

# Response to Amended CMA Payday Lending Market Investigation



4<sup>th</sup> August 2014

money.co.uk has already submitted a response to the Notice of Possible Remedies previously published. However, we would like to submit a further response to the amended version, specifically to Remedy 5.

## Response to Remedy 5

a) Is existing regulation sufficient to ensure that clear information is provided to customers on the relationship between brokers and lenders?

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We do not believe that existing regulation is sufficient to ensure that clear information is provided to customers in this regard. However, it is important to distinguish between the different types of credit broker when considering possible remedies.

b) Are there any additional compliance activities that the FCA should undertake?

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We believe that the FCA should ensure that regulated payday brokers only pass leads onto payday lenders and brokers which are themselves regulated, they should also be prohibited from applying any upfront application fees payable before the loan is granted.

The FCA should request transparency about the lending panels used by credit brokers and the order in which leads are passed on.

The FCA should also ensure that the details of applicants are not passed to other companies without the express permission of the applicant. Furthermore details should not be sold to, or shared with unregulated loan companies.

c) How should any such remedy be implemented?

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The above remedies could be introduced as part of the payday loan reporting requirements which take effect from October. 'Mystery shopping' spot checks would also be prudent.

d) Which class of credit broker or other intermediary should any additional requirements apply to?

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Following the FCA's reclassification of credit intermediaries as credit brokers there are now three distinct types of business which fall under this regulatory umbrella. These both operate and impact consumers looking for payday loans in very different ways. It's vital that these are considered separately and regulation developed separately for each type of credit brokering business otherwise consumers will be adversely impacted.

We believe that lead generators and brokers by the below definitions should be subject to the above requirements:

The three types of payday loan business with regards to payday loans are:

- 1) **Comparison websites:** These provide information about payday loan lenders and brokers for comparison purposes but do not play an active role in the application process or recommend specific lenders or brokers – they provide information only. Instead they direct users to the websites of direct lenders and brokers for more information and to apply should they wish. We consider that money.co.uk falls into this category.
- 2) **Ping trees:** These are lead generator portals through which users complete an application for a payday loan (it's worth noting that these are frequently mistaken as direct lenders before application). The payday loan application is then 'pinged' to lenders and brokers on the ping tree panel until one accepts the application. The order in which leads are passed to lenders and brokers is often commercially led rather than based on the cost of the loan
- 3) **Brokers:** These are credit brokers in the more direct sense in that they manage the application for the user, finding a payday lender for them often for an upfront fee. As with ping trees, the user may not be passed to the cheapest lender, they will often be directed to the first and most profitable lender that will accept the application.

It is ping trees and brokers we consider further regulation would be beneficial for because they are:

- more easily and frequently confused with direct lenders
- directly involved in loan applications
- not transparent about their lending panel or the way in which leads are allocated
- often unclear about cost before application and fees charged
- often unclear that they are brokers/lead generators rather than lenders

e) Should lead generators, affiliates and brokers be required to make a declaration as to the service they provide to customers and the relationship they have with lenders?

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We believe that both the type of credit brokering activity and the relationship with lenders should be made clear.

On money.co.uk we are already clear in this regard.

However, we are concerned that a declaration in itself will be useless if the applicant is not directed to the cheapest lender by default

f) What content should the declaration include?

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We agree with the CMA's suggestions about the type of information which should be included.

g) How should any declaration be enforced?

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Implementing both of the CMA's suggests would make sense as both are complimentary.

It will be important for the FCA to actively monitor that any such measure is being implemented by all companies it regulates.

h) How should the declaration be presented

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The declaration should be present both on the landing page and during application when details are entered.

i) Should lenders be prohibited from selling or providing customer details to third parties?

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As outlined above we believe that customer details should not be shared with third parties without the express consent of the applicant and, if details are to be shared it should only be with relevant, regulated lenders which do not charge an upfront application fee.

The level information which lenders and brokers are permitted to share should also be clearly defined; specifically bank details should not be shared.

j) Is there any risk that the business model of lead generators could be amended to avoid supervision by the FCA if any proposed remedy was implemented?

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Any such regulation would need to be written in a way that ensured this was not possible.

k) What are the likely costs of this measure and how do they vary with the design of the remedy?

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We are not able to offer insight in this regard.