

Response from Uncle Buck Payday Loans LLP to the Competition and Markets Authority Payday Lending investigation - Provisional Findings and Proposed Remedies

Uncle Buck Payday Loans LLP (“Uncle Buck”) welcomes the opportunity to comment on the Provisional Findings and Proposed Remedies put forward by the Competition and Markets Authority (CMA) in June 2014. Uncle Buck is one of the longest established short term lenders in the UK, operating wholly in the UK.

Uncle Buck agrees with some of the Provisional Findings, in particular the barriers to entry and expansion caused by reputational issues and the resulting impediments to securing sustainable facilities and funding. We would hope that the CMA’s thorough and detailed investigation will expose some of the myths surrounding the short term lending sector and enable these barriers to be much reduced, if not removed.

We also agree that APR is not a useful measure for comparison in the short term market as very small changes in price or term can give rise to significant movement in APRs due to the mathematical formula used.

We have not yet seen evidence in the material published by the CMA about defining “best value” and would comment that this may not necessarily be based on a pricing decision. In this context, we note that the document required to be presented to customers in advance of their agreement (the Adequate Explanations and the SECCI) are required by law to set out certain features of the loan, including costs arising from default and other charges imposed. Consumers are encouraged to “read and consider” this information before deciding whether a short term loan is right for them at this time.

We are pleased that the CMA has acknowledged that there is a place for short term lending within the wider consumer credit market.

Proposed Remedies

Uncle Buck comments on the proposed remedies below.

Price Comparison Website

We believe that consumers should be able to access, and have a choice of credit that meets their needs at the time. Therefore, any measure which helps to promote transparency and competition and provides consumers with information that enables them to make appropriate decisions would be helpful.

However, we believe there may be a number of challenges to implementing a price comparison website so that it operates effectively. A key challenge will be to ensure that the website is not “blocked” or impeded in its promotion or awareness by the actions of search engines. This could be ameliorated by a requirement for lenders to display the website address on some of their materials to raise awareness.

Other key issues include:

- Making the website easy for consumers to navigate and use, returning clear information

- Ensuring the website conforms to legal requirements and the FCA's financial promotions rules
- Ensuring that only lenders with Interim Permission or Full Authorisation participate, and, as with the website www.lenderscompared.org.uk, prohibiting lenders from making loans if they should display material but are not doing so
- Having the flexibility to show different sorts of products in a meaningful way

Whilst customer reviews may be useful, in our view it would be difficult to police submission of reviews by genuine customers only.

We believe the website needs sufficient functionality to allow consumers to search on any or all of those factors which they might consider in assessing loan providers, and we concur with the suggestions put forward by the CMA. It should be clear what the total cost per £100 is (including for instalment loans), and the total amount to be repaid. The order of ranking should be flexible to enable full and complete comparisons of the products available.

We do not believe that presenting scenarios in the case of late payment would be particularly helpful as this may stifle innovation and, in any case, the FCA's price cap consultation may influence late payment fees. Any fee or charge for missing a payment, paying late or other default scenario should be made clear, including whether additional interest is payable. As the CMA found in its pricing analysis, some loans appear cheaper than others over shorter terms whilst this position is reversed over longer period short term loans. It may be misleading to show scenarios as the permutations would significantly increase complexity, for example a 14 day loan paid 14 days late may be more expensive than a 28 day loan paid on time, and the scenarios would need to reflect this.

Ideally we believe that the website should include a number of different products, including credit cards, overdrafts and other consumer credit offerings. This is because a consumer should be able to compare against all products to find the "best value" for their needs at that time. However, there would be practical issues associated with this, not least finding an independent operator and agreeing funding of the website development. We suggest it may be practical to explore whether the website set up after the Home Credit market investigation, www.lenderscompared.org.uk, could be expanded to include short term products. This would have the advantage of not requiring credit unions to have to input and maintain data on two separate sites. We believe that it could alternatively be useful to operate a site commercially; however there may be practical issues with this if all lenders are required to participate. It may be worth exploring the idea that lenders should participate in a minimum number (say two or three) of existing commercial price comparison websites, although on balance we believe that an independently run and maintained site would provide consumers with assurance that there was no provider or product bias. We believe there is a difference between participating in such a site for marketing and promotional reasons and participating for information and comparison reasons.

We do not believe it would be appropriate for a consumer group, advice service or trade association to host the site and it should be restricted to direct lenders only - lead generators, brokers and introducers should be excluded.

Measures to improve customer awareness of additional charges and fees

This remedy will only work if the information is presented in a way which consumers find clear. We note that the legal documentation required sets out any additional costs associated with the loan including default charges and faster payment fees (even if these are optional, they should be included in the documentation).

The FCA will shortly be issuing a consultation paper on a total cost of credit cap and this consultation may inform the development of this remedy.

Following the OFT's review of payday lending, the transparency of default and other charges appears to have improved on lenders' websites. However we believe that it should be made mandatory for these charges to be displayed and easily accessed from the home page, so maybe the requirement should be for there to be a link from the home page to this information and for proper information about when charges are levied to be included.

We do not believe the use of scenarios would be beneficial as the permutations are too great and arguably being required to show cost scenarios removes flexibility in the collector's toolbox where fees and interest may be waived on a case by case basis.

We believe that it would be of little benefit to disclose rollover fees on a price comparison site because this may encourage, rather than discourage, consumers to apply to rollover (whether a fee applies or not). We feel this is better dealt with via customer log-in areas on a case by case basis, where the consequences of rolling over, including additional costs, can be presented to customers who approach lenders in order to use a rollover facility.

Measures to help customers assess their own creditworthiness

This proposed remedy has several strands. In regards to helping customers assess their own creditworthiness, we believe that a potential solution would be to provide links to help them access their credit records with various Credit Reference Agencies, and include useful pointers in website FAQs about maintaining a credit record. Customers have to take responsibility for their own credit records; this is not something lenders can do for them.

Focusing on allowing lenders to better assess customer creditworthiness, there are already initiatives underway to enable improved and more recent data sharing. Uncle Buck has been working with one of the CRAs on their initiative to provide more real time data sharing capabilities.

We believe it is a requirement of the Data Protection Act to inform consumers that a credit check will be carried out. However, requiring all lenders to provide CRAs with a real time update may prove prohibitive for smaller lenders and their systems may not support this.

Uncle Buck believes that the credit search "footprint" is a useful tool for lenders to gauge a consumer's search behaviour although we recognise that current pingtree models used by lead generators may lead to a number of searches being recorded against a consumer's file. However, we feel there are a number of issues with "quotation searches" including how these might be used by brokers in a way that meets the requirements of the Principles of Reciprocity (if including credit history data from the closed user groups databases managed by the CRAs). One of the CMA's suggestions was to prohibit the use of application searches prior to conducting an initial eligibility assessment, at Uncle Buck we would not conduct a credit check unless an applicant had satisfied initial eligibility criteria such as being 18 or

over and resident in the UK, with a UK bank account. We feel that if this were to be the case, then the “initial eligibility assessment” would need to be more closely defined to enable consistency.

Requiring lenders to provide an indication of the likelihood of being granted credit prior to a full application would appear almost at odds with the requirement to lend responsibly and to carry out thorough affordability assessments. We feel it would be confusing for consumers if they were wrongly turned down, or given an indication of acceptance, when further checks result in different outcomes. In a very simple way, many lenders do provide a basic indication by disclosing their base criteria, for example some lenders will only lend to consumers aged over 21, or 23, or 25, minimum income requirements are often disclosed, as are employment requirements. Most lenders have a comprehensive FAQs section, these could be improved to provide more information, for example whether that lender was prepared to consider the self employed and if so what supporting documentation (if any) might be required.

Uncle Buck considers that increased data sharing will only be of benefit if it is applied across the whole consumer credit industry, so as to provide a more accurate picture of a consumer’s financial position. We feel it would be disproportionate to implement some of the proposed measures (e.g. quotation searches) purely for payday lenders, any requirement to do this needs to be extended to all consumer credit products.

We do not think that lenders should be required to provide indicative credit scores as there are a number of practical issues with this that could cause confusion for consumers as well as being potentially misleading – the fact that scores from different CRAs will not be comparable and that scorecards are continually being updated and refreshed being just two.

Periodic statements of the cost of borrowing

The requirements brought in by the CCA 2006 mean that all customers with a balance on their account 12 months after inception will be sent a statement. We feel that providing information to customers on the periodic cost of borrowing could be handled within the “customer log-in” functionality of many lenders’ websites, for retail providers a hard copy solution may need to be adopted. There is a risk that sending a statement to a “last known address” for a customer who has repaid a loan some 10 months previously could have unintended consequences and we would question the relevance of this particular scenario. If customers feel they are overwhelmed with information they may choose to ignore it however we feel that this proposed remedy may have more impact if it was either a) on request or b) required to be given to customers with a certain number of loans over a certain period of time, for example 5 single period loans in a 12 month period.

The CMA observed a number of lenders now offer instalment loans. The longer the initial period of the loan, the more likely a customer will be to receive a statement of the type required by the CCA 2006.

If lenders were required to send out statements at the same time this would have little value as some customers may still have active loans.

The forthcoming price cap consultation may have an effect on this remedy if the cost of borrowing is brought down significantly (and lenders are still operating in the market). One

suggestion might be to require a statement/notice to be provided when a certain trigger level was reached, e.g. the customer's borrowing costs including interest and charges had reached a proportion of the original amount borrowed.

Measures to increase the transparency of the role of lead generators

Uncle Buck welcomes the proposed variation of scope to include lead generators as these businesses are a key part of customer acquisition in the payday lending market. In addition, the FCA applications for full authorisation will ensure that only well managed and responsible lead generators receive full permission, driving up standards.

We believe that it should be very clear to consumers who they are dealing with and that lenders and introducers/brokers should not appear on the same page on price comparison websites. The FCA should undertake a more comprehensive review of lead generator/introducer websites with regards to compliance and transparency of offering, perhaps building on the review conducted by the CMA early on in this investigation. Consumers deserve similar protections as when dealing direct with lenders, and should have confidence that any sites they choose to use have the appropriate Interim Permission and comply with requirements governing consumer credit advertisements.

Lead generators should be obligated to route the application to the most relevant lenders for that particular applicant's circumstances, based on a variety of factors, and should be required to display a declaration describing the service they provide. Any lead generator failing to display such a declaration should be prohibited from acting as a lead generator until such a declaration is clearly shown. In addition, there should be requirements on lenders to only work with reputable lead generators that fulfil any obligations placed upon them.

We do not believe that lenders should be prohibited from selling or providing customer details to third parties as there will be instances where a particular lender cannot offer a loan to an applicant, but another lender may be able to do so. Each lender's methods of underwriting and assessing creditworthiness will differ. However, the necessary express consent should be sought so as to comply with the Data Protection Act.

Measures the CMA is minded not to take forward

Uncle Buck thinks that the Gen 4 disclosure of "Authorised and Regulated by the Financial Conduct Authority" is sufficient. We believe that the FCA will encompass proposals regarding fees in its forthcoming consultation paper.

Uncle Buck Payday Loans LLP