



# Financial Services (Banking Reform) Act 2013

## 2013 CHAPTER 33

### PART 5

#### REGULATION OF PAYMENT SYSTEMS

##### *Enforcement and appeals*

#### **79 Appeals to Competition and Markets Authority**

- (1) This section applies where a person is appealing to the Competition and Markets Authority (“the CMA”) against a CMA-appealable decision.
- (2) In determining the appeal the CMA must have regard, to the same extent as is required of the Payment Systems Regulator, to the matters to which the Payment Systems Regulator must have regard in discharging its functions under this Part.
- (3) In determining the appeal the CMA—
  - (a) may have regard to any matter to which the Payment Systems Regulator was not able to have regard in relation to the decision, but
  - (b) must not, in the exercise of that power, have regard to any matter to which the Payment Systems Regulator would not have been entitled to have regard in reaching its decision had it had the opportunity of doing so.
- (4) The CMA must either—
  - (a) dismiss the appeal, or
  - (b) quash the whole or part of the decision to which the appeal relates.
- (5) The CMA may act as mentioned in subsection (4)(b) only to the extent that it is satisfied that the decision was wrong on one or more of the following grounds—
  - (a) that the Payment Systems Regulator failed properly to have regard to any matter mentioned in subsection (2);

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*Status: This is the original version (as it was originally enacted).*

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- (b) that the Payment Systems Regulator failed to give the appropriate weight to any matter mentioned in subsection (2);
  - (c) that the decision was based, wholly or partly, on an error of fact;
  - (d) that the decision was wrong in law.
- (6) If the CMA quashes the whole or part of a decision, it may either—
- (a) refer the matter back to the Payment Systems Regulator with a direction to reconsider and make a new decision in accordance with its ruling, or
  - (b) substitute its own decision for that of the Payment Systems Regulator.
- (7) The CMA may not direct the Payment Systems Regulator to take any action which it would not otherwise have the power to take in relation to the decision.
- (8) Schedule 5 contains further provision about the making of appeals in accordance with this section.