient payment system.

2 These are detailed in LECG’s Report at Section 4.11.

LIST OF RECOMMENDATIONS

Recommendation 1: Implement a switching code for personal current accounts

Details of recommendation	Action by
a. Implement a switching code for personal current accounts	Commenced January 2005
b. The Switching Code launched by the Irish Bankers Federation (IBF) should be reviewed by the IBF and the Financial Regulator to determine whether it can be improved upon. In particular, it should be updated with a view to increasing the speed of the switching process.	Financial Regulator January 2006
c. The IBF should make clear that participation in the Switching Code is open to all financial institutions, regardless of whether or not they are IBF members. ³	IBF October 2005
d. If the Financial Regulator is not satisfied that a voluntary code is sufficient to encourage switching, then it should implement a statutory code, monitored, implemented and sanctioned by itself.	Financial Regulator
e. The Financial Regulator should publicise its findings regarding the Switching Code's effectiveness. Its report should include the performance of individual banks in completing their functions under the Switching Code in an accurate and timely manner.	Financial Regulator February 2006

Recommendation 2: Develop a transferable direct debit

Details of recommendation	Action By
a. The Irish Payment Services Organisation (IPSO) should, within the framework of the Irish Bankers Federation (IBF) Switching Code, develop standardised direct debit mandate agreements that will allow a customer's direct debit instructions to be transferred to a new bank when switching account providers without the need for new agreements between originators and the customer.	IPSO December 2005
b. This scheme should be designed so as not to hinder the European Payments Council Pan-European Direct Debit (EPC PEDD) Payment Scheme for direct debits.	

Recommendation 3: End double taxation of plastic cards

Details of Recommendation	Action By
The Minister for Finance should ensure that stamp duty is not applied twice in the same year on plastic cards such as Laser and ATM cards.	Implemented December 2004

³ At a meeting in July 2005, the IBF confirmed that non-IBF members would be allowed to use its Switching Code, and that the IBF website would reflect this fact in the near future.

Recommendation 4: Assess the distortionary costs of the current level of stamp duty

Details of Recommendation	Action By
<p>a. The Minister for Finance should prepare an analysis of the costs of distorting competition (in terms of account closures and reduced account openings) imposed by the stamp duty levy on electronic cards, charge cards, and credit card accounts.</p> <p>b. If the distortions induced by stamp duty are large, the Minister for Finance should consider whether some or all of the revenues raised should be raised through other, less distortionary, means. The Department's analysis should be published.</p>	Minister for Finance April 2006

Recommendation 5: Standardise acceptable forms of identification

Details of Recommendation	Action By
<p>a. The Irish Bankers Federation (IBF) should compile a list of documents acceptable to all financial institutions for the purpose of establishing proof of identity and proof of address at the account opening stage.</p> <p>b. This compilation should also indicate how many different types of personal ID and proof of residence should be furnished.</p>	IBF December 2005

Recommendation 6: Remove price regulation once competition improves

Details of Recommendation	Action By
The Minister for Finance should bring forward legislation to end the economic regulation of the level of fees and charges, once all other recommendations to facilitate and improve market entry and switching have been successfully implemented and are working in practice.	Minister for Finance Following implementation of Recommendations 1, 2, 5, 7, 8 and 9

Recommendation 7: Provide free 12-month current account records

Details of recommendation	Action By
Customers should have free access to their own account records, held by their bank, for at least the previous 12 months. Where such records are not freely available electronically, each bank should provide up to one hard copy statement of records for the previous 12 months on at least an annual basis, free of charge, where requested by the customer.	Banks January 2006

Recommendation 8: Provide personal current account interest rate information

Details of Recommendation	Action By
a. As part of its consumer protection function, the Financial Regulator should require banks to provide interest rate and interest rate margin information for Personal Current Accounts (PCAs) to their actual and potential customers. This includes posting PCA interest rate information on bank websites.	Financial Regulator March 2006
b. Institutions should also be required to provide the PCA interest rate on each statement issued to a customer. The Financial Regulator should ensure that this information is made available in a simple and easily understandable format.	

Recommendation 9: Promote personal current account interest rate awareness

Details of Recommendation	Action By
The Financial Regulator should promote personal current account interest rate and interest rate margin awareness, for example by including interest earnings in its representative consumer profiles. The Financial Regulator should also provide in its comparison tables the prices charged by non-banks, if these entities provide money transmission services.	Financial Regulator March 2006

Recommendation 10: Implement a switching code for small businesses

Details of Recommendation	Action By
a. The Irish Bankers Federation (IBF) should expand its Switching Code to include Small and Medium Enterprise (SME) customers. The IBF should make clear that participation in the Switching Code is open to all financial institutions, regardless of whether they are IBF members. ⁴	IBF June 2006
b. If the Financial Regulator is not satisfied that a voluntary SME code is sufficient to encourage switching, then it should implement a statutory switching code for SMES, monitored, implemented and sanctioned by itself.	Financial Regulator
c. The Financial Regulator should make public its findings regarding the expanded Switching Code's effectiveness. Its report should include an assessment of the accuracy and timeliness of individual banks in completing their functions under the Switching Code.	Financial Regulator June 2007

Recommendation 11: Make it easy to compare business current accounts

Details of Recommendation	Action By
The Financial Regulator should prepare and publish business current account comparisons targeted to Small and Medium Enterprises (SMEs). These comparisons should consider both fees and interest rates.	Financial Regulator June 2006

⁴ At a meeting in July 2005, the IBF confirmed that non-IBF members would be allowed to use its Switching Code, and that the IBF website would reflect this fact in the near future.

Recommendation 12: Provide free 3-year account history

Details of Recommendation	Action By
Business customers should have free access to their own business loan, deposit or current account records, held by their bank, for at least 36 months. Where such records are not freely available electronically, each bank should provide up to one hard copy statement of records for the previous 36 months on at least an annual basis free of charge, where requested by the customer.	Banks January 2006

Recommendation 13: Develop a standard mortgage document

Details of Recommendation	Action By
a. The Irish Bankers Federation (IBF) should develop and promote the use of a standard form of mortgage document ⁵ and ancillary security documents in consultation with relevant parties. ⁶	IBF December 2006
b. Legislative changes required to permit implementation of this recommendation should be identified by the Department of Finance, and appropriate amendments introduced.	Minister for Finance June 2007
c. The implementation of this recommendation should be designed so as not to create a barrier to the development of a cross-border market in mortgages, as envisaged in the European Commission Green Paper on cross-border mortgages. ⁷	

Recommendation 14: Facilitate easier transfer of mortgages

Details of Recommendation	Action By
a. Following consultation with relevant parties, the Minister for Finance should bring forward legislation allowing the transfer of a mortgage to a new loan provider without any change in the mortgage's validity or priority over other mortgages. The Department of Finance should also prepare other legislative changes as necessary to facilitate the transfer of mortgage security among financial institutions.	Minister for Finance June 2007
b. The implementation of this recommendation should be designed so as not to create a barrier to the development of a cross-border market in mortgages as envisaged in the European Commission Green Paper on cross-border mortgages.	

⁵ The term "mortgage" specifically refers here to the document assigning ownership of a property to a lender in return for a loan, and not the lending, interest and repayment terms.

⁶ For example, the Law Society, the Land Registry, the Registrar of Deeds, the Department of Finance, the Financial Regulator and the Irish Mortgage Council.

⁷ "Mortgage Credit in the EU". Available online at http://europa.eu.int/comm/internal_market/finservices-retail/home-loans/index_en.htm#greenpaper.

Recommendation 15: Create a single Board of Directors for the Payment System

Details of Recommendation	Action By
The management and operation of all payment systems and payment schemes under the Irish Payment Services Organisation (IPSO) umbrella should be combined into one entity having a single unified Board of Directors. The foregoing should not prohibit the continuation of payment systems or schemes in their existing legal form. Committees under the new Board should be appointed to handle specific technical matters requiring specialised skills.	IPSO, IPCC, IRECC January 2006

Recommendation 16: Expand the membership of the Irish Payment Services Organisation

Details of Recommendation	Action By
The Board of Directors of the Irish Payment Services Organisation (IPSO) should be expanded to include other stakeholders, particularly volume users of money transmission services, such as utility companies, and consumer representatives.	IPSO January 2006

Recommendation 17: Publish decisions and actions of the payments industry

Details of Recommendation	Action By
A paper briefly detailing items discussed and actions taken at Irish Payment Services Organisation (IPSO) Board meetings should be published, for example, by posting on the IPSO website.	IPSO November 2005

Recommendation 18: Clarify status of An Post and credit unions in the payments industry

Details of Recommendation	Action By
a. The Board of Directors of the Irish Payment Services Organisation (IPSO) should clarify that credit unions and An Post are eligible for both ordinary and associate membership of the paper and retail electronic payment systems run by IPSO.	IPSO January 2006
b. The Articles of Association, Rules for Membership, Outline Guide to Membership, and any other relevant documents should be modified to reflect this fact. These changes should be subject to Central Bank and Financial Services Authority of Ireland (CBFSAI) approval.	IPSO CBFSAI February 2006

Recommendation 19: Make key non-confidential payments industry documents available

Details of Recommendation	Action By
The Irish Payment Services Organisation (IPSO) should publish (for example by posting on its website) the Articles of Association, Rules for Membership, Outline Guide to Membership, and Fair and Equitable Principles regarding impact costs for the clearing companies. Any other documents regarding membership criteria and procedures should similarly be made public.	IPSO October 2006

Recommendation 20: Analyse new technology for clearing electronic copies of cheques

Details of Recommendation	Action By
a. The Irish Payment Services Organisation (IPSO) should prepare a cost/benefit analysis of the various options for the use of truncation technology. The analysis should identify what legislation needs to be amended to allow for truncation technology. This analysis should be published, any commercially sensitive information having been redacted.	IPSO March 2006
b. A decision on the way forward with regard to truncation should be taken by the IPSO Board on the advice of the Committee which takes over the role of the Irish Paper Clearing Company (IPCC), giving consideration to the cost/benefit analysis. This decision should be made in consultation with the Central Bank and Financial Services Authority of Ireland (CBFSAI) and the Minister for Finance.	IPSO, CBFSAI, Minister for Finance May 2006
c. The decisions of the IPSO Board in this regard need not be unanimous but instead should be based upon the voting procedures set out in the IPSO Articles of Association.	

Recommendation 21: Implement legislation to recognise electronic copies of cheques

Details of Recommendation	Action By
The Minister for Finance should bring forward legislation expanding section 45(A) of the Bills of Exchange Act, 1882 (as amended by section 132 of the Central Bank Act, 1989) to allow for the electronic re-presentation of items unpaid upon first presentation.	Minister for Finance September 2006

Recommendation 22: Implement legislation to re-assign ownership of cheques

Details of Recommendation	Action By
<p>The Minister for Finance should bring forward legislation that:</p> <ul style="list-style-type: none"> a. Assigns ownership of an original paper cheque to the institution that first receives it into the banking system; b. Overrides the right of customers or the paying bank to demand the return of cheques; c. Allows the bank with ownership of the paper cheque to provide an image of the cheque instead of the paper original to anyone requiring it; and d. Gives the imaged cheque the same legal and evidential status as the original document. 	Minister for Finance September 2006

Recommendation 23: Update clearing rules to facilitate electronic copies of cheques

Details of Recommendation	Action By
The Irish Payment Services Organisation (IPSO) Board should update the clearing rules, procedures, and standards to reflect truncated items. In particular, standards and procedures for the creation, transfer, management and storage of imaged files should be developed.	IPSO March 2006

Recommendation 24: Investigate the establishment of an Automated Clearing House

Details of Recommendation	Action By
a. The Board of Directors of the Irish Payment Services Organisation (IPSO) should, with the oversight of the Central Bank and Financial Services Authority of Ireland (CBFSAI), prepare and publish Requests for Information (RFIs), and subsequently, if appropriate, Requests for Proposals (RFPs) for the provision of Automated Clearing House (ACH) functionality for Ireland.	IPSO CBFSAI February 2006
b. These RFIs and RFPs should include the possibility of handling truncated cheques and of interacting with a Pan-European ACH (PE-ACH). All analysis and decisions should be in the context of both the development of the Single European Payments Area (SEPA) and future moves towards a PE-ACH framework. Proposals should be in accordance with the ten Bank for International Settlements (BIS) <i>“Core Principles for Systemically Important Payment Systems”</i> . The RFIs should be issued by February 2006, and the RFPs by May 2006.	IPSO May 2006
c. The Board of Directors of IPSO should prepare a cost/benefit analysis of the various options for ACH functionality derived from the RFPs. Both private costs and benefits, such as the cost of the technology and reductions or increases in processing costs and public benefits, such as ease of entry and the impact on the safety and soundness of the clearing system, should be considered.	IPSO September 2006

Recommendation 25: Devise an action plan for implementing an Automated Clearing House

Details of Recommendation	Action By
<p>a. A decision on the way forward on the provision of ACH functionality in Ireland should be taken by the Board of the Irish Payment Services Organisation (IPSO), based upon the cost/benefit analysis mentioned in the previous recommendation, in consultation with the Central Bank and Financial Services Authority of Ireland (CBFSAI), the Department of Finance, and The Competition Authority.</p> <p>b. The decisions of the IPSO Board in this regard need not be unanimous but instead should be based upon the voting procedures set out in IPSO's Articles of Association.</p> <p>c. The Board's analysis should be published, any commercially sensitive information having been redacted. All analysis and decisions should be in the context of the development of the Single European Payments Area (SEPA) and future moves towards a PE-ACH framework, as well as in accordance with the ten Bank for International Settlements (BIS) <i>"Core Principles for Systemically Important Payment Systems"</i>.</p>	<p>IPSO, CBFSAI, Department of Finance, The Competition Authority December 2006</p>