The Consumer Council

Consultation: Payday Lending Market Investigation

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Introduction

The General Consumer Council for Northern Ireland (the Consumer Council) is an independent consumer organisation, working to bring about change to benefit Northern Ireland (NI) consumers. Our aim is to '*make the consumer voice heard and make it count'.*

We have a statutory remit to promote and safeguard the interests of consumers and have specific functions in relation to energy, water, transport and food. These include considering consumer complaints and enquiries, carrying out research and educating and informing consumers. In addition, from April 2014, we have taken on responsibility for representing consumers in respect of postal services in NI.

The Consumer Council is also a designated body for the purposes of super-complaints, which means that we can refer any consumer affairs goods and services issue to the Competition and Markets Authority, where we feel that the market may be harming consumers' best interests. In addition, we have 'super-complainant' status for financial services, with powers to bring super-complaints on financial matters to the Financial Conduct Authority (FCA).

In taking forward our broad statutory remit we are informed by and representative of consumers in NI. We work to bring about change to benefit consumers by making their voice heard and making it count. To represent consumers in the best way we can, we listen to them and produce robust evidence to put their priorities at the heart of all we do.

Payday Lending Market Investigation

The Consumer Council welcomes the release of the provisional findings of the Competition and Market Authority's (CMA) payday lending market investigation, and would like to thank the CMA for the opportunity to respond.

This report, in conjunction with the FCA's ongoing regulatory work on payday loans, goes some way towards making the payday loan market work better for consumers. Ultimately there is still a need for more affordable credit options for consumers; we remain concerned about the often long lasting consequences high-cost short-term credit can have on borrowers' finances.

We are aware that debt charities across the UK have found that the number of clients presenting with payday loan problem debt is growing year-on-year at an alarming rate. The Financial Ombudsman Service (FOS) has also noticed a substantial rise in payday loan related complaints which increased by 46 per cent in 2014[1]. Payday loan problems also seem to be on the rise in NI, with Citizens Advice noticing that by late 2012, their casework on this area had increased by 164 per cent over the period of one year[2].

While this is clearly a national issue, we don't have access to regional lending data, so we cannot at this stage fully assess the scale of the industry and the issue of indebtedness in NI.

The Consumer Council has many concerns around the high-cost short-term credit industry; we hope that these will be addressed by a combination of the CMA's work programme and the FCA's plans for further and tighter regulation:

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[1] FOS Annual Review 2013/14

[2] CAB issues paper for the NI Assembly on Payday lending, 2012

- Credit reference checks are not being carried out for many applications and firms do not have access to the necessary information to make an affordability assessment.
- Consumers who have failed credit checks are still being offered loans, with no clear proof that they will be able to pay the money back.
- Lenders are often unable to explain interest charges or communicate how much interest would be due in the event of non-payment.
- Borrowers are able to take out multiple loans from different companies at one time, which can lead to spiralling debt, using one loan to pay off another.
- Payday loan advertisements often do not provide clear and transparent information about the overall cost of the loan
- Payday loans can spiral out of control if they are not repaid within the initially agreed timeframe, which only adds to the indebtedness of the consumer.

We have considered the suggested remedies provided by CMA:

1. The creation of a price comparison website

Any website would have to be able to present information in a clear and transparent way, and provide a broad sample of the market. The research that Ipsos Mori conducted on behalf of The Department of Business, Innovation and Skills last year reflects consumer appetite for clear, relevant information before taking out their loan[3]. It is essential that not only is the upfront cost of the loan reflected in the data, but also the possible cost of rolling over the loan for another month, and the costs associated with repaying the loan late, and

[3] Making Consumer Markets Fairer, Payday lending advertising research conducted for BIS by Ipsos MORI Social Research Institute, October 2013, p4

other scenarios in which additional fees or charges might apply. There should be consultation directly with consumers who have used, or considered using, payday loans, to ensure that the website reflects their needs – consumer buy-in and input is vital.

There is a concern from debt advice agencies that some of the people looking for a payday loan actually need debt and / or budgeting advice instead. It is important therefore that the website provides links to money advisers: The Consumer Council would stress however that the differences in the NI advice landscape should be noted, to ensure that consumers are signposted to relevant advice sources in their region. There is also potential to incorporate the BIS report's suggestions of a "wealth warning" to consumers before they proceed with their loan, along the lines of: "Stop! Can you afford to pay back this loan?" combined with clear indications of what it would cost a consumer if they happen to default on a loan. This would go some way towards provoking thought on the affordability of the proposed loan.

In January 2014, the FCA revealed one in five adverts from consumer credit firms - including payday loans - flouted their regulations. There would need to be credible controls in place within any website which compared and marketed payday loans, to ensure that consumers are not mislead or placed in any detriment. We would also stress the need for the robust protection of personal data entered on the website given the scale of complaints that have been received by the Information Commissioner from consumers who have found themselves bombarded with texts and calls after applying for a payday loan[4].

2. Measures to improve customer awareness of additional charges and fees

We are concerned that payday lenders are often unable to explain interest charges or communicate how much interest would be due in the event of non-payment. More than 50 per cent of payday lenders revenue is made through late payment charges[5], and so it is vital that consumers are aware of the potential costs up front.

The Northern Ireland Trading Standards Service carried out research throughout NI in 2012, visiting 29 different premises that offered payday loans. In every case the lender was unable to quote the Annual Percentage Rate (APR)[6]. This is unacceptable, and there should be robust compliance to ensure that lenders are providing clear and upfront disclosure to customers of the costs and charges payable if they fail to repay their loan on time. 'Rollovers' are also a key area of concern; companies should be able to explain what they are as well as the financial consequences in the event of a rollover. We agree with the FCA's implementation of a cap on the number of rollovers allowed, as they are a particular problem for consumers within this sector.

Similarly to how banks now have to provide example overdraft scenarios, payday loan companies should have to provide examples of how late payment, non-payment or 'rollover' fees and charges can be added to the loan.

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[4] ICO office press release, http://ico.org.uk/news/latest_news/2013/payday-loans-company-receives-175000-fine-over-spam-texts

[5] OFT Payday Lending, Compliance Review Final Report, March 2013

[6] Belfast Trading Standards Survey of Payday Lenders, 2012

Consultation with users of payday loans would be advantageous to find out which examples and formats they find most user-friendly.

3. Measures to help customers assess their own creditworthiness

It is concerning to note that 38 per cent of payday loan customers have experienced a bad credit rating in the past year. We welcome the suggestions to help consumers monitor their credit rating more effectively, and avoid the 'marks' that multiple credit searches leave behind. The Consumer Council agree with the proposal that consumers should be able to perform a quotation search without affecting their credit rating, so that their ability to access credit will not be affected, and that this should be elevated to a rule by the FCA and not just guidance.

There has been a lot of talk in various news outlets[7] about the negative effect applying or searching for payday loans can have on consumers credit histories, and the potential for this to then hinder them from accessing certain financial products (such as mortgages) in the future. We found through our financial capability research that many consumers do not actively stay informed about financial matters that may affect them[8]. In hand with better regulation, there would be definite benefits in greater consumer education initiatives in this field to help people understand how credit scoring works and empower them to take responsibility for their credit rating.

We are very concerned by the evidence of irresponsible lending – too many consumers seem to be given loans they cannot afford, and when they cannot

[7] See for example http://www.thisismoney.co.uk/money/cardsloans/article-2514436/Will-using-payday-loan-really-ruin-chances-getting-mortgage.html or http://www.bbc.co.uk/news/uk-25098810

[8] A report on the findings from the Consumer Council Financial Capability Panels, October 2012

repay they are encouraged to extend the loan, causing financial difficulties to spiral out of control. Real-time data sharing would be a very welcome development, to ensure that payday lenders do not give further credit to people who are already indebted and struggling to pay back loans. It will allow decisions to be made on the most up-to-date information, and enable better-informed lending based on consumers current outgoings and liabilities. With debt advisers reporting that they have seen clients in NI with as much as 10 payday loans at any one time[9], it is clear that urgent action needs to be taken to prevent this cycle of debt.

4. Periodic statements of the cost of borrowing

Similarly to how banks must now provide an annual summary of their customers account annually, we believe that it would be useful for consumers to receive periodic statements of their borrowing costs. This statement could be produced monthly, and cease once the full and final payment has been made. Where possible it could be done electronically, as this is how that the vast majority of consumers appear to access payday loans.

If the statement shows that the borrower is in arrears, then they should be signposted to a range of debt advice services. We would be concerned that linking in the statement of borrowing costs to the comparison website could lead to the temptation of taking out further loans. Other credit products do not link to price comparison sites, so we feel that this is in keeping with current practices.

[9] CAB issues paper for the NI Assembly on Payday lending, 2012

5. Measures to increase the transparency of the role of lead generators

There has been some evidence in the news, and in complaints to FOS, that suggest consumers are often not always able to tell the difference between payday loan brokers and providers due to a lack of transparency in their application processes[10]. There is a need for very clear information to be provided by brokers from the outset, highlighting the fact that they are a brokerage service, and do not directly provide the loans. Any costs associated with their service should be clear and upfront – we would expect robust action to be taken against companies who do not meet these legal requirements.

Conclusion

The payday loan market is failing consumers. The CMA's figures show that 80 per cent of payday loan users find themselves taking out more than one loan throughout the year. The emphasis on speed of application worryingly means that consumers are not shopping around as much as they could be, and are consistently getting a bad deal. The FCA's work to clean-up the industry has meant that almost half of payday lenders have had to leave the market – but we believe that much more needs to be done.

The CMA and the FCA's proposals need to work together in sync to create a market that works better for the consumer – until issues such as a cap on rollovers and hidden or unclear charges are addressed, payday loan companies will continue to make their money through defaulting consumers. It is also vital that vulnerable consumers, or those who find themselves in financial difficulty, are treated fairly by these companies – with credible and robust enforcement if dishonest or unfair treatment is discovered.

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[10] For example : http://www.theguardian.com/money/2014/may/16/payday-smart-loans-never-received

The payday lending market needs to be closely monitored and scrutinised, yet as mentioned earlier we are unable to fully assess the scale of the industry and the issue of indebtedness in NI due to a lack of regional data. Payday lenders should be required to publish, or share, aggregate data of number and amount of loans, repeat borrowers, 'rollovers' and defaulted accounts to enable regulators to readily detect trends that could indicate malpractice. Additionally, in order for consumer focused organisations such as ourselves and advice agencies to develop policy and identify 'hot-spots' of high activity, this data should be broken down regionally, and ideally into district areas. 'Hot-spots' of high activity could then in turn be targeted at a local level for free money management and debt advice to address financial capability issues in the community that could be leading to recurrent borrowing.

The Consumer Council would also like to see the short term lending market have more affordable options available for consumers. We are deeply concerned that a significant proportion of borrowers, often those with poor credit histories, are limited to using expensive payday loans as a way of bridging the gap until their next pay day. Until there are more options available, it is vital that the payday loan industry is robustly regulated and monitored, and made to work better for consumers.

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Making the consumer voice heard and making it count

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