

Mapping the boundary between consumer protection policy and competition policy:
when does consumer protection become anti-competitive?

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Focus on consumers in financial services

- What do consumers need to be protected from and why?
- What role do competition / consumer protection / regulatory tools have to play?
- What broader questions are relevant to use of these various tools and design of interventions?
 - the role of individual responsibility
 - corporate responsibility
 - individual within corporate responsibility
- Impact of interventions / decisions on dynamics of all of this



What do consumers need to be protected from?

- Exploitation
 - Mis-selling
 - Fraud
 - Unfair terms
- Behavioural economics helps to provide a much richer canvas
 - Own persistent biases leading to sub-optimal decisions and inertia
 - Far more complex and *not necessarily* easy to predict
 - To what extent can *exploitation* be assumed?
 - To what extent are sanctions appropriate?
- Vulnerability

Market study and policy work of the FCA

- Some areas of focus
 - Technology driven market changes
 - Pensions / retirement income products
 - Culture
- Market studies
 - General Insurance Add-Ons
 - Cash savings
 - Retirement income
 - Payday lending
 - Credit cards
 - Retail banking
 - Investment and corporate banking

Defining potential solutions: some examples

- Combination of consumer “protection” and the “nudge” to enhance consumer engagement
 - Motor insurance guaranteed asset protection (GAP)
 - Ban on opt-out selling of add-on financial products plus provision of more appropriate and timely information to allow informed choice
 - Cash savings
 - Retirement income: helping to frame the ‘right’ choices for customers
- Improving ways to highlight different features of consumer choice / value, e.g. in GAP, retail banking



When does intervention to “protect” become anti-competitive? (1)

Supply Side

- Expectations as to degree of sophistication
- When is conduct sufficiently ‘deliberate’ to amount to unfairness / exploitation?
- When is it appropriate to intervene for omissions?
- Impact on innovation and risk-taking: recognising complexity of consumer needs

When does intervention to “protect” become anti-competitive? (2)

Demand Side

- What personal responsibility should consumers have?
- How should regulators best intervene to raise that bar too?
- How to avoid simply creating the ‘new normal’ and actually lessening incentives to engage?
- How to measure quality and value?
- All in a way that reflects diversity of needs and requirements

Framing the debate

- Need for careful forms of expression
- Embrace complexity
- Clear articulation of what is expected of firms *and consumers*
- Context and history is important but how far should it govern future intervention, particularly in a rapidly changing market?
- Balancing short-term and long-term considerations also highly complex
- Maintain close interaction of competition and consumer objectives
- Experimentation and reflection is valuable and vital



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