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**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE****Cancels & replaces the same document of 23 May 2018****Working Party No. 3 on Co-operation and Enforcement****Roundtable on designing and testing effective consumer-facing remedies - Note by
Iceland****5 June 2018**

This document reproduces a written contribution from Iceland submitted for Item 4 at the 127th Meeting of the Working Party No 3 on Co-operation and Enforcement on 5 June 2018.

More documentation related to this discussion can be found at www.oecd.org/daf/competition/consumer-facing-remedies.htm

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Iceland

1. In his letter of 28. February 2018, the Chairman of the Competition Committee of the Directorate for Financial and Enterprise Affairs of the OECD announced a roundtable meeting on the topic of “*Designing and testing effective consumer-facing remedies*”.

2. While the UK Competition and Markets Authority (“CMA”) has offered to lead the organisation of this roundtable, all delegates have been encouraged to share any experiences they may have had with respect to consumer-facing remedies, whether in the course of market studies, or in case work. In order to enable the CMA to prepare a background paper that reflects the collective experience of delegates, they have been invited to identify to the secretariat any materials previously prepared by the authority in question that may be relevant to this subject (e.g. market studies, merger decisions, etc.).

3. The contribution of the Icelandic Competition Authority to the roundtable consists of the following review of recent measures taken by ICA to spur competition in the markets for banking services to private individuals and small and medium-sized companies.

1. The settlements with the three big Icelandic banks

4. In 2017 the Icelandic Competition Authority (“ICA”) completed three commitment decisions based on three separate, but largely identical settlements, with each of the three largest commercial banks in Iceland.¹ The combined market share of these three banks in the market for deposits, including checking accounts (debit card accounts) is around 98%. The combined market share of the savings banks operating in the market used to be around 25% but the largest savings banks collapsed in the wake of the financial crisis in 2008, leading to increased market power of the three big banks but they are of comparable size and they all offer a complete range of financial services, to private individuals, small and medium sized companies and larger corporate customers.²

5. The settlements in question brought an end to an investigation into certain terms of older mortgage loans of the three big banks, which had significant tying effect in the opinion of the ICA.³ The investigation had led to the issuance of a Statement of Objection to each of the banks. The case was based on the finding that the three big banks were collectively dominant in the market for retail banking services.

¹ See three separate press releases on ICA’s website: <http://en.samkeppni.is/published-content/news/nr/3062>, <http://en.samkeppni.is/published-content/news/nr/2948> and <http://en.samkeppni.is/published-content/news/nr/2949>.

² It should be noted here that due to the small size of the Icelandic economy, nearly all companies in Iceland would be categorized as small in a European context.

³ The settlements can be seen as a further step towards improved competitive conditions in the financial markets in Iceland, following the ICA’s decision no. 8/2015, dated 30 April 2015 (see press release here: <http://en.samkeppni.is/published-content/news/nr/2463>), which involved significant changes in connection with operations and arrangements in the payment market

6. The binding commitments set out in the settlements were designed to broadly reinforce competition in the market for banking services instead of focusing narrowly on the alleged violations dealt with in the Statement of Objection. The settlements also served as a contribution to a policy framework pertaining to the banking industry that the government had to shape in view of the extensive state ownership of the banks and in view of the growth of FinTech in banking services internationally.⁴

7. Formally, the main goals of the settlements are the following:

- Reduce costs charged to customers when they switch retail banks.
- Make it easier and more efficient for individuals and small companies to shop around for financial services and thus exert greater competitive discipline on those offering retail banking services.
- Counter conditions that may facilitate tacit collusion in the market for retail banking services.

2. Commitments of the Settlement:

8. As part of the settlement, the banks committed to adhere to the following conditions in their operations:

- Customers will not be charged prepayment fees for early redemptions made by debtors in the case of loans that carry variable interest rates when the borrower is an individual or a small enterprise. This applies to such outstanding loans at the time of signing (irrespective under which laws they were granted) as well as to future loans of this type.
- Caps on fees will apply in the case of charges for transferring tied private pension savings from the bank to other entities that offer private pension fund management. This commitment is intended to reduce the tying effects of such charges on the mobility of customers, thereby promoting more effective competition in this field. Swapping of mortgage debtors via property transactions will no longer be conditional upon the buyer moving all of his or her banking services to the respective bank. Banking services in this context refer to salary payment account together with, if applicable, other services.
- Switching banking services from one bank to another will be facilitated. To attain this goal, the selection, development and installation of systems and technical solutions will take account of this aim. Customer surveys will be used to identify the preferences of customers in this regard and the bank will respond accordingly. Customers will be notified of significant changes to interest rates and service fees before they take effect in order to enable customers to transfer their banking transactions elsewhere, should they choose to do so.
- Each bank will make sure that all information on general fees, rates and terms that is published on the bank's website is accessible through an open API (application programming interface) that third parties (individuals, enterprises or associations)

⁴ Two of the three big banks came under the ownership of the Icelandic state after the 2008 financial meltdown in Iceland.

can download and use to set up comparison websites that could reinforce consumer awareness of prices and consequently trigger more effective competition. The setting up of the API in this regard could also comprise certain business opportunities for companies considering entering the field of FinTech in Iceland.

- Certain contractual rights of each bank, according to the terms of older mortgage loans, that have significant tying effect in the opinion of the ICA, and which triggered the original investigation by the ICA, will not be enforced by the banks.

9. In the context of the aforementioned commitments, it should also be noted that proportional up-front fee charging used to be the standard practice by mortgage lenders, including the banks. When a draft bill for a new Mortgage Act was under construction, the ICA had recently started the negotiations that lead to the aforementioned settlements. The ICA decided to propose to the parliament that a prohibition clause be included in the new mortgage act to end this practice of proportional fee charging, cf. the ICA's letter of opinion to the Economic and Commerce Committee, dated 7. January 2016.⁵ The parliament agreed with this proposal. Thus, the Act on Consumer Mortgages (No. 118/2016) stipulates that it is illegal to charge up-front fees as a proportion of the mortgage amount.

⁵ Available only in Icelandic at: <http://www.althingi.is/altxt/erindi/145/145-620.pdf>.