



Competition Division  
FCA  
12 Endeavour Square  
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By email

2 February 2024

Dear Sir/Madam,

**Call for input: Potential competition impacts from the data asymmetry between Big Tech and firms in financial services**

The Panel welcomes work to explore in more detail examples and evidence of where Big Tech firms are able to combine their core digital activities with data sources available through sharing initiatives to gain competitive advantage. Data asymmetry has the potential to have significant impact on competition in financial services, and there is a pressing need both to address existing disparities and to consider how to approach the emergence of future imbalances. This is a delicate balance, recognising also the importance of maintaining an environment where innovation and growth can flourish and realising the potential benefits Big Tech offers to consumers.

Consistent access to information across competitors is essential for fairness in the market. The ability of Big Tech to access private and public retail data and combine it with AI and advanced analytics may create the conditions for market dominance. A key example is Amazon, whose position as a global online retailer gives them access to millions of transactions which can be used to offer targeted financial services products based on an individual's lifestyle. These could include loans to pay for specific items or specialist insurance products catering for a hobby. While financial services firms have access to their own individual transactions, Amazon's view extends across all financial service relationships.

In banking and payments, Big Tech has already gained competitive advantage by accessing data available through Open Banking and Credit Reference Agencies, without having to reciprocate any similar data from its customers' interactions. Many Big Tech firms are also utilising AI / advanced analytics to create datasets which enable them to launch specialist, universal products and services, some of which are only available exclusively on proprietary devices, e.g., Apple Pay, and then extend those services once customers are using them (e.g., Apple Pay in the U.S. now offers savings products). There is also the potential for Big Tech involvement to accelerate disruption in the deposits market e.g. Apple expect their Connected Cards digital wallet to account for over half the UK open banking ecosystem by the end of the year.

There are multiple imbalances in this arrangement. UK banks funded the creation of open banking and are subject to strict performance criteria. As volumes increase, banks must invest to maintain those performance criteria. Big Tech is able to access all of this at no cost. Open banking was originally incepted to improve competition, yet Big Tech's prevalence runs the risk of supplanting the UK FinTech market that open banking helped support.

Those same banks also have deep obligations to demonstrate that they use all information available to deliver good outcomes for customers, which they could do even better if there were

reciprocal data sharing arrangements. While we have no doubt that Big Tech often does deliver good experiences and outcomes for their customers, they are under no obligation to do so, let alone demonstrate that, while Big Tech obtains these data privileges for free and have no obligations on how it is used.

We see similar asymmetries related to fraud and scams. Pending changes will require banks to refund scams to all customers unless they can prove 'gross negligence' by the customer, notwithstanding the fact that the vast majority of scams originate on platforms owned by Big Tech (e.g. TSB's fraud team recently identified more than a third of ads on Facebook Marketplace to be scams). While reimbursement is important, it is in everyone's interest that these crimes are prevented. Big Tech holds significant data that could be useful to verify identity and aid in the detection and prevention of fraud, yet they do not share it. An individual's social media and online purchase information is a rich source of information that could be used in conjunction with emerging AI technology to build a model of normal behaviour and detect any anomalous patterns. Not holding Big Tech to account and enabling fraud to grow is at odds with financial services responsibilities under the Consumer Duty to prevent harm and deliver good outcomes.

While the consumer considerations of this asymmetry are prominent, in our view, the scope of this work must include wholesale markets. There is need for extreme care about how confidential and inside information is held and used in the wholesale market. Access to privileged retail information, such as purchase and sales data, can influence price discovery. In our view, there may be a key role for the regulator in making a judgement about when information becomes privileged and there is potential for parties to make use of it to the detriment of consumers or competitors, and potentially vetting access to this data.

Technology and investment are also significant factors affecting the position of Big Tech within the market, with significant implications for financial services. For example, within the cloud computing sector, Amazon Web Services (AWS) is currently the only service able to distribute thousands of messages at once, with a first party offering for multicast technology in the cloud, presenting real risk to competition (given this is an advantaged capability that most participants will want to access). It also adds systemic risk to market infrastructure when many participants rely on this service should this provider fail. Major competitors are working on equivalent functionality to AWS multicast technology but at present are not able to natively offer these as 1<sup>st</sup> party offerings on their respective cloud platforms.

There is risk that these competitive advantages will only compound given they create a financial advantage which allows the relevant firms to invest in new technology at a scale that can't be replicated by others (e.g., only a small number of companies in the UK or Europe have the necessary resource to invest in quantum computing, and the level of investment falls far behind that of other countries such as China). The final and in force text for the EU's Digital Operational Resilience Act has multiple references to concentration risk and Article 29 is specifically geared towards awareness of this and the assessment of it by financial entities in relation to ICT services supporting critical or important functions. Similar focus would be helpful in the UK.

The FCA should consider carefully possible ways in which to mitigate these risks, e.g.:

- Perimeter – e.g., changing the scope of what is regulated as "financial services" rather than addressing the data asymmetry directly?
- Data portability – e.g., ensuring that principles underlying open banking (i.e., consumers are in control of their own information) are extended to ensure appropriately reciprocal arrangements between Big Tech and financial services?
- Partnerships – e.g., requiring Big Tech to demonstrate appropriate data access through arm's length commercial arrangements (with oversight to ensure those are fair)?
- 'Fair use' restrictions – e.g., limiting how and for what purposes certain types of data can be used by Big Tech to enhance customer experiences, products and services?

- New business models – e.g., enabling a different form of “Credit Reference Agency” (which were created to solve precisely this issue between financial services players by enabling a competitive market to provide services to both consumers and financial services market participants through prescribed obligations on processors of that data)?

There is a need for the UK to approach these challenges in a holistic way, and work with third parties as a whole to identify and solve systemic risks that could create problems for competition, markets and consumers. It is also vital there is continued coordination with other domestic regulators (e.g. the CMA) to address competition challenges in digital and financial services markets, and a degree of alignment with other jurisdictions given the global nature of Big Tech firms. This is particularly relevant where Big Tech companies are also providing critical services to a wide range of global financial firms, as divergence could lead to increased complexity, cost and risk.

We would be happy to discuss these points further if required.

Yours faithfully,

[signed]

Matt Hammerstein  
Chair, FCA Practitioner Panel