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

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Competition Division
Financial Conduct Authority
12 Endeavour Square
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By email: dp22-05@fca.org.uk

Dear Sir / Madam,

Financial Services Consumer Panel response to DP22/5: The potential competition impacts of Big Tech entry and expansion in retail financial services

In this letter we set out our response to the issues raised in DP22/5. We have not answered the questions posed in the consultation as we feel they are more aligned to industry respondents. Instead, we focus on how Big Tech's entry and expansion into retail financial services is likely to affect competition and markets, and how this will ultimately impact end users, creating new risks and harms for consumers. Our comments are divided into the following sections:

1. Focus on how market changes will affect consumer outcomes
2. Regulatory gaps could lead to embedded anti-competitive practice
3. Potential for significant disruption to markets, impacting consumer choice and protection
4. Unethical use of data
5. Financial exclusion and barriers to access

1. Focus on how market changes will affect consumer outcomes

DP22/5 focuses on how the entry and expansion of Big Tech into retail financial services may affect competition and markets. However, users of financial services are ultimately the ones affected by change and the FCA should keep in mind how these changes are likely to impact consumers and outcomes experienced. We would encourage regulators to start by thinking about the potential harms to end users, then work backwards from there to ensure the greatest risks are mitigated. This focus on outcomes for consumers would also align with the requirements of firms under the Consumer Duty where there is a clear obligation on firms to deliver *good outcomes* for retail consumers. Big Tech firms would become subject to the Duty once they entered retail financial services and it is important the FCA understand these firms' readiness to meet their obligations in this respect. Focussing the discussion on consumer outcomes will help the FCA to do this.

The Consumer Duty also requires firms to deliver fair value to consumers. As the FCA notes in its Policy Statement on the Duty, value is about more than price. Consumers also need good service, adequate support, signposting to help where they need it and protecting from harm. Big Tech firms do not have a strong track record of providing this level of service to consumers. They have recently come under scrutiny for anti-competitive practices and abuse of dominant market positions that are harmful to consumers, e.g investigations by the Competition and Markets Authority (CMA) and the European Commission, plus a series of legal challenges for the same. This has eroded confidence and trust in Big Tech and raised questions about whether they have consumers' best interests at heart.

With this in mind, in our view it would be better to discuss the potential benefits and harms to consumers separately to those faced by markets and businesses. The impacts and risks for these two groups, although related, will be different and only by dealing with them separately can the risks to consumers be effectively understood and mitigated.

2. Regulatory gaps could lead to embedded anti-competitive practices

At present, there is regulatory uncertainty caused by the review of onshored EU legislation and the lack of cohesive, harmonised and effective regulation in UK digital markets. We are concerned that Big Tech firms may take advantage of this opportunity to enter the UK financial services market at this point in time to get a step ahead of regulation and to set their own agenda. There is a risk that anti-competitive practices, and resulting harms to consumers, could go unchecked in the early stages. Once poor practices are embedded in digital markets they tend to operate 'behind the scenes' making identification, monitoring and enforcement difficult. We are concerned that Big Tech firms could gain significant control before regulatory reform is complete and consistent.

3. Potential for significant disruption to markets, impacting consumer choice and protection

We are concerned that Big Tech firms have the ability to cause significant disruption in retail financial services markets, which in turn creates risk of harm for consumers. Big Tech firms have large existing customers bases, extensive financial resources and ready-made infrastructure which could allow them to expand very rapidly in the financial services market. This could result in:

- The sale of unsuitable products and services at a pace which makes it difficult for the regulator to intervene before harm occurs.
- Sudden concentration in particular markets and/or displacement of customer bases that lead to the failure or withdrawal of incumbent firms, leading to financial loss and/or service disruption for consumers of these firms.
- Increase in financial and digital exclusion as certain groups of consumers, especially vulnerable consumers, would be unable to engage with the likely digital-based products and services offered by Big Tech.
- Increased prices and restricted choice for consumers. Big Tech firms have the financial resources and capability to offer services at a lower cost to win new customers, but could then could put prices up once they have monopolised the market and use sludge practices that make consumers less likely to switch. This could quite quickly put smaller firms out of business.

We are also concerned that once Big Tech firms are established in UK retail financial services markets, they will quickly expand into a number of sectors which gives rise to risks for consumers. There is potential for Big Tech firms to:

- Start out by offering a platform for third party providers e.g. insurance price comparison but then pivot to offer their own financial services and products which will compete with those – this creates risk of self-preferencing, which can be an abuse of dominant and powerful position.
- Expand very quickly the variety of products/services offered – e.g. offer credit, mortgages, pensions etc. that have higher costs and/or carry greater financial risks for consumers.

Overall, we are concerned that Big Tech firms have the resources (financial and non-financial) and the incentive to enter and expand into financial services in a way that regulators won't be able to keep up with or control. There is therefore the potential for significant harm to consumers to go largely unchecked in the initial years.

4. Unethical use of data

The Panel is concerned about the vast quantity and scope of personal data that Big Tech firms already hold about their customers – not just about their financial situations, but also about health, retail spending, advertising preferences, personal lives and characteristics - and how this may be used to inform business practices and influence decisions about financial products. This quantity and scope of data could give Big Tech firms a competitive edge over existing firms, allowing them to abuse their dominant positions in the market and to target large groups of consumers. The potential risks in this area include:

- Exploiting consumers - use of data science to understand and exploit consumer behaviour. Firms may steer consumers towards products that benefit the Big Tech firm and/or are not in the consumers' best interests and do not lead to positive outcomes.
- Marketing and advertising – huge existing customer base could give Big Tech firms use of personal data to target advertising at specific groups of consumers, particularly those who may be vulnerable[1].

5. Financial exclusion and barriers to access

We note DP22/5 discusses how Big Tech could improve inclusion by increasing access for those who are currently digitally excluded. We do not agree. Big Tech firms are by their nature digital entities and so their entry and expansion into financial services is likely to be online-only. This prevents digitally-excluded consumers, many of whom will be vulnerable, from accessing Big Tech firms' products and services. This would be particularly problematic if the entry of Big Tech firms forced incumbent firms offering analogue services (likely at a higher cost) out of the market.

Further, choice architecture used online – which Big Tech firms would be highly capable of designing given the information they have about consumer trends and behaviour - can deliberately reduce 'friction' for consumers. DP22/5 discusses this as a benefit for consumers, however, it is important to note it is also a risk. Reduced friction makes it very easy for consumers to make quick decisions and purchases. This is a barrier to informed decision making and can create harm for consumers if they take on products and services that are not right for them or they do not understand. Vulnerable consumers are most at risk of this.

Conclusion

Developed and managed in the right way, Big Tech could be a force for good in financial service markets. However, strong regulation is key to achieving this. Big Tech firms do not have a proven track record in protecting consumers and do not have experience of being regulated in the same way incumbent financial services firms do.

As the FCA sets out in its paper, Big Tech firms have recently come under scrutiny for anti-competitive practices and abuse of dominant market positions that are harmful to consumers, e.g investigations by the CMA and the European Commission, plus a series

[1] The Panel has conducted research showing the potential harms of targeted digital marketing – see here.

of legal challenges for the same. This has eroded confidence and trust in Big Tech and raised questions about whether they have consumers' best interests at heart.

Given the above concerns, we believe it is vital that the FCA fully understands the potential risks to markets AND resulting impacts on consumers, both in the short and long term, and adopts an extremely cautious approach to Big Tech entry into financial services. This means ensuring adequate controls are in place to manage the rate and scope of expansion and taking proactive steps to mitigate identified risks to consumers. It also means continued proactive collaboration with the Digital Regulation Cooperation Forum and its constituent members to ensure a consistent and joined up approach to consumer protection.

Yours sincerely,

Helen Charlton
Chair, Financial Services Consumer Panel