

CMA Retail energy and banking
inquiries: *do we have a well
functioning competition authority?*

Steve Smith

RPI 25th Anniversary Conference

12 September 2016

Disclaimer

LLOYDS
BANKING
GROUP



Regulatory Policy Institute

rpi



CMA School Report

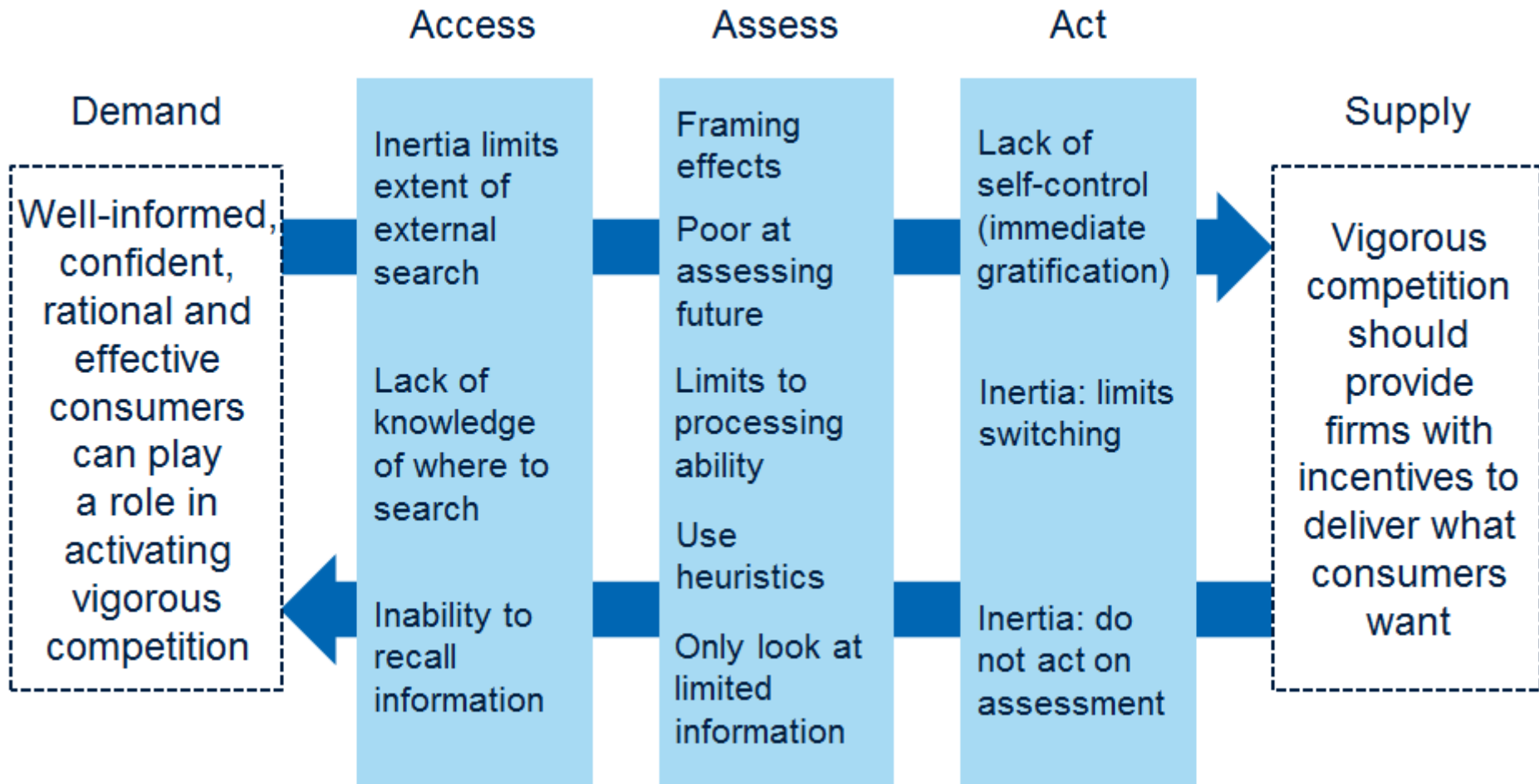
	Energy	Banking
Analysis	C-	C+
Economics	D-	B-
Remedies	D-	A-
Process	D-	D-
Overall	D-	B-

“While the CMA cannot be faulted for effort there is clearly significant room for improvement across all subject areas. In Energy the CMA's grades were dragged down by its very poor performance in retail.

The CMA needs to focus on making its work more legible, improving its understanding of customers and the economics of retail markets.

The CMA is to be commended for helping put a stop to the appalling behaviour of fellow classmate Ofgem in retail lessons.”

CMA Analytical Framework



CMA Analytical Framework II



CMA Economics

- 1. Profitability:** inconsistently approached eg banking vs energy
- 2. Pricing:** banking took positive first steps on real customer data. Energy covered by Stephen
- 3. Gains from switching:** Implausible and overstated

Energy: Average gain from switching **£300 p.a** implies industry revenue loss of **c£6bn** vs SLEF EBIT of **£1.6bn** 14

Banking: Average gain from switching of **£116 p.a.** implies aggregate revenue loss of **£8.1bn** against total industry revenues of **£8.7bn....**

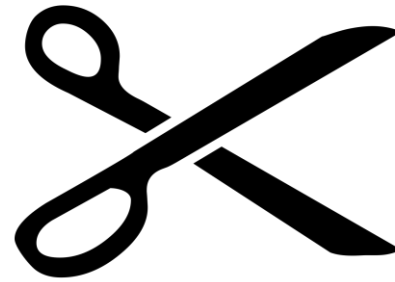
CMA Remedies

Despite broadly similar diagnosis of problems and many common themes the inquiries reached radically different remedies packages ...

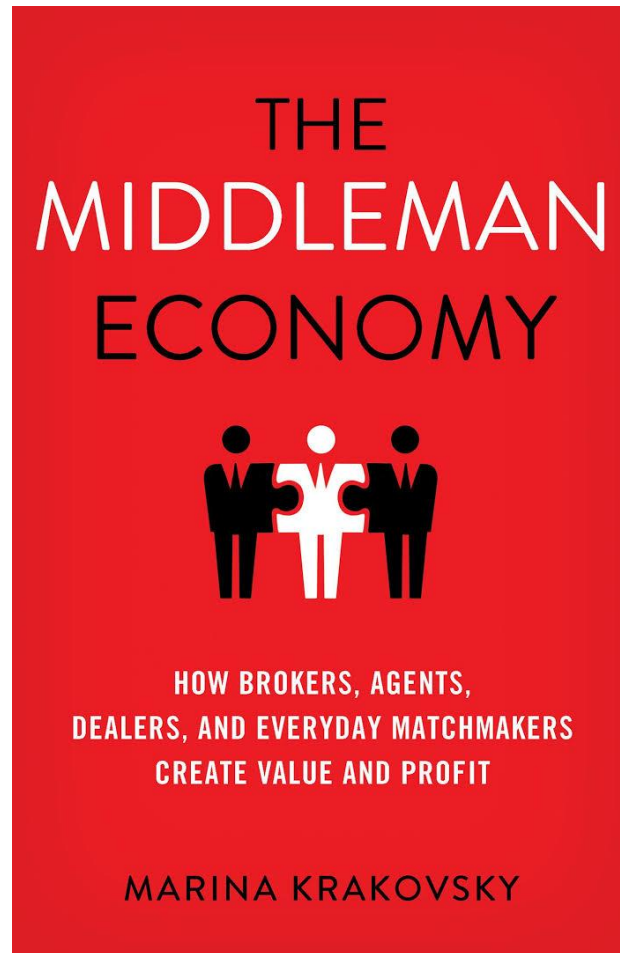
	Energy	Banking
Price control	✓	✗
Customer database	✓	✗
Open data/APIs	✗	✓
Prize funds (NESTA)	✗	✓
Remedy Trialling	✗ ¹	✓

¹ CMA mandated that all future Ofgem retail interventions be subject to RCT but did not apply this to its own remedies

CMA Process



Solutions: Analytical framework



Solutions: Analytical framework



Solutions: Economics

1. **Profitability:** abandon or set very high bar
2. **Pricing:** baseline of observed pricing/dispersion across many markets
3. **Big data:** large customer cohorts of transactional data and no profiles
4. **Switching:** respect customer preferences, don't overstate and oversell. Most zero sum but distributional matters and is worthwhile

Solutions: Remedies

1. **"Physician heal thyself"** – RCT for all proposed engagement remedies
2. **Open data/APIs** as first port of call
3. **RCT during inquiry** as diagnosis tool as well as testing remedies
4. **More use of innovation prizes "NESTA"** to solve defined but difficult problems

Solutions: Process

1. Remove **straightjacket** of **18 months**
2. Ask for correct data, don't be afraid to go back if you got it wrong
3. Open data room to ***companies and third parties***
4. ***Radically reduce excision*** and challenge on confidentiality – **reverse burden of proof**
5. ***Full merits appeal*** to wider constituency of interested parties

Conclusions

1. **Creation of CMA** appears to have made matters *worse not better*
2. Fixing problem needs to focus on *process* and *substance*
3. **New framework** for assessing **retail markets** needed; need to look beyond “problem markets” for more realistic benchmark
4. *Clearer, more open process*: fewer excisions, full access to data room
5. Full merit appeal rights for *companies and interested parties*
6. BIS should **abandon most** of their proposed changes