

# Payday lending market investigation

Provisional decision on remedies

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The Competition and Markets Authority has excluded from this published version of the provisional decision on remedies information which the Inquiry Group considers should be excluded having regard to the three considerations set out in section 244 of the Enterprise Act 2002 (specified information: considerations relevant to disclosure). The omissions are indicated by [✂]. Some numbers have been replaced by a range. These are shown in square brackets.

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## Summary

1. This document presents our provisional decision on the package of remedies required to remedy the adverse effect on competition (AEC) and the resulting customer detriment that we have provisionally found.
2. Our provisional decision on remedies is based on:
  - (a) our provisional findings, a summary of which was published on 11 June 2014 and a non-confidential version of which was published on 13 June 2014 (the provisional findings);
  - (b) our addendum to the provisional findings published alongside this document containing further evidence relating to lead generators;
  - (c) our consideration of the evidence we have gathered about possible remedies, including in responses to our provisional findings and to our Notice of possible remedies (Remedies Notice) published on 11 June 2014, through response hearings with parties, and in further responses to our questions and submissions from parties; and
  - (d) customer research commissioned by the CMA from TNS-BMRB to investigate payday lending customers' attitudes to possible remedies.
3. Our final decisions on any AEC, and appropriate remedies, will take into account the responses we receive to this document, to our provisional findings and to the addendum to the provisional findings.

### **Financial Conduct Authority regulation and price cap proposals**

4. We have worked, and are continuing to work, closely with the Financial Conduct Authority (FCA) throughout this investigation. In so doing, we have been mindful both of the FCA's ongoing role as regulator for the sector and specifically of its recent announcement of its proposals for a price cap.
5. Drawing on the FCA's analysis of these proposals, we identified three main effects that might be expected to arise from the FCA's proposed price cap:
  - (a) Lenders who currently price above the cap are likely to tighten their lending criteria.
  - (b) The profitability of some lenders is likely to fall, with the result that some of these lenders may exit the market.

- (c) The types and structures of loans being offered by payday lenders are likely to evolve as the relative profitability of different loan products changes.
6. We have given careful consideration as to whether any further intervention is necessary to address the AEC in light of the FCA's price cap proposals. We have provisionally concluded that such further intervention is required. The proposed price cap would not, by itself, address the underlying causes of the AEC that we have provisionally identified and, in the absence of complementary action to promote effective competition, may even exacerbate some aspects of the AEC – for example, by reducing incentives for new entry. In our view, the potential risks to competition arising from the FCA's obligation to introduce the price cap increase, rather than reduce, the need for effective remedial action.
7. While, particularly in the shorter term, the proposed price cap will mitigate some of the harm to customers currently arising from high prices, we consider that there is scope for substantive price competition to take place within the framework of the proposed price cap, leading to further reductions in price for customers. Without measures that are effective in addressing the underlying competition problems that affect this market, there will be little incentive for lenders to compete below the cap and the benefits to customers of effective competition will not be fully realised. Given this assessment, and the modest costs of implementing our proposed measures, we took the view that there remained a need to identify specific measures targeted at the causes of the AEC, to work alongside the FCA's proposed price cap.

### **Provisional findings**

8. In our provisional findings we found that price competition between payday lenders was weak; that competition from other forms of credit only imposed a weak constraint on payday lenders' prices. We provisionally identified the following features of the UK payday lending market which contributed to, and helped to explain, the failure by many payday lenders to compete on price and gave rise to an AEC:
- (a) a combination of structural and conduct features, which limited the extent to which customer demand was responsive to the price of payday loans, and thus reduced the pressure for lenders to compete to attract customers by lowering their prices; and
- (b) a number of structural features which weakened the competitive constraint that might otherwise be imposed on payday lenders' prices by the prospect of new entry or expansion.

## **Provisional decision on remedies**

9. The main aspects of the proposed remedy package that we have provisionally decided on are as follows:
  - (a) Measures to promote the use of effective price comparison websites (PCWs).
  - (b) A recommendation to the FCA to take steps to improve the disclosure of late fees and other additional charges.
  - (c) A recommendation to the FCA to work with lenders and other market participants to help customers shop around without unduly affecting their ability to access credit.
  - (d) A recommendation to the FCA to take further steps to promote real-time data sharing between lenders.
  - (e) A requirement for lenders to provide existing customers with a summary of the cost of borrowing.
  - (f) A recommendation to the FCA to take steps to increase transparency around the role of lead generators.

### ***Measures to promote the use of effective PCWs***

10. We provisionally found that it can often be difficult for customers to identify the best-value or most appropriate loan product on offer for them. Making comparisons across products which differ in their duration and/or other characteristics can be difficult and existing PCWs suffer from a number of limitations.
11. We therefore considered that the promotion of greater use of PCWs by customers and an improvement in the quality of the PCWs used by customers will enable customers to shop around more effectively when choosing a payday loan. We considered that this would be likely to lead to greater price competition between payday lenders and would improve the ability of customers to find the most appropriate payday loan for their needs. This remedy would also make it easier for new entrants with attractive products to enter the market.
12. We considered that commercial providers of comparison services would be best placed to develop payday lending comparison tools capable of evolving as the payday lending market itself develops. However, we considered there was also value in ensuring that these commercial operators would provide the

core functionality on their sites that we identified was necessary to allow customers to make accurate comparisons.

13. We further considered that a stronger competitive dynamic would be fostered by allowing multiple website operators to compete to innovate to service borrowers' needs. As a result of these factors we have provisionally decided that an accreditation scheme, allowing the accreditation of multiple PCWs which met defined criteria, would be a practical way of achieving this objective. This is consistent with existing accreditation schemes operated in the energy and telecommunications sectors.
14. To encourage the development of a dynamic, high-quality price comparison sector for payday loans we have provisionally decided to prohibit payday lenders from supplying payday loans unless details of their prices and products are published on at least one accredited PCW, a link to which is included on their own website.
15. In support of this remedy we are recommending that the FCA accredit those PCWs that fulfil certain key criteria. We consider that the FCA is the best-placed body to perform this function and that operating the accreditation process would have synergies with the FCA's ongoing regulatory role. If the FCA accepts our recommendation, it would be for it to determine the precise criteria to consider as part of this accreditation process, but on the basis of the evidence and the AEC we have provisionally found we have proposed a number of high-level criteria for accreditation. Specifically, we have proposed that an accredited PCW should, as a minimum:
  - (a) provide information that enables customers to see clear and accurate details of loans that meet their requirements (customer relevance);
  - (b) present loans in ascending order of price and ensure that any secondary ranking of loans is similarly based on objective criteria (competitive neutrality);
  - (c) be open to any authorised lender subject to agreement of reasonable commercial terms (openness); and
  - (d) comply with all relevant laws and regulations and also exclude unauthorised lenders, credit brokers and other intermediaries (compliance).
16. This measure is the central element of our proposed remedy package, which is supported by a number of our other proposed remedies.



### ***Increased transparency on late fees and charges***

17. We provisionally found that customer demand is particularly insensitive to the fees and charges that can be incurred if a customer does not repay their loan in full and on time. Customers tend to be less aware of these potential costs of borrowing when choosing a payday loan provider than they are of the headline interest rate.
18. In addition we found that there can be shortcomings in the information provided about such fees and charges by lenders (despite existing rules which require disclosure of this information) so that it can be difficult for customers to estimate, and so make effective comparisons about, the likely cost of borrowing if they do not repay their loan in full and on time.
19. As this is an area already subject to FCA regulation, and as the scope for additional measures is constrained by the provisions of the Consumer Credit Directive (CCD), we have provisionally decided to recommend that the FCA takes the necessary steps to ensure that payday lenders improve their disclosure of these fees and charges. Further action taken by the FCA in this area will be supported by other elements of the remedy package, including the accreditation regime for PCWs and the disclosure of late fees and other charges incurred on previous loans as part of our proposed summary of the cost of borrowing.

### ***Measures to help borrowers shop around without unduly affecting their access to credit***

20. We expect that our remedy to promote the use of good quality PCWs will encourage borrowers to shop around when searching for a payday loan. In support of these measures, we wish to ensure that customers are not discouraged from doing so by the risk of obtaining a poor credit rating by appearing to be taking out multiple loans simultaneously.
21. We found that customers are in general not currently able to assess their eligibility for a loan without undergoing a full credit check and they may not be aware of when such a check is taking place. We also found that the presence of multiple credit searches on a customer credit record is a factor that may negatively influence a lender's decision to issue a loan. This is because a customer who is shopping around can leave a similar public record on their credit file to a customer who is very 'credit-hungry'. Customers may therefore perceive a risk that multiple credit checks could adversely affect their ability to borrow in the future and may be therefore discouraged from shopping around.

22. We therefore provisionally recommend that the FCA works with payday lenders, credit reference agencies (CRAs) and accredited PCWs to improve the ability of customers to search the market without adversely affecting their credit history.
23. We recognised the potential costs (both the cost of additional searches and the costs of amending lending systems) of requiring all payday lenders to offer quotation searches which do not leave a record that is visible to other potential lenders. We are therefore not proposing to mandate the use of such searches using our own formal powers. However, should it decide to take forward our recommendation, we would expect the FCA to encourage lenders and other market participants to take practical steps to help improve the ability of customers to shop around for loans without damaging their credit score.

### ***Measures to encourage development of real-time data sharing***

24. We have also found that there are benefits to both lenders and borrowers if lenders are able to access credit information that is updated in real time, principally:
  - (a) We would expect that greater use of real-time data sharing would enable new entrants to the payday lending market and smaller lenders to gain access to better quality credit data more easily.
  - (b) We would expect further developments in real-time data sharing to work in support of our recommendation to promote greater use of quotation searches and other measures to encourage borrowers to shop around as it will improve lenders' ability to differentiate these borrowers from those who are seeking to access multiple sources of credit simultaneously.
25. We are therefore also recommending to the FCA that it continues to work closely with lenders and CRAs to encourage the development and use of real-time data.

### ***Summary of the cost of borrowing***

26. Payday loan customers can be unwilling to consider the total costs caused by their use of payday loans. We provisionally found that repeat borrowers can be dissuaded from looking at alternative suppliers by the perceived risks associated with using an unknown lender. Borrowers may also perceive a loss of convenience associated with applying to a new lender, particularly if the alternative is rolling over or topping up an existing loan with an existing lender. Our investigation has also indicated that the cumulative cost of taking out payday loans can be considerable – with customers taking out around six

loans per year on average – and that payday loan customers can be unaware of, or unwilling to consider, the total costs of using payday loans over time.

27. Requiring payday lenders to provide a clear summary of the actual costs that a borrower has incurred at the end of a loan period would encourage borrowers to consider and search for lower-cost alternatives. We would expect that information on the actual cost of a recent loan would also encourage some borrowers to anticipate the likely future costs of a loan more realistically.
28. We have therefore provisionally decided to issue an Order requiring payday lenders to provide their borrowers with details of the charges that the borrower has paid on both the most recent loan and also over the last 12 months. This would be available once a loan has been repaid. Lenders must ensure that before a borrower to whom that lender has previously provided credit is able to make a further application for credit from that lender, that lender should obtain confirmation from the borrower that they have reviewed the summary issued following the conclusion of the borrower's most recent loan with them.

### ***Transparency regarding the role of lead generators***

29. During the course of our investigation we identified several types of intermediary that are active in the payday lending market and used by customers. In addition to PCWs, which provide useful information on payday loans and can help customers to search effectively for the most appropriate loans for them, these intermediaries include:
  - (a) Lead generators, which are firms that find potential borrowers and sell these borrower's details (or 'leads') to the lender that offers the lead generator the best commercial deal. Leads are often gathered by advertising on other sites, or by marketing by other intermediaries.
  - (b) Fee-charging brokers, which charge a fee to borrowers to manage the application process, and potentially find a loan for the borrower.
30. We define both of these categories of intermediary (as well as the affiliates and marketing companies that collect borrower details) as lead generators.
31. We have provisionally found that the role of lead generators contributes materially to the AEC and, in particular:
  - (a) many borrowers that use a lead generator's website to find a loan are unaware of the fact that they are using a lead generator and believe they applied directly to a lender; and

- (b) there is a lack of transparency in how lead generators describe the service they provide and the commercial relationship that the lead generator has with lenders on their websites. Applicants are typically referred to the lender that offers the lead generator the best commercial deal rather than to the lender that offers the most suitable loan for the customer's needs.
- 32. We have therefore provisionally decided to recommend that the FCA take the steps necessary to address both dimensions of this lack of transparency.
- 33. We would expect this to lead to a reduction in the number of instances where customers confuse lead generators with lenders, or use lead generators on the erroneous expectation that these intermediaries will match them with the best loan for their requirements. This is likely to induce some customers to engage in more research, for example, by using an accredited PCW.
- 34. We also expect this remedy to increase the likelihood that customers will make an informed decision to use a lead generator as an active choice, rather than as a result of a misunderstanding or by chance, and it will thereby play a part in improving the reputation of the market.
- 35. Given wider concerns about customer detriment in this sector, in particular relating to fee-charging brokers and the subsequent use of data provided to lead generators, we also propose to recommend that the FCA prioritise a wider review of the operation of this sector.

### **Assessment of effectiveness and proportionality**

- 36. We have provisionally decided that the proposed remedy package represents a comprehensive and effective solution to the AEC that we provisionally found.
- 37. We have further provisionally decided that:
  - (a) Each of the remedy measures that form parts of our proposed package of remedies is capable of effective implementation, monitoring and enforcement.
  - (b) The ongoing monitoring and compliance costs of the package of remedies are likely to be modest. The main source of ongoing costs is likely to be associated with the operation of an accreditation scheme for PCWs – we estimate that these costs are unlikely to exceed around £300,000. We will continue to evaluate the costs of our remedy package up to our final report. Based on the evidence gathered to date, however, we consider it

unlikely that the total ongoing costs associated with this package would exceed around £1 million a year.

(c) The proposed remedies could be implemented and have a beneficial impact on market outcomes within a relatively short timescale of one to two years following the publication of our final report.

38. In relation to the proportionality of our proposed packages of remedies, we have provisionally decided that, having evaluated the potential benefits and costs of these measures, the beneficial effects that would flow from addressing the AEC were likely to outweigh significantly the costs of introducing our proposed remedies. Having considered various alternatives, we were unable to identify a less onerous package of measures that would be similarly effective. We provisionally decided that our proposed package of remedies represented a proportionate solution to the AEC and the resulting customer detriment.
39. Therefore we have provisionally decided that this package of remedies represents as comprehensive a solution as is reasonable and practicable to the AEC and the resulting customer detriment which we have provisionally found.

## Provisional decision on remedies

### 1. Introduction

- 1.1 On 27 June 2013, the Office of Fair Trading (OFT), in exercise of its powers under sections [131](#) and [133](#) of the Enterprise Act 2002 (the Act), made a reference to the Competition Commission (CC) for an investigation and report into the supply of payday lending in the UK.
- 1.2 On 1 April 2014, the Competition and Markets Authority (CMA) took over many of the functions and responsibilities of the CC and the OFT. Accordingly, the functions of the CC in relation to the reference were transferred to the CMA.<sup>1</sup>
- 1.3 In our provisional findings,<sup>2</sup> a summary of which was published on our website on 11 June 2014 and a non-confidential version of which was published on 13 June 2014, we provisionally found that there are a number of features in the provision of payday loans in the UK which contribute to, and help to explain, the failure by many payday lenders to compete on price and which either alone or in combination give rise to an AEC within the meaning of [section 134](#)(2) of the Act. These features are set out in Section 8 of our provisional findings and comprise:
  - (a) A number of structural and conduct features which limit the extent to which customer demand is responsive to the price of payday loans, and so reduce the pressure for lenders to compete to attract customers by lowering their prices. These features relate to: (i) the context in which customers take out payday loans; (ii) difficulties customers face in identifying the best-value loan for them; (iii) customer insensitivity to fees and charges incurred if they do not repay their loan in full on time, itself linked to the difficulty of finding out the relevant information; (iv) the operation of the lead generator distribution channel; and (v) the perceived risks and loss of convenience of switching lender.
  - (b) A number of structural features which weaken the competitive constraint that might otherwise be imposed on payday lenders' prices by the prospect of new entry or expansion by smaller lenders. These features relate to: (i) disadvantages faced by new entrants in raising customers' awareness of their product and in assessing credit risk; and (ii) the impact

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<sup>1</sup> Under [Schedule 5](#) to the Enterprise and Regulatory Reform Act 2013 and the Schedule to the Enterprise and Regulatory Reform Act 2013 (Commencement No. 6, Transitional Provisions and Savings) Order 2014 (the Order).

<sup>2</sup> [Provisional findings](#).

of the reputation of the payday lending sector in deterring potential entrants.

- 1.4 We concluded that the AEC that we had provisionally identified was likely to result in a customer detriment by resulting in some customers paying more for their loan – and by leading to less innovation on pricing (eg in relation to the introduction of risk-based pricing or flexible pricing models) – than we would observe in a market in which price competition was more effective. Our initial assessment indicated that the scale of the customer detriment caused by the AEC was likely to be material. We estimated that on average borrowers had been overpaying for their loans by around £5 to £10 per loan, and that applying these potential savings to the total number of loans issued in 2012 that were repaid in full would imply potential annual savings to customers of around £48–£85 million.<sup>3</sup>
- 1.5 If the CMA finds that there is an AEC, it is required under [section 134\(4\)](#) of the Act to decide whether action should be taken by it, or whether it should recommend the taking of action by others, for the purpose of remedying, mitigating or preventing the AEC, or any detrimental effect on customers so far as it has resulted from, or may be expected to result from, the AEC. In the event that the CMA makes a recommendation, it will be for the person to whom the recommendation is addressed to decide whether to act on the recommendation and the CMA will consult with the relevant body prior to making the recommendation.<sup>4</sup>
- 1.6 On 11 June 2014, we therefore published a Remedies Notice<sup>5</sup> setting out and inviting comments on the possible actions which we considered might be taken by the CMA, or recommended for implementation by others, for the purpose of remedying, mitigating or preventing the AEC and/or any resulting detrimental effect on customers provisionally identified.
- 1.7 We received a number of responses to our Remedies Notice and have held several response hearings and meetings with relevant parties. Non-confidential versions of such responses and summaries of response hearings can be found on our website.<sup>6</sup> Appendix 1.1 sets out the key points made by parties in response to the Remedies Notice. We commissioned further research from TNS BMRB to investigate payday lending customers' attitudes to possible remedies. This further research is also available on our website.<sup>7</sup>

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<sup>3</sup> See [provisional findings](#), paragraph 8.11.

<sup>4</sup> CMA, [Guidelines for Market Investigations: Their role, procedures, assessment and remedies](#), CC3, April 2013, ('the Guidelines'), paragraph 380.

<sup>5</sup> [Remedies Notice](#).

<sup>6</sup> [Responses to provisional findings and Remedies Notice](#).

<sup>7</sup> [TNS BMRB research with payday lending customers](#).

- 1.8 This document, together with its supporting appendices, constitutes our provisional decision on the package of remedies required to remedy the AEC and the resulting customer detriment we have provisionally found, and serves as a basis for further consultation with interested parties. Our provisional decision has been reached based on our consideration of all the evidence we have received to date through the course of our inquiry.
- 1.9 We have not, at this stage, made a final decision regarding the existence and form of any AEC and/or its resulting customer detriment. Therefore, our final decisions on any AEC, and appropriate remedies, will take into account the responses we have received to our provisional findings and Remedies Notice, and the responses we receive to our provisional decision on remedies.
- 1.10 The CMA invites views, in writing, on this provisional decision on remedies by **5pm on Thursday 30 October 2014**. We would welcome views on any aspect of the design, effectiveness or proportionality of our proposed package of remedies. We would particularly value further submissions about the likely costs of our proposed remedies, in the light of the more detailed specification of these measures set out in this document.
- 1.11 We are required to publish our final report by 26 June 2015 although, in accordance with the CMA's published policy of endeavouring to complete market investigations within 18 months of reference and consistent with the provisions of the statutory framework, we intend to do this significantly earlier. Under our current timetable we expect to publish our final report in December 2014/January 2015.
- 1.12 In the rest of this section, we set out the further work that we have carried out in relation to lead generators since publishing our provisional findings, the interaction between our work and that of the FCA, along with the structure of the remainder of the document.

### ***Further work on lead generators***

- 1.13 Our provisional findings identified the operation of the lead generator channel as contributing materially to the AEC that we have provisionally identified. In particular, we provisionally found that many online customers take out their first loan with a lender via a lead generator, and that the value for money represented by different lenders' loan offerings is not relevant to the auction process which is used by these intermediaries, who instead typically sell customer applications to the bidder that offers the best commercial terms. Furthermore, there is often a lack of transparency in how the service that lead generators provide is described in their websites – particularly the basis on which customers' applications are referred on to lenders – and many



customers do not understand the nature of the service offered by lead generators. Consequently, lenders acquiring customers through lead generators are unlikely to have a strong incentive to lower their prices and, in some cases, the opposite may be true, in so far as lenders offering cheaper loans to customers may not be able to bid as much for leads.

- 1.14 The Remedies Notice included one remedy option comprising measures to increase the transparency of the role of lead generators. This remedy would require lead generators (and other relevant intermediaries) that are active in the UK payday lending market to state explicitly the nature of their business and the commercial relationship that they have with lenders in the market.
- 1.15 Given the role played by intermediaries in the operation of the UK payday lending market, and the need to consider appropriate remedies, on 11 June 2014 we also consulted on a request for a variation of the terms of the reference, so that the relevant activities of credit brokers<sup>8</sup> such as lead generators could be brought clearly within the scope of the investigation.
- 1.16 The CMA received 19 responses to this consultation, six of which commented directly on the request for a variation of the terms of reference, and 13 supported aspects of our proposed remedy relating to lead generators. None of the responses disagreed with the request. Of the six direct responses received five supported the request and one said that the terms of reference were a matter for the CMA alone.
- 1.17 Having considered the representations received, the CMA Board varied the terms of reference pursuant to [section 135\(1\)](#) of the Act on 22 July 2014.<sup>9</sup> Therefore, for the purposes of this reference,
- the definition of suppliers of payday loans and the associated definition of the market or markets shall also include credit-brokers (and other intermediaries) such as lead generators who collect and pass on to providers of payday loans (generally for a fee) details, including personal contact information, of individuals seeking loans.
- 1.18 In view of the change to the terms of reference, on 22 July 2014 we invited around 50 lead generators, including pingtree operators, marketing affiliates and fee-charging brokers to comment on our provisional findings and Remedies Notice and extended our deadline for comment to these parties.

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<sup>8</sup> Credit brokers are persons who hold a permission under Part 4A of the Financial Services and Markets Act 2000 (FSMA) in respect of the regulated activity in Article 36A(a)–(c) of the FSMA 2000 (Regulated Activities) Order 2001 (SI 2001/544) introducing potential borrowers to potential lenders.

<sup>9</sup> [Variation of the terms of reference](#).

Non-confidential versions of responses can be found on our website.<sup>10</sup> In August 2014, we sent out a detailed questionnaire to around 40 lead generators requesting information about their businesses and UK activities, consumers, competition and the FCA's proposals to impose a price cap on the cost of high-cost short-term credit (HCSTC). This specific information request was drafted in consultation with lead generators.<sup>11</sup> In addition to the responses received to our provisional findings, Remedies Notice and detailed questionnaire, we held seven response hearings and two meetings with lead generators. Non-confidential versions of summaries of the hearings have been published on our website. The addendum to our provisional findings report,<sup>12</sup> published on our website alongside this document, augments the analysis of this distribution channel as set out in our provisional findings.<sup>13</sup>

### ***Interaction between our consideration of remedies and current and proposed FCA regulation***

- 1.19 As described in Section 3 of our provisional findings, the FCA assumed responsibility for consumer credit from 1 April 2014. In October 2013, it published its detailed proposals for the FCA regime for consumer credit – including payday lending – which formed the basis of its new conduct of business standards for consumer credit (CONC) rules now in force. Also, following an announcement in November 2014, Parliament passed legislation which places a duty on the FCA to impose a price cap on the cost of HCSTC – including payday loans – by 2 January 2015.
- 1.20 On 15 July 2014, the FCA published a consultation paper on its proposals to impose a price cap accompanied by details of the research and analysis that it has carried out to inform these proposals.<sup>14</sup> The FCA's proposals for a cap on the cost of HCSTC is structured such that should they be adopted as proposed, from 2 January 2015, for new payday loans, including if they are rolled over, interest and fees must not exceed 0.8% per day of the amount borrowed. Fixed default fees cannot exceed £15 and the overall cost of a payday loan can never exceed 100% of the initial amount borrowed.
- 1.21 In addition, in its consultation paper, the FCA set out its expectation that by November 2014 more than 90% of current market participants by market share and volume of loans will participate in real-time data sharing and more than 90% of loans will be reported in real time. It also expects that firms

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<sup>10</sup> [Responses to a request for a variation of the terms of reference.](#)

<sup>11</sup> On 6 August 2014, lead generators were sent a draft data request for comment. A final data request for completion was sent to lead generators on 12 August 2014.

<sup>12</sup> [Summaries of response hearings held with parties.](#)

<sup>13</sup> [Provisional findings.](#)

<sup>14</sup> [FCA, CP14/10: Proposals for a price cap on high-cost short-term credit.](#)

should share data more widely to improve the coverage of real-time data-bases. If these targets are not met, the FCA has said that it will consult on the introduction of data-sharing requirements. We are aware that in line with these expectations, a number of CRAs have developed enhancements to their systems which allow lenders to provide and, under reciprocal arrangements, receive more frequent updates.<sup>15</sup> We discuss this issue further in Section 3 of this provisional decision on remedies.

- 1.22 As the FCA has a statutory duty to impose a price cap, we have not sought to duplicate the work of the FCA. We have not included a price cap in our consideration of possible remedies, nor have we undertaken our own analysis of the appropriate level or structure of any price cap.
- 1.23 Nevertheless, we have considered the impact of the proposed price cap (as well as other developments in the market) on the payday lending market in general, on competition between lenders more specifically, and on the customer detriment that is likely to arise as a result of the AEC that we have provisionally identified. Our analysis of these issues – and whether these changes were so substantial as to remove the need for remedial action to address the AEC and/or customer detriment – is set out in Section 6.
- 1.24 As described in that section, we did not consider that the proposed price cap or other recent developments in the market would remove the AEC that we have provisionally identified. In particular the features giving rise to the AEC would remain in place. To the extent that the introduction of the proposed price cap would have an impact on competition, we considered that it was more likely to create additional risks to competition – for example, entry conditions may become more challenging or the cap may become a ‘focal point’ for pricing, thus facilitating coordination between lenders – rather than to increase competitive pressure. In our view, these considerations increase, rather than reduce the need for effective remedial action to address the underlying causes of the AEC.
- 1.25 Nevertheless, the proposed price cap will reduce the price paid by many payday lending customers, and in this way generate a number of the shorter-term benefits that we would have expected to result from more effective price competition between payday lenders. We also noted the possibility that the level at which the FCA had proposed to set the price cap might not allow ‘headroom’ for competition below the cap. However, we considered that a

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<sup>15</sup> This is subject to the basis on which CRAs make this data available. For example, CRAs may charge an additional fee for access to this information, or might only make it available to lenders sharing information with the same frequency; alternatively this information could be available to all lenders who currently obtain information from that CRA.

significant customer detriment would remain as a result of the AEC that we identified in our provisional findings. This was for a number of reasons.

- 1.26 First, even in the shorter term, some lenders' costs are likely to allow them to price beneath the cap for their products. We note that there is considerable variation in the efficiency of different lenders, and that some lenders already charge around or beneath the cap level (or have done so historically): for example, CashEuroNet's QuickQuid FlexCredit product has a daily interest rate of 0.82% per day and does not charge any late fees, and Provident's Satsuma product when taken out for 13 weeks has a daily interest rate of 0.74% per day<sup>16</sup> (and again does not charge any late fees). This suggests that business models exist that allow lenders to operate viably with prices below the cap and that there is therefore scope for substantive price competition within the framework of the proposed price cap even in the short term.
- 1.27 In addition, as discussed in our provisional findings,<sup>17</sup> more effective competition would increase the pressure on lenders to compete for lower-cost customer groups, and such customers might be offered prices significantly beneath the proposed price cap. Moreover, we would expect in the longer term to observe a downwards trend in many categories of lenders' costs, partly as a result of lenders adapting their business models and product strategy in response to the FCA regulatory regime and partly as a result of other developments of the industry (eg improvements in external CRA data and lenders' ability to assess the credit risk of their customers). In the absence of effective price competition, there will be little or no incentive for lenders to pass on the benefit of future cost reductions to their customers in the form of lower prices. Effective remedies to facilitate entry, encourage customer search and promote price competition will enable efficient lenders to grow market share. Ultimately this will incentivise all lenders to offer a better deal to their customers.
- 1.28 Thus, even within a price-capped regime as proposed by the FCA, effective price competition will additionally incentivise lenders to compete for borrowers, by pricing below the maximum permitted by the cap and to generate and pass on future cost savings to customers through lower prices.
- 1.29 As a result, we reached the conclusion that the AEC that we have provisionally identified will continue to exist and cause customer detriment, such that the need remains to identify remedies that would be effective in addressing

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<sup>16</sup> Satsuma is a declining principal instalment loan with equal weekly instalments and the calculation of the daily interest rate for the proposed price cap is different to single-instalment loans. The interest rate charged reduces as the loan duration increases: for example, the daily interest rate for a 52-week long loan is 0.37%.

<sup>17</sup> See [paragraph 8.10\(b\)](#) and [Appendix 8.1](#), paragraphs 24–29.

the AEC that we have provisionally identified in the UK payday lending market.

### ***Structure of our provisional decision***

- 1.30 This document, together with its appendices, constitutes our provisional decision on remedies. It refers, where appropriate, to material published separately on the [CMA's webpages](#). It is structured as follows:
- (a) In Section 2 we set out the framework for our consideration of remedies.
  - (b) In Section 3 we describe our proposed package of remedies, covering in turn measures relating to the use of PCWs; the transparency of late fees and other additional charges; measures to help borrowers shop around without unduly affecting their access to credit; promotion of real-time data sharing; the provision of a summary of the costs of borrowing; and the transparency of the role of lead generators.
  - (c) In Section 4 we set out those remedies that we are not proposing to take forward.
  - (d) In Section 5 we discuss the possible existence of any relevant customer benefits flowing from the features giving rise to the AEC and that would be lost as a result of introducing remedies.
  - (e) In Section 6, we commence our evaluation of the proposed remedy package by considering whether there is any need for remedial action, in light of recent market developments including the FCA's proposals to introduce a price cap from 2 January 2014.
  - (f) In Section 7 we evaluate the likely effectiveness of the proposed package of remedies.
  - (g) In Section 8, we evaluate the proportionality of the proposed package of remedies.
  - (h) Finally, in Section 9, we set out our provisional decision on remedies.
- 1.31 Appendices supporting each section are numbered according to the first section where they are relevant and are listed in full in the table of contents at the beginning of this report.

## **2. Framework for consideration of remedies**

- 2.1 If the CMA finds that there is an AEC, it is required under the Act<sup>18</sup> to decide whether action should be taken by it, or whether it should recommend the taking of action by others, for the purpose of remedying, mitigating or preventing the AEC, or any detrimental effect on customers (the customer detriment) so far as it has resulted from, or may be expected to result from the AEC.
- 2.2 If the CMA decides action should be taken, it must then decide what action should be taken and what is to be remedied, mitigated or prevented. In deciding these questions, the Act requires the CMA in particular to 'have regard to the need to achieve as comprehensive a solution as is reasonable and practicable to the adverse effect on competition and any detrimental effects on customers so far as resulting from the adverse effect on competition'.<sup>19</sup> To satisfy this requirement, the CMA considers how comprehensively potential remedies (or packages of remedies) address the AEC and resulting detrimental effects on customers, as well as whether the potential remedies are effective and proportionate.<sup>20</sup>

## **3. Our proposed package of remedies**

- 3.1 Our proposed package of remedies comprises the following measures:
- (a) Measures to promote the use of effective PCWs, in particular a requirement for lenders to publish details of their loans on an accredited PCW combined with a recommendation to the FCA to establish an accreditation scheme for payday loan PCWs.
  - (b) A recommendation to the FCA to take steps to improve the disclosure of late fees and other additional charges.
  - (c) A recommendation to the FCA to take steps to help customers shop around without unduly affecting their ability to access credit.
  - (d) A recommendation to the FCA to take further steps to promote real-time data sharing between lenders.
  - (e) A requirement for lenders to provide customers with a summary of the cost of borrowing.

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<sup>18</sup> [Section 134\(4\)](#) of the Act.

<sup>19</sup> [Section 134\(6\)](#) of the Act.

<sup>20</sup> [The Guidelines](#), Part 4.

- (f) A recommendation to the FCA to take steps to increase transparency regarding the role of lead generators.

3.2 Our discussion of each measure is set out under the following headings:

- a description of the remedy
- how the remedy addresses the AEC and/or resulting customer detriment
- the key considerations relating to the design of the remedy
- how the remedy should be implemented

3.3 In designing our remedies package we have had regard to any constraints imposed by the CCD, the principal source of regulation on consumer credit. The CCD contains provisions specifying the standard information to be included in advertisements<sup>21</sup> and the requirements relating to the provision of pre-contractual information to enable borrowers to compare different offers and take an informed decision before the borrower is bound by any credit agreement<sup>22,23</sup> and to provide borrowers with adequate explanations to enable them to assess whether a product is suited to them and their financial situation.<sup>24</sup> In particular, we consider that our remedy package has been structured in a way that would permit the FCA scope of action following a CMA recommendation.

### ***Price comparison website remedy***

#### *Summary of remedy*

3.4 Figure 3.1 summarises our remedy to prohibit lenders from providing payday loans unless details of their prices and products are published on at least one accredited PCW.

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<sup>21</sup> Article 4.

<sup>22</sup> Article 5.

<sup>23</sup> This information must be presented using the Standard European Consumer Credit Information form and include the 'interest rate applicable in the case of late payments and the arrangements for its adjustment, and, where applicable, any charges payable for default' as well as a warning regarding the consequences of missing payments'. See CCD, Article 5(1) (l and m).

<sup>24</sup> Article 5(6).

FIGURE 3.1

### **Price comparison website remedy**

The CMA provisionally intends to issue an Order to the effect that:

- lenders will be prohibited from supplying payday loans to UK customers unless details of their payday loan products are published on at least one accredited PCW which allows borrowers to compare that lender's products with other products available in the market
- lenders will be required to supply such accredited PCW(s) with the information that the PCW(s) requires to comply with the terms of the accreditation
- lenders will be required to display a hyperlink prominently on their own websites to at least one accredited PCW on which its own loans appear and/or to a web portal containing hyperlinks to all accredited PCWs

In support of this Order – and in order to address the shortcomings of existing PCWs – the CMA provisionally intends to make a recommendation to the FCA to the effect that it establish and administer:

- an accreditation scheme for PCWs for payday loans
- a web portal containing hyperlinks to all accredited PCWs

It would be for the FCA to determine the precise criteria for accreditation. However, the CMA considers that, given the evidence that it has collected, and the AEC that it has provisionally found, it should provisionally recommend to the FCA that for a website to be accredited it would need to satisfy the following high-level criteria (under each criterion we have provided some specific examples):

#### **Customer relevance**

An accredited website should:

- enable customers to specify a desired loan amount, term (or repayment date) and repayment structure (eg the number of instalments) and to search for loans according to the specified criteria
- present borrowers with clear information about the structure and level of any late fees and charges before an onward referral to a lender can be made
- enable borrowers to identify easily whether early repayment is possible and how this may affect the price of the loan



### **Competitive neutrality**

An accredited website should:

- present loan product information/results of the above searches in ascending order of price (the CMA's recommendation, on the basis of the evidence it has found, is that the ranking be done by total cost of credit for each search result based on the specific search criteria used by a borrower) unless the borrower requests a different presentation
- present loan product information to customers on a competitively neutral basis, such that the presentation of product information, or its ranking on price comparison tables, is not affected by any commercial relationship the operator may have with lenders included on the PCW's panel

### **Openness**

An accredited website should:

- be open to any authorised lender, subject to agreement of reasonable commercial terms between the lender and website operator
- enable products offered by both online and high-street lenders to be presented on the website

### **Compliance**

An accredited website should:

- follow all relevant laws and regulations with respect of consumer credit
- only deal with authorised lenders and exclude credit brokers and other intermediaries

### *How the remedy addresses the AEC and/or resulting customer detriment*

3.5 This remedy will address a number of aspects of the AEC that we have provisionally found by:

- (a) reducing the difficulties customers face in identifying the best-value or most suitable offer for them (see the provisional findings, paragraph 8.5(b));
- (b) increasing customer awareness of late fees and other additional charges incurred if a customer does not repay a loan in full and on time and

enabling customers to factor this into their choice of lender (see the provisional findings, paragraph 8.5(c));

- (c) reducing barriers to entry and expansion associated with difficulties in raising customer awareness of new and alternative suppliers' offers (see the provisional findings, paragraph 8.6(a)(i)); and
- (d) lowering reputational barriers to entry by providing greater credibility to the payday lending price comparison sector and encouraging the participation of mainstream general PCW operators (see the provisional findings, paragraph 8.6(b)).

3.6 We discuss each of these mechanisms below.

*Reducing the difficulties that customers face in identifying the best-value offer*

- 3.7 By taking steps to facilitate the development of an effective price comparison sector, this remedy will enable payday loan customers to compare and shop around more easily and quickly without having to research numerous lenders and establish the cost of a loan specific to their needs (that is for a given amount and duration). The speed with which comparisons can be made using a PCW is a particularly important consideration in this market, given the perceived urgency for many customers associated with taking out a payday loan (see the provisional findings, paragraph 8.5(a)).
- 3.8 At present, to achieve a similar outcome, borrowers would need to visit a number of lenders' websites,<sup>25</sup> entering their requirement into each lender's website and making a comparison manually between the different products on offer. While there are some PCWs that currently provide details of payday loans, their functionality is currently limited and the comparison tables presented for an example loan (eg £100 for 28/30/31 days) may not offer an accurate indication of the actual cost of the loan that a customer is looking for. The result is that it is difficult for borrowers to make accurate comparisons between loans (see the provisional findings, paragraphs 6.78 to 6.86).
- 3.9 The customer research we undertook as part of our remedies process (see paragraph 1.7) also indicated that some customers' tendency not to shop around may arise because they do not perceive there to be significant differences between loans,<sup>26</sup> which combines with the sense of urgency and

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<sup>25</sup> Or retail premises. This remedy would apply to both online and high street lenders to enable customers to compare the prices of both types of lender.

<sup>26</sup> Our qualitative research found that there was very little evidence of shopping around, and where it did occur it was fairly cursory. This was driven by a desire to access the money quickly, and a perception that all loans cost around the same amount, leading customers to conclude that the benefits of shopping around would be limited,

thus the speed at which borrowers choose their loan.<sup>27</sup> By presenting the cost of a range of loans in ascending order of price – and possibly by other aspects of the loan as determined by the customer – customers will more readily be able to identify quickly and conveniently, the difference in price (and non-price attributes) between loans.

- 3.10 While some customers may still place weight on recognised brands,<sup>28</sup> it will be the underlying characteristics of a loan product that will determine its position on the PCW.
- 3.11 As they have done in other sectors, PCW operators are likely to have incentives to develop mechanisms to help borrowers identify lenders who are willing to offer them credit (see paragraphs 3.158 to 3.163). To the extent that this type of capability is built into accredited PCWs, borrowers who have been rejected by some lenders (or are otherwise aware of their own poor credit history) will be in a better position to identify and make comparisons between those lenders that would be prepared to lend to them.
- 3.12 We noted that a PCW would not directly help borrowers who did not have internet access (either at home or on a mobile phone or other portable device) to shop around. However, we noted in paragraph 2.58 of our provisional findings that 83% of payday loan customers had taken out a loan online and that others may be able to use a PCW to research alternatives online even if they preferred to transact with a high street lender. Even the minority of customers without internet access<sup>29</sup> would be likely to accrue some indirect benefit from this remedy as a result of a tightening of the constraint that online lenders place on high street lenders' prices (see the provisional findings, Section 5).

#### *Awareness of and sensitivity to late fees and other extra charges*

- 3.13 A PCW helps borrowers to compare the price and other attributes of loans offered by a panel of lenders. By presenting late fees on accredited PCWs,

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as well as adding extra time to the 'journey'. [TNS BMRB research with payday lending customers](#), p12. Furthermore when customers were presented with a PCW some noted surprise at the number of lenders available and variation in price (p17).

<sup>27</sup> Our quantitative research found that a lack of time was the most common explanation given by respondents for not shopping around for their most recent loan. A lack of time was also cited by customers – who reported to have shopped around – as the most common barrier to not comparing a larger number of lenders or spending more time comparing offers (see [provisional findings](#), paragraph 6.53).

<sup>28</sup> [TNS BMRB research with payday lending customers](#), p14.

<sup>29</sup> Only 18% (7 out of 50) of respondents to our survey who said that they would not consider taking out a loan online gave a lack of internet access as a reason. TNS BMRB Quantitative research, [Survey Tables](#), Table 315. We also note that looking at the respondents who took out their most recent loan from high street stores, around 60% of the minority of high street customers who reported to have shopped around said that they visited lenders' websites (and 22% visited PCWs). [TNS BRMB survey report](#), p101. This suggests that customers of high street lenders may also use good quality PCWs to shop around for payday loans, if this remedy were to facilitate the development of an effective price comparison sector.

borrowers using those websites would be made aware of any differences in fees between lenders even where the 'up-front' price appears similar. The overall impact will be that such borrowers will be more aware of the potential cost of late payments and hence more likely to factor it into their decisions.

*Barriers to entry and expansion: raising customers' awareness of new and alternative suppliers' offers*

- 3.14 If a greater proportion of payday loan customers use PCWs, new entrants and smaller lenders would be able to raise awareness of their brands and product characteristics more effectively and potentially more cheaply through a PCW than through alternative channels, such as lead generators, PPC adverts and advertising through traditional media.<sup>30</sup>

*Barriers to entry and expansion: reducing reputational barriers to entry*

- 3.15 Introduction of an accreditation regime for PCWs could also complement the emerging regulatory and enforcement regime of the FCA in improving the perceived reputation of the market. This may help address some of the concerns that non-payday lenders (such as mainstream credit suppliers) as well as other established businesses (such as PCW operators) raised as factors that have inhibited entry so far. Specifically, in addition to the issues identified in paragraph 3.14 an accredited PCW would allow lenders to attract new borrowers without having to rely on direct marketing or the use of lead generators, which have been a significant source of new loans for existing lenders but which have also been the subject of a number of concerns from consumer groups.<sup>31</sup>

#### *Remedy design considerations*

- 3.16 In our Remedies Notice we identified a number of design issues about which we requested views and evidence. These issues can be grouped broadly under the following headings:
- (a) the operation and governance of any PCW(s) forming part of this remedy;
  - (b) the method of funding the PCW(s);
  - (c) the completeness of the panel of lenders on a PCW;

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<sup>30</sup> See [provisional findings](#), paragraph 7.75.

<sup>31</sup> See [FCA response hearing summary](#), paragraph 33, and the Financial Ombudsman Service (FOS), 'Ombudsman warns consumers about payday loan middlemen', 19 August 2014.

(d) the minimum features and functionality required of a PCW; and

(e) the scope of comparisons made using a PCW.

- 3.17 In reaching our provisional decision we considered these issues in the round. However, for the purposes of this document we present our provisional conclusions on each issue in turn.

#### *Operation and governance*

- 3.18 We considered a variety of ways to encourage more payday loan customers to use PCWs and to address the shortcomings that we had identified with existing PCWs.
- 3.19 To this end, we considered the relative merits of creating a new PCW that would be independent of lenders, brokers and existing operators of PCWs, or looking to accredit commercially operated PCWs, whether these PCWs were new or already active in payday lending and/or other markets. We also considered whether the remedy should relate to a single PCW or multiple PCWs and how any PCW(s) that formed part of this remedy option should be funded.
- 3.20 In considering this issue, we were mindful that there are currently a number of PCWs providing comparison services to payday loan customers, albeit the functionality of these websites is not currently sufficient to enable customers adequately to compare loans. We are also aware that there are a number of large, well-resourced PCWs operating successfully in other consumer credit markets (and other financial services markets).
- 3.21 A number of parties identified that an established PCW operator would have pre-existing technology for operating a comparison platform that would be readily able to incorporate payday lending products. Furthermore, an established PCW operator would be able to leverage existing customer awareness of its brand and would reduce the initial marketing costs required to promote the site. Google told us that there were a range of ways in which users could reach PCWs, including via general-purpose search engines. For example, a user could type a name (eg Gocompare) or a web address (eg [www.gocompare.com](http://www.gocompare.com)) into their browser address bar, or type a more generic search term into a search engine.
- 3.22 Our research with payday loan customers showed that when searching for loans, borrowers using search engines would choose to visit websites that

appeared at the top of search rankings or were familiar brands.<sup>32</sup> Given this finding, we considered it likely that an operator of an effective PCW would need to successfully undertake search engine optimisation to appear high on organic search rankings for a range of payday loan search terms and be sufficiently familiar to borrowers to increase the likelihood of them visiting the PCW.

- 3.23 Our research also indicated that borrowers had mixed views on websites using ‘paid search’ results or advertisements on a search engine, with some expressing views that they would not necessarily be the most relevant or appropriate site for them, whereas others felt that advertisements conferred a sense of legitimacy to the site.<sup>33</sup> Whilst we noted some borrowers’ concerns about paid search results, we considered that a PCW’s ability to bid on search terms would enhance its ability to promote itself.
- 3.24 We considered that for borrowers to have the greatest trust in the results provided by a PCW it should be operationally independent of lenders. This need for PCWs to be independent was a consistent theme in responses to our Remedies Notice.<sup>34</sup> We identified several possible models for introducing improved price comparison services, defined by the number of PCWs and the degree of oversight required by a monitoring body.
- 3.25 We also considered that a dynamic commercial PCW sector would be likely to be more successful in generating traffic than a single PCW sponsored by us (or another body such as the FCA). In our view, a commercially run PCW, operating under its own brand, and responsible for generating its own revenue would have incentives to compete for lenders and for visitors. Competition between such PCWs should lead to efficiently operated and innovative sites, well able to reflect market developments. Given the predominantly online nature of the market and the level of interest shown by PCW operators, we considered that it was reasonable to expect commercially run PCWs to be interested in participating in this sector.<sup>35</sup>
- 3.26 We also considered that, in order to avoid the shortcomings of existing sites and to ensure that the results of any search were presented to borrowers in an objectively neutral way, any PCW used by a lender to meet our proposed obligation would have to satisfy accreditation criteria. In paragraphs 3.27 to 3.34 we set out our considerations on the effectiveness of creating a single website or an accreditation scheme to facilitate multiple PCWs. We discuss

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<sup>32</sup> [TNS BMRB research with payday lending customers](#), p14.

<sup>33</sup> *ibid*, p14.

<sup>34</sup> See Appendix 1.1, paragraphs 7–91.

<sup>35</sup> See paragraph 3.32.

our provisional conclusions on this in paragraphs 3.38 to 3.48. We then discuss the principal issues that we considered to be relevant in determining suitable accreditation criteria in paragraphs 3.49 to 3.96.

- *A single website*

- 3.27 We considered remedy options that involved the creation or accreditation of a single ‘official’ PCW. This would have the potential benefit of providing and acting as a single point of reference to which other aspects of our remedy package could link. Over time, such an ‘official’ website might become an established brand with which borrowers could become familiar.<sup>36</sup> However, this approach would allow limited scope for competition between PCWs in delivering the benefits of this remedy and, depending on its design, might risk putting the preferred operator in a very strong negotiating position relative to payday lenders, or other parties, leading potentially to a need for further regulatory intervention in the future.
- 3.28 A single ‘official’ or accredited site could be established in a number of ways and with different commissioning and governance arrangements. These might include:
- (a) creating a new stand-alone site without any involvement from existing PCW operators, developing the site without drawing on any existing PCW infrastructure;
  - (b) appointing a single existing PCW operator (or other party) to establish a website under new branding; or
  - (c) appointing a single existing PCW operator or other party to establish a website under their own brand.<sup>37</sup>
- 3.29 For options (b) and (c) and potentially (a), a decision would need to be made on how long any accreditation (or ‘franchise’) period would last for, with tender processes held periodically.
- 3.30 Another variant on this approach would be for the lenders to be required to provide data to a single third party to aggregate and supply data to a number of PCWs. At present some PCWs operate under a similar model, rebadging a

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<sup>36</sup> However, first-time borrowers may lack awareness of, or familiarity with, the name of the site if it only provided comparisons for payday loans which may in turn affect the likelihood of them visiting the site prior to visiting a lender.

<sup>37</sup> We also considered the possibility that a site could be hosted by a public sector or third sector organisation but we considered it unlikely that we would identify an appropriate body with both sufficient expertise and inclination to take on this role.

third party supplier's comparison engine.<sup>38</sup> We noted that there might be scale benefits from a single site collating price and other information. However, if PCWs were dependent on a single party for aggregation services there may be a lack of incentives for that PCW to innovate. We also considered that requiring lenders to deal with a single aggregator could provide the aggregator with excessive negotiating power. We therefore did not pursue this option further.<sup>39</sup>

- *Accreditation of multiple sites*

- 3.31 An alternative approach would be to enable the accreditation of multiple PCWs. This would have the benefit of allowing any interested party to develop a PCW and seek accreditation for it, encouraging a market to develop for price comparison services for payday loans.
- 3.32 By allowing the accreditation of multiple sites, there would be competition between PCWs which we would expect to bring further benefits to customers, through innovation and promoting choice. From the discussions we held with operators of PCWs we considered it likely that there would be significant interest, from a variety of operators, in becoming accredited.<sup>40</sup>
- 3.33 We considered that having multiple PCWs would have the lowest risk of distorting the PCW sector, as it would not limit the number of sites that could apply for accreditation. However, while there would be a lower risk of distortion, the potential benefit of a single 'official' PCW having greater prominence (and thus customer awareness) would also be lost.
- 3.34 We are aware of PCW accreditation schemes in other markets being administered by sectoral regulators and we spoke to Ofcom and Ofgem to understand the operation of their schemes. We considered that there were aspects of these schemes and criteria applied by these schemes which if implemented by PCWs in the payday lending sector would improve the quality of their service offering.<sup>41</sup>

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<sup>38</sup> Runpath is an example of a company that provides comparison engines and underlying data to a number of well-known PCWs.

<sup>39</sup> However, if a PCW had arrangements to use a third party's price comparison services we do not consider that it should be excluded from receiving accreditation because it used a third party partner, as is the case for some other accreditation schemes.

<sup>40</sup> See, for example, response hearing summaries with [money.co.uk](http://money.co.uk), [moneysupermarket.com](http://moneysupermarket.com) and [Gagemax](http://Gagemax).

<sup>41</sup> For example, Ofcom required accredited PCWs to sort results by default by a relevant pricing metric such as total first-year costs, and expected this would be in the order likely to be most attractive to the user. In relation to price this would be from lowest cost to highest cost and both Ofcom and Ofgem included some form of verification of data.



- 3.35 We also noted the research conducted by Consumer Focus and Consumer Futures<sup>42</sup> which included some comparisons of ‘accredited ‘ and non-accredited websites. This research suggested that accreditation, by itself, was not necessarily a guarantee of a PCW being better than a non-accredited PCW. However, we noted that the research covered a wide range of accreditation schemes – for example some schemes were operated by trade or consumer bodies and others by a sectoral regulator. Some schemes considered by the research (such as SafeBuy) were for a general website accreditation and included no validation of data or requirements for specific PCW functionality. The research did not necessarily assess relative compliance with the individual scheme criteria, rather focusing on the overall service provided.
- 3.36 Given this, we took the view that the details of the accreditation scheme and the capability of the accrediting body were important aspects in the effectiveness of such a scheme. For example, the conditions of accreditation would need to be clearly defined to ensure that accredited websites were of a high quality. The identity of the accrediting body is also important: we would expect schemes run by an expert sectoral regulator, with a focus on enhancing competition, to be particularly likely to have a positive impact on the quality of PCWs operating in that sector.
- 3.37 We concluded that accreditation of multiple schemes was a credible approach that had been successfully implemented in other contexts. We noted that the detailed implementation of any accreditation scheme was likely to be an important determinant of the effectiveness of this approach.

- *Discussion and provisional conclusion*

- 3.38 For a PCW to be effective customers need to be aware of it and/or be able to find it easily. In designing our remedies we considered there could be a benefit in requiring lenders to include a hyperlink to an official PCW (see paragraph 3.103 to 3.107). However, we were concerned that if a single official PCW were accredited, it would benefit from all the traffic directed to it from lenders’ websites. This could risk putting other PCWs at a significant relative disadvantage in promoting their services. Moreover, allowing multiple sites to be accredited could increase customers’ awareness of PCWs in general, particularly if accredited operators were proactive in advertising their websites.

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<sup>42</sup> See Appendix 1.1, paragraphs 87–91 for details.

- 3.39 We considered that the accreditation of a single website might reduce the incentives of non-accredited PCWs to innovate, given their potential competitive disadvantage to the 'official' site. Unless there was frequent, regular retendering or competition for accreditation (increasing the implementation costs associated with this remedy), there was also a risk that the accredited website would also have little incentive to invest in innovation. Although periodic tendering would give rise to the potential for the official site's functions to be reassessed, it may also reduce the incentives for an operator to invest in new functions in addition to the agreed provision because of the risk that the cost of developing the function might not be recouped over the 'franchise' period.
- 3.40 We then considered the bargaining positions of lenders and PCWs and how this might be affected by the number of accredited PCWs. We considered that in any negotiation on fees between PCWs and lenders a single official PCW could have a high degree of bargaining power if lenders' products were required to appear on that PCW. Consequently the price paid for referrals could become inflated (or these prices would need to be regulated in some way). In contrast, under a multiple accreditation model, lenders would retain the option of taking business away from any given site. Even if only one site had achieved accreditation at a particular point in time there would be a potential threat from additional operators seeking accreditation.
- 3.41 If there were multiple accredited PCWs, we considered whether lenders should be obliged to publish details of their products on one of these accredited sites or on all accredited sites. If lenders were required to agree commercial terms for their products to appear on all accredited PCWs, we were concerned that this could undermine lenders' ability to negotiate prices in a similar way as requiring that there is a single official site.
- 3.42 We considered that there would be strong incentives for lenders to be on multiple PCWs (and potentially low incremental costs of being on more than one PCW). In particular, given the current propensity of payday lending customers to spend relatively little time searching for a loan, customers may tend to visit only one comparison site ('single-homing'). To the extent that a number of comparison websites generate significant volumes of traffic and each has a significant number of single-homing customers who can only be accessed through that specific site, we would expect lenders to have incentives to be on multiple sites. This would reduce the need to require that lenders are on all PCWs in order to achieve the objective of enabling customers to search the market effectively. We also expect that as payday loan customers become more aware of the ease and opportunities for making comparisons using PCWs and the benefits of shopping around and as a consequence visit multiple PCWs, there would be similar incentives for PCWs

to attempt to develop a complete panel of lenders, as this would offer them a source of competitive advantage relative to each other.

- 3.43 We expect that multiple accredited sites would compete against each other and that this would encourage innovation. However, to ensure that the current shortcomings of existing PCWs are not repeated once our remedies are in place, an accreditation body will need to design suitable accreditation criteria and evaluate PCWs against these criteria (we discuss the individual elements to be considered for inclusion in an accreditation scheme in paragraphs 3.49 to 3.106 and discuss implementation in paragraphs 3.107 to 3.113 below).
- 3.44 We next considered the risk that there would be no commercial operators interested in seeking accreditation and/or capable of meeting the necessary standards. Based on the conversations we held with PCW operators we considered this to represent a low risk.
- 3.45 Should this risk materialise, which we consider unlikely, we considered whether we would need a fallback option whereby the CMA or the FCA would commission a website from a third party supplier of technology. However, given the prohibition on payday lenders from supplying payday loans unless details of their prices and products are published on at least one accredited PCW, we considered that lenders would have the incentive to work together to create or commission a website that complied with the accreditation scheme, while putting in place appropriate safeguards on governance. This was the approach taken in the CC's Home Credit market investigation (see paragraph 3.56).
- 3.46 Although we did not consider that there were any circumstances that would prevent a single accredited PCW being created, as in the Home Credit Market Investigation, we took the view that, given the existing maturity of PCWs in general, the fact that some PCWs are already providing some details of payday loans and that PCWs operating in other sectors are also potentially interested in providing payday loan comparison tables, it would be more effective and proportionate to seek to encourage several participants, including existing PCWs, to seek accreditation.
- 3.47 For all the reasons outlined above we provisionally concluded that allowing for the accreditation of multiple PCWs would be preferable to accrediting a single one. We noted that some of the risks that we identified for a single accredited website could still exist if the criteria for accreditation were too onerous or inflexible: if the cost of implementing the criteria were excessive this might discourage accreditation; similarly, if the criteria were too prescriptive, that might reduce the ability of PCWs to innovate. We consider the criteria for accreditation further below (we discuss the individual elements to be

considered for inclusion in an accreditation scheme in paragraphs 3.49 to 3.106 and discuss implementation in paragraphs 3.107 to 3.113).

- 3.48 On the basis of the above discussion we provisionally decided that an accreditation scheme broadly along the lines of those operated by Ofcom and Ofgem in the telecoms and energy markets that would allow the accreditation of one or more PCWs would be the most appropriate model to pursue. Our provisional decision to prohibit payday lenders from supplying payday loans unless their products appear on one or more accredited PCWs would also incentivise lenders to establish or commission such a site in the unlikely event that no existing or new operators of PCWs sought accreditation on a commercial basis.

#### *Method of funding*

- 3.49 We considered the possible costs associated with this remedy and how these costs should be funded. We considered that there would be three principal costs associated with this remedy:

- (a) development cost to a prospective PCW operator;
- (b) cost to lenders of providing data to a PCW; and
- (c) cost of developing and managing an accreditation scheme to the accrediting body.

- 3.50 We considered these in turn. First, we considered the potential costs of developing a PCW capable of accreditation. This could vary depending on a number of factors, including whether or not an operator currently provided comparison services (in which case the comparison engine might be readily adapted and expanded) and the functionality of the site. We noted, however, that our proposed remedy envisages that PCWs will seek accreditation on a voluntary basis and we therefore expect PCWs to seek accreditation only if they anticipate developing a website that would be profitable (ie the expected revenues were likely to outweigh the cost of developing and managing the payday loan comparison site). Once a PCW had been established, while there would be ongoing costs associated with enhancing or advertising the site (which would be a commercial decision for the PCW operator), we would expect the ongoing costs of maintaining the payday loan comparison table in order to comply with the required standards were likely to be small.

- 3.51 Second, we considered the cost to lenders of providing data to a PCW. There may be some cost involved in providing data on products in a variety of formats to different PCWs (if lenders wished to appear on multiple PCWs); however, we did not consider this was likely to be material. In particular once

a template for providing this information had been agreed with a PCW we did not identify any significant ongoing cost. We also considered that there may be some costs of establishing commercial arrangements with a PCW but we expected that any such cost would displace other costs associated with contracting with other parties such as lead generators, and in any case lenders would receive a commercial benefit in return for any fee paid to PCWs (ie additional customers).

3.52 Third, we considered the cost of developing and managing an accreditation scheme. We contacted Ofgem and Ofcom to discuss their PCW accreditation schemes and the cost of administration. We considered that the costs of managing an accreditation scheme were likely to be driven by the complexity of the criteria and the nature of the monitoring of the PCWs undertaken by the accrediting body.

3.53 We consider these categories of cost in greater detail in our assessment of proportionality in Section 8.<sup>43</sup>

3.54 In light of the costs of developing and operating a PCW, we considered there to be three principal ways in which a PCW might be funded:

- (a) A levy on lenders based on the volume or value of issued loans (or another appropriate financial metric) with the intention of cost recovery shared between lenders in proportion to their share of the market.<sup>44</sup>
- (b) Commercial arrangements to allow a PCW to receive commission or payment for referral of borrowers to a lender.
- (c) Commercial arrangements to allow PCWs to receive payment for more prominent positioning of a lender's products on a PCW.

3.55 We also identified that some PCWs might wish to carry additional commercial advertising (ie from parties other than payday lenders) but we considered that this was likely to be a secondary source of revenue. We consider each method of funding in turn.

- *A levy on lenders*

3.56 In 2007, following a market investigation, the CC required providers of home credit to create a new website: 'lenderscompared.org.uk'.<sup>45</sup> This website is

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<sup>43</sup> See paragraphs 8.21–8.29.

<sup>44</sup> We considered that this would only be appropriate for a single website or to finance a governance body for an accreditation scheme.

<sup>45</sup> This was established by [Order](#) which was [varied in 2011](#).

funded by the largest home credit lenders with the charge paid by lenders in proportion to their market share, covering the direct operating and promotion costs of the site. No commission or referral fee is generated by the website for any loan subsequently taken out. If lenders were required to make a direct contribution to the costs of developing the site, there would need to be appropriate contractual and governance arrangements to provide sufficient oversight of the PCW's costs and performance. Such arrangements have been put in place for lenders compared.org.uk and have proven to be robust.<sup>46</sup> However, we noted that, where a website is funded by a levy on lenders, representatives of lenders might not have strong incentives to authorise expenditure for the website to develop additional functionality that would not directly benefit them and this could result in innovation being inhibited.

3.57 Some parties told us that a PCW could (or should) be funded by some form of levy,<sup>47</sup> though Wonga noted that whilst initial set-up costs could be funded by levy, it should be commercially viable in its own right in the medium to long term.<sup>48</sup>

3.58 We provisionally concluded that a levy on lenders might be a potentially viable funding arrangement for a single 'official' PCW to cover the site's development and ongoing promotion costs but would not be appropriate or feasible for multiple accredited PCWs.

- *Commercial arrangements to allow a PCW to receive commission or payment for referral of borrowers to a lender*

3.59 We understand that the typical funding model of a mainstream PCW is to receive commission or a referral fee for any borrower who either clicks through to a lender's website or subsequently takes out a loan.<sup>49</sup> Under this approach, lenders would effectively fund the PCW, but would do so in return for a commercial benefit (ie a customer 'lead' or a new customer). The distribution of costs between payday lenders would be determined by commercial negotiations and factors such as the volume of business transacted by different lenders through PCWs. In this way, we would expect lenders who benefit most from this remedy – ie by attracting the largest number of customers – to make a significant contribution to its funding.

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<sup>46</sup> See CC, [Understanding past market investigation remedies: Home credit](#), February 2013, paragraphs 124 & 125.

<sup>47</sup> Notably Dollar, My Home Finance and Wonga. See Appendix 1.1, paragraphs 32–45, for a summary of parties' views.

<sup>48</sup> See Appendix 1.1, paragraph 39.

<sup>49</sup> Arrangements vary by PCW and individual lenders. See response hearing summaries of [money.co.uk](#), [moneysupermarket.com](#) and [Gagemax](#).

3.60 In light of the evidence we have gathered to date, we consider it likely that multiple PCWs will seek accreditation,<sup>50</sup> such that there would be scope for such commissions and fees to be determined by commercial negotiations between lenders and PCW operators. We have sought to design this remedy to avoid putting either lenders or PCW operators in an unduly advantageous negotiating position.

3.61 However, in the less likely scenario in which only one PCW applied for accreditation we considered that there was a potential for the PCW to exploit this position. Given this, we considered that the accreditation in these circumstances, which we judge are unlikely to arise, may require some additional scrutiny of commercial arrangements to ensure that PCWs are contracting with lenders on fair, reasonable and non-discriminatory terms.

- *Payment for more prominent positioning*

3.62 Some existing PCWs have commercial arrangements with lenders which allow those lenders' products to be displayed with greater prominence, either in the initial ordering of products on a price comparison table, or in terms of how the product is displayed, whether within a comparison table or on any other page on the site.

3.63 Our customer research noted that most customers said they would not scroll very far down a results page, often only looking at the top five results and that brand familiarity and results appearing at the top of search results were the most influential drivers of choice.<sup>51</sup> This was consistent with how customers said they used search engines to find loans.<sup>52</sup> Our research also found that customers assumed that loans would be listed in order of their popularity with customers or their price and that customers automatically assumed that the site would be working in the consumer interest.<sup>53</sup>

3.64 Given the findings of this research we considered that any additional prominence given to a product other than on the basis of the price of that product or relevant non-price characteristics chosen by borrowers would significantly reduce the effectiveness of this remedy.<sup>54</sup> Similarly any

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<sup>50</sup> See, for example, response hearing summaries with [money.co.uk](http://money.co.uk), [moneysupermarket.com](http://moneysupermarket.com) and [Gagemax](http://Gagemax).

<sup>51</sup> [TNS BMRB research with payday lending customers](#), p14.

<sup>52</sup> Our research found that having searched for payday loans on a search engine, a prospective borrower's next step was usually to select the lender that was most familiar to the customer – either due to recommendations, advertising, or previous use – or was high in the search results. [TNS BMRB research with payday lending customers](#), p12.

<sup>53</sup> [TNS BMRB research with payday lending customers](#), p20.

<sup>54</sup> Given the significance of the absence of price competition in our provisional AEC finding, we consider it particularly important that this remedy facilitates comparison of the prices of payday loans. However, we acknowledge that non-price factors can also be important to customers, so we would expect accredited PCWs to also enable customers to filter or rank products according to their non-price characteristics.

advantages in reducing barriers to entry would be diminished if established lenders were able to obtain undue prominence by increasing fees paid by lenders to PCWs to exclude other lenders from gaining prominence.

- 3.65 We also noted that any ability for lenders to pay for prominence might increase the relative cost of customer acquisition through this channel which might be passed through to customers.
- 3.66 Parties expressing a view told us that a PCW should be independent and nearly all parties told us the initial order of products should be determined on price in the first instance. One PCW operator (money.co.uk) told us that an operator should be able to determine the initial order of products within a payday loan comparison on the basis of commercial arrangements as long as the ability to sort or filter results was accessible.<sup>55</sup> Another PCW operator (Gocompare) told us that its secondary sort criteria for some personal lending products (those hosted by lovemoney.com)<sup>56</sup> included acceptance rate, which would make borrowers more likely to choose a product that they would be accepted for, which it considered was beneficial for itself and for borrowers who were uncertain which lender was most likely to accept them.<sup>57</sup>

- *Additional commercial advertising*

- 3.67 We noted that some PCWs might wish to generate additional income from hosting commercial advertising. To the extent that this advertising would give greater prominence to a given lender's products we considered that it would diminish the effectiveness of the remedy for the reasons set out in paragraphs 3.62 to 3.66. Given this, we did not consider it appropriate to allow advertising of payday loan products by any lenders on the PCW's payday loan pages.
- 3.68 We noted that there might be some consumer protection issues associated with allowing any advertising of any products on a PCW for payday loans (such as encouraging consumption funded by payday loans) and this is a matter that we would expect PCW operators and the accrediting body to consider. However, we did not consider it appropriate to specify restrictions on non-payday lending advertising, given the scope of our investigation and the possibility that some advertising (eg for a customer to check their credit score) might raise no such concerns or even be beneficial to customers.

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<sup>55</sup> [money.co.uk response hearing summary](#), paragraph 21.

<sup>56</sup> This does not include payday loans.

<sup>57</sup> If a PCW is paid for loans issued, where two products with identical prices are ranked using the rate of acceptance, and borrowers tend to apply to the lender with the highest acceptance rate, the PCW is therefore more likely to earn a commission. However, this also benefits the borrower by identifying loans they are more likely to be accepted for.



- *Provisional conclusion on method of funding*

- 3.69 The level of funding that would be necessary to finance any given PCW is likely to be partially determined by the nature of the site. We considered that if we were to require a completely new PCW to be developed there would potentially be significant upfront development and promotional costs (see paragraph 8.29). If there was a single new accredited site then this could be funded by a levy on lenders, as in home credit. However, if multiple PCWs were to be accredited we considered that funding via a levy would clearly be inappropriate and that lenders and PCWs should be left free to set the terms of their arrangement on a commercial basis subject to compliance with any overriding accreditation rules. We discuss the potential costs of this remedy in paragraphs 8.22 to 8.29.
- 3.70 We provisionally concluded that commercial operators would be best placed to deliver accredited PCWs and that a number of such operators would be interested in doing so. In the unlikely event that only one site is accredited, then the body accrediting that site may need to ensure that the charges are fair, reasonable and non-discriminatory.
- 3.71 We therefore provisionally decided that any accredited PCW should be funded by lenders making commercial arrangements with that PCW as described in paragraphs 3.59 to 3.61), rather than by a levy on lenders. However, to avoid compromising the effectiveness of this remedy, we further provisionally concluded that there should be no commercial arrangements between lenders and PCWs that give additional prominence to any lender on an accredited PCW. The initial order of loan product information/search results should be in ascending order of price (our recommendation is that this ranking should be by reference to the total cost of credit for a specified loan size and duration – see paragraph 3.85). Where two products are identically priced, the secondary sort criteria<sup>58</sup> that determine their respective placing should not be determined on the basis of any commercial arrangement between the PCW and the lender, but should be on the basis of another objective characteristic of the products (eg late fees).

#### *Completeness of a panel of lenders*

- 3.72 The purpose of a PCW is to facilitate shopping around. To make this process effective, customers should be readily able to compare loans both on price and other characteristics that they consider relevant.

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<sup>58</sup> Sites may use a single metric to order results or may use a number of metrics with different weightings to determine the sort order.

- 3.73 The effectiveness of a borrower's shopping around will be determined by the extent to which their search process encompasses most or all of the products potentially on offer to them. A good quality PCW enables customers to review a larger number of products more quickly and effectively than searching the market themselves, as it performs much of the search process for the customer and helps identify the products that are most likely to represent good value, given the customer's requirements. All else being equal the effectiveness of a PCW in facilitating customer search is likely to be greater the more products are included on the site.
- 3.74 We discussed above (paragraphs 3.41 to 3.43 ) aspects of our consideration on whether or not all lenders should be required to be present on all accredited PCWs and the implications of such a requirement with respect to the balance of bargaining power between lenders and PCWs in negotiating fees. We consider that it is in the interest of borrowers to have as complete a panel as possible to maximise the likelihood that they take out the best-value loan for them; that it is generally in the interests of lenders for their products to appear on all of the major PCWs in order to maximise exposure; and that (as payday loan customers become more aware of the ease and opportunities for making comparisons using PCWs and the benefits of shopping around) it will generally also be in the interest of PCWs to offer borrowers a full panel of lenders as a source of a competitive advantage to attract borrowers to their sites. We took the view therefore that there are sufficient incentives for all parties to ensure that PCW lender panels comprise a significant proportion of authorised lenders.
- 3.75 We considered the risk that some lenders might prefer for their products not to be present on sites where they would appear to offer poor value relative to other products, and may therefore seek to circumvent this remedy by only appearing on sites which offered customers a limited range of products. For example, a lender might seek to enter into commercial agreement with a spurious 'comparison site' that excluded new entrants or better-value products. As noted above, there are countervailing incentives on both lenders and PCWs which limit the extent to which this risk is likely to materialise in practice. However, to further reduce the likelihood of such circumvention and to address this risk, we considered that the accreditation criteria should also require accredited PCWs to be open to use by all potential lenders, subject to agreeing reasonable commercial terms.
- 3.76 Additionally, we identified a risk that a lender with relatively high prices might not wish to link to a site where its products were demonstrably more expensive than other products listed. There was thus a risk that a lender would choose to link to a PCW where its products did not appear (see

paragraphs 3.103 to 3.106).<sup>59</sup> We therefore considered that any requirement for a lender to provide a hyperlink from its own website to an accredited PCW should include the need for that lender to be present on that PCW to facilitate comparison of that lender's products.

- 3.77 Parties generally supported the requirement for all lenders to be included on a PCW (though in a number of cases this was in specific reference to a single official or accredited site). One PCW operator told us that only FCA authorised lenders should be included and that those lenders included were the right type of organisations to have its brand associated with.<sup>60</sup> It would therefore wish to have the right to exclude certain lenders for reputational reasons/if it considered that lender was not compliant with FCA rules.
- 3.78 No party strongly supported the inclusion of credit brokers on an accredited PCW, although one PCW thought that there should be appropriate consideration of the possible unintended consequences of excluding brokers.<sup>61</sup> Reasons given for excluding credit brokers from accredited PCWs were broadly related to the issues that we are seeking to address in respect of lead generation. Parties also told us that if brokers were included on a PCW, they would not be able to display an accurate price for a specific loan. We agreed with these submissions and considered that it would be inappropriate to allow brokers to be included within a price comparison table.<sup>62</sup>
- 3.79 We provisionally decided that lenders would be prohibited from supplying payday loans to UK customers unless details of their payday loan products are published on at least one accredited PCW which allows borrowers to compare that lender's products with other products available in the market and that each accredited website should be open to any authorised lender, subject to agreement of reasonable commercial terms between the PCW operator and the lender.
- 3.80 We further provisionally decided that in order to ensure that borrowers were comparing information about actual loan products and for the reasons set out

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<sup>59</sup> If a lender considered that its product would be unlikely to be selected by a borrower using a PCW, it might consider that preventing a borrower comparing other loans with the loan initially selected by the borrower might increase the likelihood that the borrower would return to the originating lender (by pressing the back button on the browser).

<sup>60</sup> [moneysupermarket.com response hearing summary](#), paragraph 19. It considered, however, that any PCW would need a critical mass of lenders to be successful.

<sup>61</sup> [money.co.uk response hearing summary](#), paragraph 20.

<sup>62</sup> Some parties specifically stated that lead generators should be excluded; other parties stated that only authorised lenders should be included (which we took to mean no unauthorised lenders or any other credit intermediary). Views expressed by parties on the specification of the PCW to include the ability for a borrower to enter the value and duration of a loan and see products ordered by price seemed incompatible with the inclusion of lead generators. For example, CashEuroNet said that the inclusion of lead generators could confuse customers unless their status was clearly identified ([response to Remedies Notice](#), paragraph 8.3). See also Appendix 1.1, paragraphs 50–65.

in paragraph 3.78, an accredited PCW should not include entries from credit brokers or other intermediaries.

*The minimum features and functionality required of an accredited PCW*

- 3.81 We considered what should be the minimum features and functionality of an accredited PCW. In so doing, we sought to strike an appropriate balance between helping borrowers to find, compare and contrast products and creating a set of overly rigid criteria which could deter the emergence of a thriving price comparison sector for payday loans.
- 3.82 We noted the shortcomings of existing PCWs in our provisional findings (paragraphs 6.78 to 6.86), which in our judgement necessitated setting some minimum standards as part of the accreditation regime. We noted, however, that over-specifying such criteria also carried significant risks, namely:
- (a) making compliance with the accreditation onerous and burdensome, discouraging participation;
  - (b) that an overly prescriptive specification may not reflect the products being offered in the market at some future date;
  - (c) that the user experience could be impaired if providers had to focus on compliance over usability (through inclusion of an excessive number of mandatory features or functions);
  - (d) increased monitoring costs; and
  - (e) discouraging innovation and competition between PCWs.
- 3.83 Our research with users of payday loans found that borrowers wanted to be able to enter specific loan amounts and borrowing periods, and compare the total cost of repayment. Whilst the headline price remained the most important aspect that customers wanted to compare, customers saw value in being able to sort by other variables, including: the time it took to access the money and whether any documentation was required; information about late fees; and flexibility of repayment.<sup>63</sup>
- 3.84 We therefore took the view that a customer should be invited to specify the value and duration of a loan before a comparison table is presented to ensure that borrowers understand the relative cost of the loan they wish to take out.

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<sup>63</sup> [TNS BMRB research with payday lending customers](#), p8.

- 3.85 With respect to measures of the relative price of a loan, our customer research indicated that borrowers compared loans on both the total cost of credit and the APR. APR, whilst generally not well understood, was perceived as being easy to compare, and acted as a proxy for price when the total repayment amount was not listed. Respondents tended to look briefly at the representative example, but were unable to use it to compare loans as the loan periods were often different.<sup>64</sup> We considered that as the APR does not necessarily reflect the relative cost of a specific loan that borrowers using an accredited PCW were likely to benefit from specific information on the total cost of credit, both as an aid to comparison and the borrower's assessment of their ability to repay a loan. This is consistent with our discussion of the limited usefulness of the representative APR in facilitating comparisons between payday loans in paragraphs 6.73 to 6.73 of our provisional findings.
- 3.86 Parties who responded to the CMA's investigation universally supported the ability for borrowers to specify the value and duration of a loan (including instalment loans for durations greater than 28 days). Views on specific search and filtering criteria differed but referred to a broad variety of criteria which included:
- (a) value of loan;
  - (b) duration of loan;
  - (c) repayment structure (eg whether repayments are made in single or multiple instalments);
  - (d) speed of processing application;
  - (e) whether applications and payment are processed 24/7;
  - (f) the ability to enter a postcode to find high street lenders;
  - (g) flexible payment options (whereby early repayment would reduce interest); and
  - (h) late fees and other additional charges.
- 3.87 One consumer group<sup>65</sup> told us that the ability to identify faster payment options should not be over-emphasised, as this tended to discourage customers from considering whether a payday loan was the right product for them.

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<sup>64</sup> *ibid*, p20.

<sup>65</sup> [Islington Debt Coalition response to Remedies Notice](#).

- 3.88 We considered that the ability to search and filter by these criteria would assist borrowers in shopping around. However, in the first instance we consider it is most important that a customer understands the price of a given loan, which requires a borrower to specify how much they wish to borrow and for what duration. To the extent that a PCW facilitates searching on additional variables we consider this would be beneficial as long as it does not impair the accessibility of the site (or provide scope for rankings of loans to be influenced by a commercial relationship) and we would not envisage the accreditation criteria preventing this.
- 3.89 We considered the accessibility of a site with respect to the significant number of users accessing loans (and PCWs) using mobile devices (whether this is smartphone or tablet).<sup>66</sup> We took the view that prescribing a detailed set of standard search features that must be available ran the risk of impairing an operator's ability to design an attractive, accessible website. We considered that commercial PCW operators and professional web designers would be best placed to incorporate the findings of our customer research and the other evidence we have published.
- 3.90 We discuss some aspects of assisting borrowers to identify which loans they would be accepted for as part of a PCW below in paragraphs 3.158 to 3.163 in our discussion of measures to facilitate shopping around without unduly affecting a borrower's ability to access credit.
- *Provisional conclusion on minimum functionality for accredited PCWs*
- 3.91 We provisionally decided that the minimum functionality required of a PCW that receives accreditation should comprise:
- (a) The ability for a customer to specify:
    - (i) the value of a loan or credit that they wish to take out;
    - (ii) the duration of the loan that they wish to take out; and
    - (iii) the repayment structure of the loan that they wish to take out (eg single repayment, instalments).
  - (b) The default order of products listed on the PCW results list should be according to the total cost of credit, with the product with the lowest total cost of credit for the specified loan appearing first on the list:

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<sup>66</sup> For example, Gagemax told us that over half of its traffic came from mobile devices ([Gagemax response hearing summary](#), paragraph 19).

- (i) any secondary sorting criteria should not be based on any commercial relationship between the PCW operator and the lenders listed; and
  - (ii) where two products are equally ranked on price, a PCW should choose an appropriate secondary criterion that reflects an objective product characteristic, rather than commercial relationships with lenders (see paragraph 3.71).
- (c) By using the website, the customer should be able to:
- (i) identify the structure of late fees charged by lenders; and
  - (ii) identify if a loan can be repaid early and whether this will reduce the cost of the loan.

*Scope of comparisons made using accredited PCWs*

- 3.92 We considered what the range of products to be included on a PCW should be.
- 3.93 During the course of the investigation we identified a number of different credit products available to customers for periods of one year or less, which subject to their use by customers were within the scope of our investigation.
- 3.94 Parties broadly supported the ability of a PCW to provide a comparison of a wider variety of credit products, than just payday loans, such that a PCW could present a continuum of credit products for borrowers to compare.
- 3.95 We therefore see clear advantages in customers being able to compare a range of types of personal credit some of which may be more appropriate to the customer's needs than payday loans. However, as we would be unable to compel providers to list these products on a PCW, we considered that it would potentially be counterproductive to require PCWs to develop a comparison platform to compare multiple heterogeneous product structures.
- 3.96 We therefore provisionally decided that whilst PCWs would not be precluded from offering a wider selection of products for comparison we will not require this within the accreditation criteria.

*Constraints resulting from Google advertising restrictions*

- 3.97 Some operators of mainstream PCWs, operating in a number of sectors, had expressed concerns over the impact of offering comparison services for payday loans on their core existing business. These concerns related to

restrictions known as ‘Consumer Advisories’ on paid search imposed by Google AdWords. These parties told us that they had either had to cease offering payday loan comparison services to ensure their other revenues were not put at risk (as a result of being prevented from using paid search) ([REDACTED]) or had had their paid search account suspended for not appropriately segregating payday comparison tables ([REDACTED]). [REDACTED] told us that Google would need to provide an exemption to accredited PCWs.<sup>67</sup>

- 3.98 We contacted Google about these concerns. Google told us that the Consumer Advisory was appropriate, reflecting consumer warnings given by the US Federal Trade Commission and other consumer agencies, and ensured that users searching for other products and services were not targeted by advertisers of payday loan products but did not prevent users searching for payday loans from seeing advertisements relevant to them.
- 3.99 In response to concerns that the Consumer Advisory acted as a barrier, Google told us that it was wrong to say that PCWs could not advertise other services on AdWords while also operating a payday loan comparison service under the same brand. Advertisers could segregate their payday loan content on a specific sub-domain of their general site, enabling AdWords advertisements for the rest of the site to show in response to non-payday lending search terms. Google noted that, for instance, money.co.uk was able to operate in this way.
- 3.100 Google further noted that the Consumer Advisory did not impact on natural search results.
- 3.101 Our review of money.co.uk’s site found that its navigation menu structure was determined by the method that we used to access the site. When visiting the site by entering the money.co.uk URL directly, searching for ‘money.co.uk’ and clicking on an organic result, payday loans were accessible under the loan menu. However, when we searched for ‘money.co.uk payday’ or ‘payday comparisons’ and clicked on an AdWord result relating for money.co.uk we found that payday loans were not displayed in the menu structure (though for payday search terms we were able to directly access the payday price comparison table). On subsequent visits to money.co.uk by entering the site’s URL, payday loans remained hidden on the menu structure.
- 3.102 We noted Google’s comments, and the ways in which mainstream PCW operators might be able to reconfigure their websites in order to comply with Google’s Consumer Advisory rule. Given this, we considered that the existence of this rule would not prevent a number of PCW operators from

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<sup>67</sup> [REDACTED]



seeking accreditation. However, we also noted that this rule is widely perceived as being a significant deterrent for mainstream PCWs offering payday loan price comparison tables and that the impact of this remedy would be maximised if a wide variety of PCW operators were encouraged to seek accreditation. Given this, we would welcome further comments and evidence on the cost, impact and practicality of the approach outlined above by which mainstream PCWs could comply with Google's Consumer Advisory rule, namely creating a sub-domain for websites and dynamically generating menus.

*Obligation on lenders to link to the PCW from their own website*

- 3.103 To enhance the effectiveness of the remedy, we considered it important for borrowers to be made aware of the existence of accredited PCWs. For borrowers searching for loans using search engines, both organic and paid search may help promote the sites. However, borrowers who repeatedly use the same lender may return to the lender's site directly without shopping around and so may not become aware of PCWs through this mechanism.
- 3.104 To help make these borrowers (whose behaviour may indicate a lack of shopping around) aware of the opportunity to use accredited PCWs we consider that the effectiveness of this remedy would be significantly enhanced by requiring lenders to include a prominently placed link on both their publicly accessible website and any summary of borrowing costs<sup>68</sup> to one or more accredited PCWs.<sup>69</sup>
- 3.105 Given our provisional decision to allow accreditation of multiple PCWs, we considered that there were two main options for this aspect of the remedy:
- (a) The lender could link to a list of all accredited PCWs.<sup>70</sup>
  - (b) The lender could link to one or more accredited PCWs of their choosing (and on which that lender's products appear).
- 3.106 There are pros and cons of either approach. A requirement to link to a list of all accredited PCWs would increase customers' awareness of the options available for making comparisons and would reduce the risk of lenders

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<sup>68</sup> As discussed below in paragraph 3.220.

<sup>69</sup> We consider that for a link to be prominent it should be positioned such that it would be clearly visible to a borrower prior to beginning an application (including if that borrower was directed to the lender from a lead generator's website). Such positioning might be immediately adjacent to a set of sliders to specify a loan, or any link to an application page (or on the landing page in the event that a customer was directed to the site from a lead generator), in text of appropriate size, font and colour so that a borrower is aware of it.

<sup>70</sup> Which might be hosted on the accrediting body's website.

directing customers to an ‘inferior’ PCW, or one on which they appeared relatively favourably. Conversely, our customer research indicated that respondents thought it would be desirable to minimise the time and number of steps required to navigate to a PCW, which would support the option of linking directly to a single website.<sup>71</sup> Given these considerations, our provisional view is that it would be reasonable to allow lenders the choice of which of these two options (or both) to take, rather than specifying this as part of the remedy. However, we would welcome further specific comment on this issue.

### *Implementation of remedy*

- 3.107 The strengthening of the price comparison sector for payday loans by the introduction of accredited PCWs without the shortcomings of the sites currently available is likely to promote competition between lenders and thereby bring significant benefits to customers.
- 3.108 We consider that as the FCA has responsibility for regulating consumer credit, including payday lending, and also has competition powers and duties, it would be most appropriate for the FCA to oversee the detailed specification and monitoring of an accreditation scheme for PCWs. This will ensure that it complements and enhances the FCA’s existing regulatory framework and oversight of lenders and credit brokers. The FCA has the necessary expertise, focus on consumer outcomes and resources to perform this important role to a high standard.
- 3.109 We therefore provisionally decided to recommend to the FCA that it introduces an accreditation scheme for PCWs which it will establish and administer. We have set out in this provisional decision the core principles that we believe should underpin such an accreditation scheme and we would expect that the FCA would wish to build on these principles in designing and implementing the accreditation scheme.
- 3.110 To ensure that customers are able to shop around more readily we provisionally intend to issue an Order to require payday lenders to supply details of their prices and products which are published on at least one accredited PCW and to provide prominent links to such accredited PCW(s) and/or portal(s) managed by the accrediting body on their own websites.
- 3.111 Our expectation is that we would issue our recommendation to the FCA on publication of our final report to allow them to begin to develop an accreditation scheme in parallel to our work in making the Order. We expect to issue a draft Order for consultation to lenders shortly after publication of the final

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<sup>71</sup> [TNS BMRB research with payday lending customers](#), p37.

report and, in line with statutory time frames, to issue the final Order within six months of the final report. We do not anticipate that the Order will require immediate publication of prices on an accredited PCW; rather we would propose to allow a period of time after making the Order before the obligation on lenders applies, to allow PCW operators to seek accreditation. The precise timing will be subject to consultation when the draft Order is published. Our current thinking is that such a time period would be around three months after the FCA has established its accreditation scheme and at least one PCW has been accredited. This period of three months would start at the point that the CMA issues a notice to lenders indicating the availability of at least one accredited PCW.<sup>72</sup> We envisage that the obligation on lenders would therefore commence within around 12 to 15 months following publication of our final report.

3.112 We have sought to avoid over-specifying the accreditation criteria in order to facilitate innovation and increase the likelihood of multiple operators seeking accreditation.<sup>73</sup> However, we would expect potential PCW operators to draw on our customer research<sup>74</sup> and findings as well as their own product testing to design PCWs with appropriate functionality.

3.113 Given the importance of this measure to the remedy package we would particularly welcome views on the proposed remedy, its means of implementation and the proposed accreditation criteria. We discuss the potential costs of the remedy in paragraph 8.24 and welcome any further evidence on these costs.

### ***Improving the disclosure of late fees and other additional charges***

#### ***Summary of remedy***

3.114 Figure 3.2 summarises our remedy to improve the disclosure of late fees and other charges.

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<sup>72</sup> The CMA remedy order would provide that in the event that no PCW applies for accreditation within a specified period – for example, six months of making the Order – lenders would be required to create or commission a PCW that satisfied the accreditation criteria within a further period (for example, 12 months), and the Notice would then relate to this PCW.

<sup>73</sup> See paragraph 3.47.

<sup>74</sup> [TNS BMRB research with payday lending customers](#).

FIGURE 3.2

**Measures to improve the disclosure of late fees and other additional charges**

In order to increase customers' awareness of late fees and other additional charges, the CMA has provisionally decided to recommend to the FCA to:

- Take the steps necessary to ensure that payday lenders and relevant intermediaries are fully aware of their obligations to disclose to customers prominently and on a timely basis details of late fees and other charges payable if a loan is not repaid in full and on time.
- Review proposals by payday loan PCWs for complying with these obligations as part of the accreditation process.
- Monitor actively both the presentation by payday lenders and relevant intermediaries of information about late fees and other charges payable if a loan is not repaid in full and on time and the accessibility of this information to customers, and to take enforcement action where necessary.

*How the remedy addresses the AEC and/or resulting customer detriment*

3.115 We provisionally found that customer demand is particularly insensitive to the fees and charges incurred if customers do not repay their loans in full and on time. We found this to be the result of a combination of:

- (a) the limitations in the information provided by lenders regarding late fees;<sup>75</sup>
- (b) the difficulty in making comparisons given lenders' different charging structures;<sup>76</sup> and
- (c) a tendency among some customers to be overconfident about their ability to repay.<sup>77</sup>

3.116 By improving lenders' disclosure of late fees and charges we expect to address and remove the limitations identified.

3.117 We also expect that if information on late fees is disclosed prominently and on a timely basis, customers would be more aware of the existence of these charges and they would be more likely to take these fees into account when choosing a payday loan. To the extent that PCWs also disclose this

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<sup>75</sup> See [provisional findings](#), paragraph 6.93.

<sup>76</sup> *ibid*, paragraph 6.94.

<sup>77</sup> *ibid*, paragraph 6.92.

information prominently and on a timely basis this would improve customers' ability to make informed comparisons and to factor this pricing element – when relevant – into their decisions.

- 3.118 Our remedy requiring a lender to provide existing borrowers with a summary of borrowing costs (paragraphs 3.184 to 3.239) complements this measure by enhancing customers' ability to assess the likelihood that they will incur late repayment charges by providing them with timely information of the outcome of their most recent loan and the charges they incurred on that loan (and of the charges incurred on all loans with the lender during the past 12 months).

### *Remedy design considerations*

- 3.119 We set out below our consideration of issues relating to the design of this remedy:

- (a) In paragraphs 3.120 to 3.126 we consider ways in which disclosure of late fees and charges may be improved.
- (b) In paragraphs 3.127 to 3.128 we consider potential unintended consequences that might result from an excessive focus by customers on late fees and other charges incurred if a customer does not repay a loan in full and on time.
- (c) In paragraphs 3.129 to 3.131 we discuss the impact of the FCA's proposed price cap.

### *Options to improve the disclosure of late payment fees and charge*

- 3.120 In our provisional findings, we reviewed a number of lenders' websites. Whilst the headline rate or price is typically obvious on the front page, charges arising from late payment are not always prominently displayed or clearly presented.<sup>78</sup>

- 3.121 We identified two ways of presenting information on late fees:

- (a) Setting out the structure of late fees and the events that will cause those charges to be levied.
- (b) Requiring the inclusion of a common scenario of late payment such as the cost of payment two weeks late based on the loan applied for.

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<sup>78</sup> *ibid*, paragraph 6.93.

- 3.122 We considered whether such information could be presented alongside the initial quote for the price of a loan when a customer enters their desired loan amount and duration. Such information would also be useful to borrowers if made available on a PCW.
- 3.123 We received broad support from parties that the presentation of fees and charges should be transparent.<sup>79</sup> A number of parties told us that existing regulation was sufficient but that enforcement action by the FCA may be necessary.
- 3.124 Some parties told us that scenarios were a useful way of presenting the potential additional costs that borrowers could incur and were likely to have a greater impact than other methods of presentation. However, other parties told us that there was a danger that a scenario could be misleading as it focused attention on one specific example and necessarily could not present the potential costs of borrowing accurately. To maximise the impact of any disclosure of additional costs, some parties suggested this disclosure should occur early in the application process.<sup>80</sup>
- 3.125 We discuss the potential impact of the FCA's proposed price cap in paragraphs 3.129 to 3.131 and in greater detail in Section 6.
- 3.126 We noted that lenders currently presented their fees and charges with varying levels of transparency and this variation was reflected in the responses from parties. We considered that the widespread adoption of the best practices present in the market would go some way towards remedying the problems we have identified. We noted that within CONC there is guidance stating that 'a firm should consider highlighting the principal consequences for the customer, including the consequences of missing payments or underpaying'.<sup>81</sup>

*Potential risks of excessive focus on late fees*

- 3.127 We considered it to be appropriate that borrowers enter a credit agreement on the basis that they expect to be able to repay the credit facility as agreed. However, borrowers should nevertheless be made aware of the potential additional costs to the loan in the event that they are unable to repay a loan or an instalment on time.

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<sup>79</sup> A number of lenders told us that they had appropriate disclosures but supported transparency in the market as a whole. See Appendix 1.1, paragraphs 92–106.

<sup>80</sup> See Appendix 1.1, paragraphs 92–106.

<sup>81</sup> CONC 4.2.2.

3.128 We considered whether increasing the prominence of late fees would mean that customers may choose a loan primarily on the basis of the charges they would incur if they became unable to pay on time or in full. Based on the very limited consideration of late fees by potential borrowers at present and the consistent views received from parties, we judged that this risk was unlikely to materialise in practice.<sup>82</sup>

#### *Proposed price cap*

3.129 The FCA in its consultation paper<sup>83</sup> has outlined a proposed cap on late interest and fees that comprises of a fixed element and a cap on the overall value of interest charges.

3.130 A number of lenders<sup>84</sup> told us that they would not envisage using low late fees as an advertising tool and although a number of borrowers might incur additional fees and charges, borrowers did not typically apply for credit with the specific expectation of defaulting.<sup>85</sup> However, at present we consider that lenders will set different late fee structures – for example, some lenders may not levy additional charges or others might not charge ongoing interest – albeit within the constraints of the cap. Because of this there is potential for customers to take additional fees and charge into account in shopping around even if lenders do not actively use the structure of their late fees in promoting loans to customers.

3.131 We discuss the proposed price cap at greater length in Section 6 below.

#### *Implementation of remedy*

3.132 We considered whether our overall objective of increasing customer awareness of late fees and other additional charges would be best implemented by means of an order – for example, requiring lenders to disclose these fees in a particular way – or by means of a recommendation to the FCA to ensure the delivery of this objective.

3.133 We considered that making a recommendation to the FCA was the more appropriate means of achieving this objective as this would ensure that action taken as a result of this remedy complements the existing regulatory activity

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<sup>82</sup> Provident told us that it thought this was a low risk based on its experience in the home credit market ([Provident response hearing summary](#), paragraph 24). CashEuroNet also told us that it did not see any significant risk of increasing prominence ([CashEuroNet response hearing summary](#), paragraph 19).

<sup>83</sup> [FCA CP14/10: Proposals for a price cap on high-cost short-term credit](#).

<sup>84</sup> For example, CashEuroNet did not think default fees were a factor in a borrower's decision on whether to take out a loan ([CashEuroNet response hearing summary](#), paragraph 19).

<sup>85</sup> To the contrary, we have provisionally found the opposite: that customers are over-optimistic about their ability to repay.

of the FCA, uses the full range of its regulatory tools and is consistent with the requirements of the CCD.

3.134 We have therefore provisionally decided to recommend to the FCA to:

- (a) take the steps necessary to ensure that payday lenders and relevant intermediaries are fully aware of their obligations to disclose to customers prominently and on a timely basis details of late fees and other charges payable if a loan is not repaid in full and on time;
- (b) review proposals by payday loan PCWs for complying with these obligations as part of the accreditation process; and
- (c) monitor actively both the presentation by payday lenders and relevant intermediaries of information about late fees and other charges payable if a loan is not repaid in full and on time and the accessibility of this information to customers, and to take enforcement action where necessary.

***Measures to help borrowers shop around without unduly affecting their access to credit***

*Summary of remedy*

3.135 Figure 3.3 summarises our recommendation to the FCA to help customers shop around without unduly affecting their ability to access credit.



FIGURE 3.3

**Measures to help borrowers shop around without unduly affecting their access to credit**

The CMA has provisionally decided to recommend to the FCA that it work closely with lenders, CRAs and operators of accredited PCWs to encourage initiatives, including greater use of quotation searches, to enable customers to search the market without adversely affecting their access to credit.

Based on our analysis, the following specific issues appear likely to merit further exploration as part of any further work in this area:

- (a) Whether the disclosures made to borrowers by lenders and intermediaries are sufficient in respect of (i) the point at which a credit check will be undertaken and its nature; and (ii) whether at the end of an application process a credit search has been performed and whether it has left a 'footprint' on the customer's credit file.
- (b) Whether customers should be informed immediately prior to the point that a credit check is undertaken that one will be performed.
- (c) Whether FCA guidance on the use of quotation searches should be revised to the status of a rule in situations where lenders introduce variable or risk-based pricing structures.

*How the remedy addresses the AEC and/or resulting customer detriment*

3.136 This remedy is intended to complement our PCW remedy in reducing the difficulties that borrowers face in shopping around and identifying the best offer. The development of an effective price comparison sector will help borrowers to shop around and find out about the price and non-price characteristics potentially available to them. However, as the market currently operates, borrowers will typically not be able to establish their likely eligibility for any given loan without applying for that loan.

3.137 Payday loan borrowers facing uncertainty about whether they will be approved for a loan currently need to go through a full credit application process in order to establish whether any given lender would be willing to lend to them. When coupled with the perceived urgency surrounding the decision to take out a payday loan (see our provisional findings, paragraphs 6.49 to 6.53), this may result in borrowers either choosing their loan primarily on the basis of which lender they think will approve their application or which gave them a loan before (rather than the merits of a particular lender's product) or

using lead generators (see our provisional findings, paragraphs 6.96 to 6.107).

3.138 We have also noted that borrowers may be discouraged from applying to multiple lenders by the perceived impact on their credit record.<sup>86</sup> If borrowers make multiple credit applications as the result of being declined by their first choice of lender, or where lenders offer variable pricing determined by a borrower's profile, the 'footprints' of these credit searches on a borrower's credit record could (or could be seen to) affect a borrower's ability to obtain a loan.<sup>87</sup> While this is not currently the main impediment to customer search, it is likely to become a more pressing consideration for customers, if our remedies succeed in removing or reducing other barriers.

3.139 We would expect that any measure that encourages lenders to help borrowers assess their creditworthiness and eligibility for loan products without leaving a footprint would thus support other measures aimed at addressing the barriers to search that we have provisionally found.

#### *Remedy design considerations*

3.140 We set out below our consideration of issues relating to the design of this remedy:

- (a) In paragraphs 3.142 to 3.145 we consider the different ways in which customers may shop around and establish their eligibility for credit.
- (b) In paragraphs 3.146 to 3.152 we consider the scope for increasing the use of quotation searches, which do not leave a 'footprint' on a customer's credit record, to facilitate shopping around.
- (c) In paragraphs 3.153 to 3.157 we consider the scope for using standard credit scores as a means for communicating to customers their likelihood of obtaining credit from different lenders.
- (d) In paragraphs 3.158 to 3.162 we consider other solutions which third parties (eg operators of PCWs) might develop to help customers shop around without adversely affecting their access to credit.

3.141 We discuss these matters in greater detail in Appendix 3.1.

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<sup>86</sup> See [provisional findings](#), paragraph 6.59. See also [TNS BMRB research with payday lending customers](#), p26.

<sup>87</sup> Wonga submitted (see [Wonga response to Remedies Notice](#), paragraph 5.15) that the privacy policy on its website explicitly stated that 'large numbers of applications by a customer in a short period of time may affect their ability to obtain credit (whether their application has been accepted or declined)'.

### *Ways of shopping around and establishing eligibility for credit*

- 3.142 We explored a variety of ways to ensure that borrowers could shop around easily and establish which lenders would offer them a loan and at what price without unduly affecting their ability to obtain credit.
- 3.143 In our provisional findings, we noted that each lender determines its own prices and pricing structure and designs a loan approval process that determines which types of borrowers they will lend to.<sup>88</sup> Lenders offering products at variable prices will, as part of this process, determine the price at which they will offer credit to a borrower.
- 3.144 Each lender's decision on whether to offer credit will include a variety of considerations, such as the eligibility of an individual (eg by reference to a borrower's age, employment status, income), the creditworthiness (eg by reference to a borrower's history of prompt repayment of previous credit accounts) and affordability (ie whether a borrower is able to afford to make repayment and whether a borrower has existing debt or other commitments). For the purposes of this discussion we do not consider these individual aspects separately as they may be interlinked in a lending decision.
- 3.145 In addition to reviewing data they have collected themselves, lenders purchase information from CRAs. This may include data to verify a borrower's address, identity and income and also a customer's credit history. A request for credit information is referred to as a credit search. There are two main types of search conducted with CRAs which we refer to as an 'application' search and a 'quotation' search.<sup>89</sup> From a borrower's perspective, the principal defining feature of a quotation search is that, other than the lender requesting the search and the CRA that the lender requested the information from, no other third party is able to see the search. In contrast, an application search will be visible to any third parties that subsequently undertake a credit search.<sup>90</sup> This difference is sometimes described as leaving a 'footprint' on a customer's credit file. Additionally, CRAs may offer lenders a credit score for a customer that uses data collected by the CRA to indicate a customer's likely creditworthiness (though many lenders may use the underlying data provided by the CRA rather than its standard credit score).

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<sup>88</sup> See [provisional findings](#), Appendix 2.4.

<sup>89</sup> Terminology used by different CRAs may vary and not all CRAs offer quotation searches.

<sup>90</sup> Credit searches will typically provide credit information relating to a defined period of time, and thus after a number of months or years these searches will cease to be included in the content of a credit search.

### *Greater use of quotation searches*

- 3.146 Both quotation and application searches will report on a borrower's outstanding debts and their repayment history. One significant difference between these two types of search is that a third party<sup>91</sup> performing a subsequent credit search would be able to identify the number of application searches undertaken on an individual in the recent past. This visibility of application searches is referred to as leaving a 'footprint'.<sup>92</sup>
- 3.147 We understand that most payday lenders do not use quotation searches and only use application searches (in addition to other CRA products). However, some lenders that offer variably priced products (eg CashEuroNet<sup>93</sup>) do use quotation searches in order to present the price at which they would offer to lend to a borrower.
- 3.148 Currently, borrowers can shop around for a payday loan – subject to the limitations identified in Section 6 of our provisional findings – by researching lenders online and/or on the high street. Such research can establish the prices of different loan products. However, without applying for a specific loan a borrower will not currently be able to establish if a particular lender will lend to them, or if that lender has variable prices what price (if any) that lender will offer a loan to them. Where a lender does not use quotation searches, any such application will leave a footprint.
- 3.149 Lenders and CRAs have told us that the presence of application searches on a customer's credit record is a factor in determining whether a lender will issue a loan to them.<sup>94</sup> One lender ([REDACTED]) provided us with data on the link between the number of application searches and their acceptance rate<sup>95</sup> and also the standard credit risk score provided by their CRA. For this lender, those customers who had been subject to [REDACTED] application searches in the preceding three months were significantly (around [REDACTED]%) less likely to be accepted than those who had no previous application searches.<sup>96</sup>

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<sup>91</sup> This could be a second lender or financial service provider (for example, lenders or insurers) that the borrower requests a quotation from or makes an application to.

<sup>92</sup> Some CRAs have told us that there is no difference in content between a quotation and an application search. However, other CRAs have said that an application search contains more information.

<sup>93</sup> [CashEuroNet response to provisional findings and Remedies Notice](#), paragraph 8.10; [CashEuroNet response hearing summary](#), paragraph 21.

<sup>94</sup> See Appendix 3.1 for details on the use of application searches.

<sup>95</sup> We use the indexed acceptance rate here to show the relative likelihood. The proportion of applications where there have been no previous credit searches that are accepted by [REDACTED] is lower than 100%.

<sup>96</sup> This evidence is consistent with the view that, if shopping around increases the number of credit searches on customers' records, then this could create a barrier to access to credit in the short term. In the longer term we would expect lenders to adjust their assessment of the credit risk associated with the number of application searches a borrower has performed in the recent past to reflect the greater possibility that customers are shopping around, rather than seeking to access multiple sources of credit at once. This would mitigate the risk

FIGURE 3.4



- 3.150 In order to remedy the AEC that we have provisionally found, we are seeking to encourage customers to shop around. Consequently, we are concerned to ensure that, if a borrower has an application for credit declined after having shopped around and identified the cheapest loan available, their subsequent ability to obtain credit is not impaired.
- 3.151 We noted that if lenders replaced some or all application searches currently conducted with quotation searches, this would reduce or remove the risk of borrowers being penalised for shopping around. As some lenders already use quotation searches in this way to provide prices to potential borrowers at present we do not perceive there to be significant technical challenges to implementing this as part of the lending process.
- 3.152 However, we also noted that any lending decision as a result of using a quotation search would need to be provisional. We acknowledge that the presence of an 'application search' on a customer's file can assist responsible lending by other lenders – particularly in circumstances where a customer has actually obtained credit from a lender – as it would provide the lender issuing a subsequent loan with some reassurance at the point of application by a borrower that no loans had recently been issued to the customer. In addition, we were told that if there was a delay between a lender conducting a quotation search and the customer's decision to apply for a loan, a lender would need to conduct a further, application, search in order to ensure that it was fully informed about the customer at the point of issuing the loan. Consequently a requirement on lenders always to conduct a quotation search would involve lenders incurring an additional cost for each loan issued.

#### *Use of standard credit scores*

- 3.153 Whilst encouraging the use of quotation searches would reduce any impact of multiple credit searches, it would still require customers to apply sequentially to lenders until they found one which would offer them a loan. We considered whether lenders could indicate to customers a 'typical' CRA credit score above which they would be likely to lend to a customer (see paragraph 3.145). If a customer knew their standard CRA score, they could then identify which lenders were most likely to lend to them.

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that customers would have their access to credit reduced, but, in the absence of the measures discussed in this section, would not remove it entirely.

- 3.154 We identified three main issues that would reduce the effectiveness of such an approach.
- 3.155 First, lenders told us that they did not rely on standard credit scores and instead developed bespoke algorithms that analysed credit information to reach a lending decision.
- 3.156 Second, we identified that customers would need to obtain credit scores from the CRA(s) that the lender used and that there would be costs to the customer of doing this and that in comparing two or more lenders, scores from additional CRAs would potentially be necessary. Given the urgency in which loans are taken out, we thought this would be impracticable.
- 3.157 Third, we considered that even if there was a direct link between a standard credit score and the likelihood of acceptance on the grounds of credit-worthiness, this might not be a reliable indicator of the likelihood of being issued a loan. This was because a lending decision would potentially depend on a variety of other eligibility and affordability criteria that were not factored into a credit score (for example, a borrower might have an excellent credit history but might not earn enough for a loan of a given value to be affordable).

#### *Other third party solutions*

- 3.158 We also considered the potential use of third party aggregators, such as those present in the personal loans market (and accessed through PCWs) which allow a customer to submit their details once and receive an indication of the likelihood of being offered credit.
- 3.159 One way that such facilities establish a customer's likely eligibility is the use of a quotation search combined with information provided by lenders on their lending criteria to the third party provider.<sup>97</sup> An alternative technical solution is one that integrates into lenders' systems and operates using similar systems interfaces to the 'pingtrees' operated by lead generators<sup>98</sup> by effectively sharing a borrower's details with multiple lenders at once (although identifying multiple lenders willing to lend rather than the highest bidder for that customer).
- 3.160 Our customer research indicated that there were varying levels of interest among customers about whether there should be an indication on a PCW of

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<sup>97</sup> For example HD Decisions or Pancredit Equiniti

<sup>98</sup> See of the addendum to our provisional findings for a description of pingtrees and their role in the lead generation sector.

how eligible<sup>99</sup> they would be for a payday loan. Customers with good credit scores felt eligibility was irrelevant to them, and additionally thought payday lenders did not discriminate against who they lent to. Those with lower credit scores or experience of being turned down for loans in the past spontaneously raised eligibility as a useful feature.<sup>100</sup>

- 3.161 During our research we found that among inexperienced users in particular there was relatively low awareness of why understanding eligibility might be useful, and of the impact of credit searches. Once made aware of these issues, however, there was a desire for them to be more widely publicised and customers were mostly willing to trade off the 'hassle' of entering personal information against securing an indication of the likelihood of approval.<sup>101</sup>
- 3.162 We considered that such services could assist both borrowers and lenders. However, we considered that requiring lenders to integrate with a specific third party provider might be disproportionate, either as a result of development costs or the requirement to share information on credit decision-making with a third party. In addition, it would be difficult to specify such a requirement given the fact that the underlying technology is still evolving.
- 3.163 We considered instead that operators of accredited PCWs in particular would have a strong incentive to develop and implement such solutions and that this could be a differentiating factor between PCWs and a driver of non-price competition between them.

### *Implementation*

- 3.164 Given the AEC that we have provisionally found, and the focus of our remedy package, we consider it important that, by encouraging borrowers to shop around, our measures do not unintentionally prevent or reduce their access to credit.
- 3.165 The measures set out in this section can play an important role in supporting other elements of our remedy package, particularly in relation to PCWs, in developing a market in which payday loan customers are confident in shopping around for the best deal. A number of lenders and CRAs have indicated that there are potentially significant additional costs in requiring lenders to conduct a quotation search rather than an application search in the first instance. We are also conscious that the technology in this area is still

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<sup>99</sup> That is, likelihood of acceptance on any ground.

<sup>100</sup> [TNS BMRB research with payday lending customers](#), p22.

<sup>101</sup> *ibid*, p26.

evolving and that FCA guidance on the use of credit searches relates to all consumer credit, such that we would not wish to add complexity to the regulation of consumer credit as a whole.

3.166 In light of the assessment above we have provisionally decided that the most appropriate way to address this particular aspect of the difficulty faced by borrowers when shopping around is to recommend to the FCA, having regard to our own findings, to work closely with relevant stakeholders to encourage initiatives, including greater use of quotation searches, to enable customers to search the market without adversely affecting their access to credit.

3.167 Based on our analysis the following specific issues appear likely to merit further exploration as part of any further work in this area:

- (a) Whether the disclosures made to borrowers by lenders and intermediaries are sufficient in respect of (i) the point at which a credit check will be undertaken and its nature; and (ii) whether at the end of an application process a credit search has been performed and whether it has left a 'footprint' on the customer's credit file.
- (b) Whether customers should be informed immediately prior to the point that a credit check is undertaken that one will be performed.
- (c) Whether FCA guidance on the use of quotation searches should be revised to the status of a rule in situations where lenders introduce variable or risk-based pricing structures.

### ***Measures to encourage development of real-time data sharing***

#### ***Summary of remedy***

3.168 Figure 3.5 summarises our recommendation to the FCA to continue to encourage the development and use of open, real-time data sharing systems.



FIGURE 3.5

**Measures to encourage development of real-time data sharing**

The CMA has provisionally decided to recommend to the FCA to continue to work closely with lenders and CRAs to encourage the development and use of real-time data-sharing systems that are open to all payday lenders and other credit providers. This will address barriers to entry and expansion and support other measures to facilitate shopping around.

Based on our analysis, the following specific issues appear likely to merit further exploration as part of any further work in this area:

- (a) Developments in the supply and use of real-time credit information to ensure that customers are not penalised for shopping around, including the frequency that data is refreshed.
- (b) The sharing of credit information by payday lenders with more than one CRA.
- (c) The terms of access to real-time data-sharing schemes, to ensure that these do not act as a barrier to entry or expansion.

*How the remedy addresses the AEC and/or resulting customer detriment*

3.169 This remedy addresses a number of aspects of the AEC that we have provisionally found.

3.170 First, greater use of real-time data-sharing systems, and the further development of those systems, are likely to reduce the barriers to entry and expansion associated with the disadvantages faced by new entrants (including those that operate in neighbouring markets) and smaller lenders in assessing applicants' credit risk. Because of their greater reliance on new customers and the role of learning in the credit risk assessment process, new entrants are likely to face some disadvantages in their ability to assess credit risk for a period, which would put them at an initial cost disadvantage relative to more established providers.<sup>102</sup> Improvements in the quality of data shared through CRAs – including a reduction in the delay before such data is shared – is likely to reduce the extent of such disadvantages, and hence facilitate new entry and expansion.

3.171 Second, and building on the recommendations in Figure 3.3, further steps towards real-time data sharing will reduce the risk that shopping around is

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<sup>102</sup> See [provisional findings](#), paragraphs 7.81–7.111 and 8.6(a)(ii).

misinterpreted by lenders as a sign of a customer seeking to access multiple sources of credit simultaneously, and so customers will not be unwittingly penalised for shopping around. This will support other measures, in particular in relation to PCWs, aimed at making it easier for customers to search for the best-value loan for them.

### *Remedy design issues*

- 3.172 Until recently, CRA data has been updated on a monthly cycle, which in part has reflected many borrowers' traditional monthly cycle of salaries, credit cards and loan instalments.<sup>103</sup>
- 3.173 We have been told that a risk factor of having a large number of application searches on a borrower's credit file is included in credit risk assessment. Having a large number of application searches can be seen to be an indicator of 'credit hungriness'.<sup>104</sup> This behaviour might in itself suggest that a borrower is experiencing financial problems and looking aggressively for credit, but more fundamentally it provides evidence to a lender that a borrower has recently applied for credit (and has potentially been issued credit). However, the visibility of whether credit has been granted will only be updated according to the CRA's update cycle and the credit search will therefore remain on the customer's record as a risk factor until a lender is satisfied a loan has not been issued.<sup>105</sup> The main stages of this process are shown in Figure 3.6.

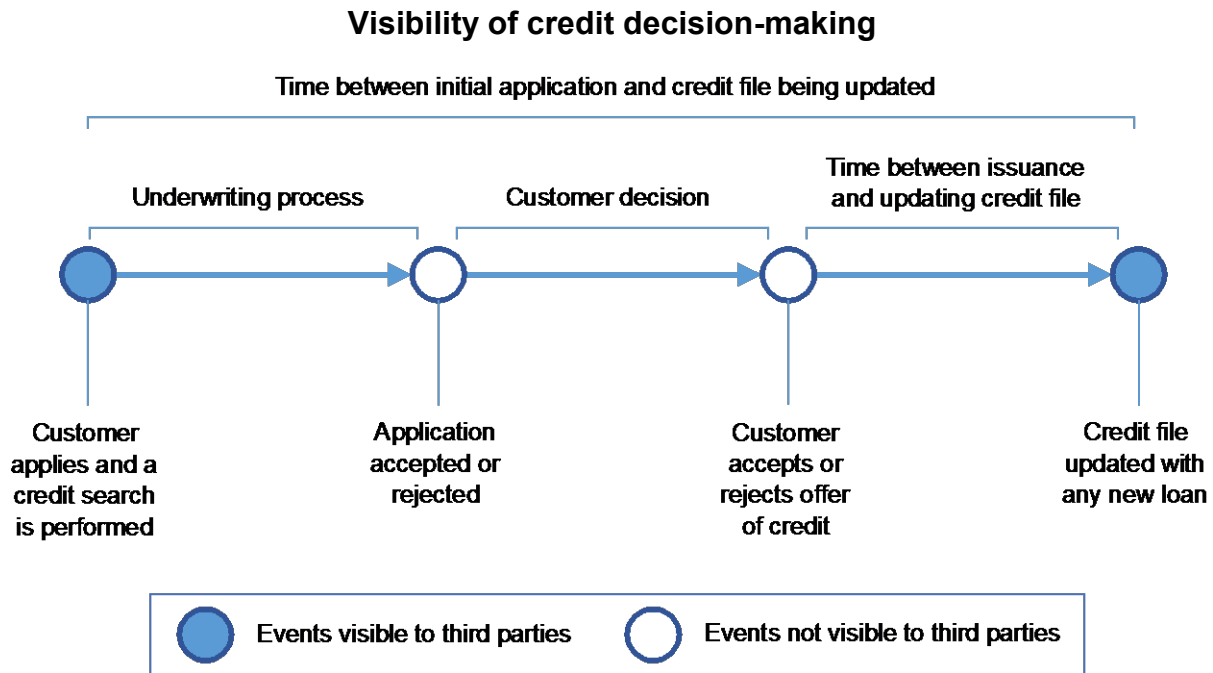
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<sup>103</sup> Individual lenders may have updated the CRA on a more frequent basis, but this information might have only been visible to third parties once the monthly update cycle had been completed.

<sup>104</sup> See Appendix 3.1, paragraph 14, for discussion of this and Appendix 1.1, paragraphs 130–138, for parties' submissions.

<sup>105</sup> If no loan has been issued the lender will also be unaware of why the loan has not been issued, either as a result of a rejected application or a customer's decision not to proceed with the offer of credit.

FIGURE 3.6



Source: CMA analysis.

- 3.174 Increasing the frequency with which lenders provide updates to CRAs and the frequency that CRAs in turn make that information available to third parties reduces the risk that a lender will unknowingly issue a loan to a borrower without being aware that another lender has also recently issued a loan to the same borrower.
- 3.175 The FCA is currently working with lenders and CRAs to increase the frequency of data sharing with the intention that this data sharing will be ‘real-time’ and we note that significant progress has been made over the past 12 months (see paragraph 1.21). At present the frequency of data updates in the existing and proposed real-time solutions offered by CRAs varies from near instantaneous to daily batch updates. We consider that the implementation of instantaneous data sharing would assist lenders by reducing credit risk and assist borrowers by ensuring that lenders are not deterred in offering them a loan as a result of the customer having shopped around for credit.
- 3.176 Because the availability of real-time data is likely to assist in the credit risk assessment of individual borrowers it is likely to assist lenders, particularly newer lenders who are more reliant on attracting new business, in reducing their overall costs relating to default. We also considered that any reduction in the costs of lenders, particularly new and/or expanding lenders was likely to enhance competition.

- 3.177 We also saw benefits to competition in encouraging the greater sharing of data (in real time) with multiple CRAs.<sup>106</sup> Some CRAs told us that the proportion of credit agreements where information was shared with multiple CRAs was significantly lower than in more established credit markets. We considered that even where real-time data sharing existed there would be some residual uncertainty whether or not a borrower had been issued with a loan, because a lender could not be certain that their CRA's dataset was complete. As a result lenders would incur greater costs in either obtaining credit searches from multiple CRAs for no certain benefit, or the increased credit risk would be reflected in the price of credit offered. Whilst we acknowledge the benefits to lenders and borrowers of sharing data more widely, we were concerned that a regulatory requirement to do so (and specifically requiring the sharing of data with all CRAs) could reduce the competitive dynamic of CRAs which may currently compete on the extent of their coverage of the market.
- 3.178 We identified a further risk that where CRAs seek to recover the costs of developing real-time data systems from lenders, the conditions to access the schemes, including the structure of fees, may act as a barrier to entry or expansion for new or smaller lenders. This is a particular risk when not all CRAs have a real-time data-sharing system in place, and lenders' choice of which CRA to use may therefore be driven by the extent of their coverage of the market. To protect their commercial position, established payday lenders may have incentives to share data as part of a 'closed' system, with a finite number of members, rather than one that is open to a wider variety of lenders from different backgrounds.
- 3.179 We considered that competition would be enhanced to the benefit of borrowers through the sharing of credit information among CRAs and the development of real-time data systems accessible to all lenders in the market. As real-time data is an issue that the FCA is actively considering, we consider that the FCA is the appropriate body to ensure its continued development and availability to lenders.
- 3.180 We discuss additional issues relating to the cost of accessing real-time data and the sharing of data with more than one CRA in Appendix 3.1.

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<sup>106</sup> We note, for example, that the [Government is promoting the sharing of business customer account information by banks through CRAs to enable small and medium-sized enterprises better access to finance](#). We also note that in the Home Credit market investigation the [CC identified the competition benefits of requiring lenders to share credit information with at least two CRAs](#).

## *Implementation*

- 3.181 We noted the progress that the FCA has made in encouraging greater sharing of credit information with greater frequency. We also noted that real-time systems are still evolving, such that there might be additional risks – eg of distorting competition between CRAs – of seeking to achieve the change in this area through imposing a prescriptive requirement on lenders by making an Order ourselves.
- 3.182 Given the above, we provisionally decided that a recommendation to the FCA to continue to pursue its work in this area, having regard to our own findings, would be the most appropriate way to address the problems we identified.
- 3.183 We have therefore provisionally decided to recommend to the FCA to continue to work closely with lenders and CRAs to encourage the development and use of real-time data-sharing systems that are open to all payday lenders and other credit providers.

### ***A summary of the cost of borrowing***

#### *Summary of remedy*

- 3.184 Figure 3.7 summarises our remedy to require payday lenders to provide their existing customers with a summary<sup>107</sup> of the cost of borrowing.

FIGURE 3.7

#### **Obligation to provide customers with a summary of the cost of borrowing**

The CMA provisionally intends to issue an Order to the effect that:

1. Lenders will be prohibited from providing payday loans to UK customers unless borrowers are provided with a summary of their recent history with that lender and informed of how to obtain this summary. The summary should be made available when (a) a borrower settles the balance of a credit account, or (b) where an account is closed as a result of default or forbearance, and the borrower should be notified of its availability within 24 hours of either (a) or (b).
2. The summary shall be made available to borrowers:

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<sup>107</sup> In our Remedies Notice we referred to a 'statement' of borrowing costs, we have chosen to use the term 'summary' to refer to proposed additional retrospective information provided to borrowers to avoid any confusion with any other statements which lenders currently issue to borrowers.

- on the lender's website (through a personal account management function), or by email on request, if the settled loan was issued online
  - on the lender's website (through a personal account management function), or by email on request, or on paper on request at high street premises if the loan was issued from high street premises
3. Lenders should take all reasonable steps to bring the summary to borrowers' attention. To achieve this, before an existing borrower commences a further loan application process with a lender, the lender should obtain confirmation that the borrower has reviewed the summary issued following the conclusion of the borrower's most recent loan with that lender.
4. The summary will state:
- for the borrower's most recent loan with a lender: the initial amount borrowed, details of all payments made in relation to that loan and the total value of all fees and charges made in relation to that loan
  - the total value of fees and charges paid by the borrower to the lender in relation to all loans taken out during the 12 months preceding the final repayment of the most recent loan and the impact that late or partial payment has had on the costs of those loans
  - how borrowers can access more detailed information on their loans
  - the address of one or more accredited PCWs

We also propose to recommend to the FCA that it supports the CMA in monitoring compliance as part of its routine supervision of authorised lenders, to the extent that its powers allow.

*How the remedy addresses the AEC and/or resulting customer detriment*

3.185 This remedy, which is particularly targeted at repeat borrowers, contributes to addressing a number of aspects of the AEC, by:

- (a) making customers aware of, and encouraging them to consider, the full costs of their last loan (and other recent loans) including late fees and

other additional charges before they are able to apply for a further loan from the same provider;<sup>108</sup> and

(b) increasing the likelihood that repeat borrowers will shop around by providing links to accredited PCWs (taking into account (a)).

3.186 We have provisionally found that many of the occurrences of borrowers changing lender that we observed are likely to take place as a result of borrowers being constrained in their ability to return to their previous lender for additional credit (rather than as a result of borrowers having shopped around).<sup>109</sup> We further provisionally found that repeat borrowers may be dissuaded from looking at alternative suppliers by the perceived risk and loss of convenience associated with changing lender.<sup>110</sup>

3.187 A retrospective summary of borrowing costs would have the effect of drawing borrowers' attention to the actual costs that they have incurred in relation to their most recent loan and the cumulative costs of borrowing from a lender over a period of time. As a result we would expect borrowers to give greater consideration to the price they pay for payday loans and that this would encourage some customers to consider alternative offers, rather than simply returning to the same lender for additional credit.

3.188 The inclusion of a reference in such a summary to one or more accredited PCWs would further promote shopping around by repeat borrowers. As explained in paragraph 3.7, PCWs provide an environment where borrowers are able to compare numerous lenders easily and quickly, and identify the best-value offer for them. By reminding customers in a timely manner of the cost of borrowing from their current lender and providing them with easy access to tools with which to make effective comparisons with other lenders, this aspect of the remedy will help customers identify the potential benefits of switching and make it more convenient to move to another supplier.<sup>111</sup>

3.189 We also provisionally found that some borrowers had a tendency to be overconfident in assessing their ability to repay loans on time.<sup>112</sup> Because of this overconfidence, borrowers may not factor additional fees and interest charged for late payment into their assessment of the cost of a loan when choosing a

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<sup>108</sup> We provisionally found that 11% of respondents to our survey reported not having looked at information on the total cost of their most recent loan, and that around a third of customers had not looked at the costs they would incur if they did not repay a loan in full on time (see [provisional findings](#), paragraph 6.91).

<sup>109</sup> See [provisional findings](#), paragraph 6.42.

<sup>110</sup> See [provisional findings](#), paragraph 6.115.

<sup>111</sup> We are aware of the [MiData initiative led by the Department for Business, Innovation & Skills and HM Treasury](#) that will allow consumers to download data on their personal current account usage in a standard format to use on a PCW. This is a voluntary scheme for banks. Those banks participating will make data available to consumers from April 2015.

<sup>112</sup> See [provisional findings](#), paragraph 6.92.

lender. We considered that a retrospective summary of borrowing costs could assist borrowers in understanding the actual cost that they had incurred and, when compared with the amount they expected to repay, this would improve customers' awareness of the possible costs associated with late repayment.

### *Remedy design considerations*

3.190 The principal design issues relating to a requirement to provide existing payday lending customers with a summary of the cost of borrowing that we identified were:

- (a) the method of distribution of the summary;
- (b) the trigger point for the availability of the summary;
- (c) ensuring borrowers receive and have the opportunity to review the summary;
- (d) the content of the summary; and
- (e) using the summary to encourage borrowers to shop around.

3.191 We reached our provisional decision by considering all of these aspects of remedy design together but for clarity discuss each aspect in turn.

### *Method of distribution*

3.192 We considered how best to distribute the summary to borrowers. We identified three main potential channels:

- (a) post,
- (b) email; and
- (c) lenders' online personal account management system (ie a web interface from the lenders' website that is linked to a borrower's account).

3.193 We set out our detailed consideration of each method of distribution in Appendix 3.2. We identified issues with respect to the constraints of SMS message length, the cost of distribution by post and the possibility of messages being mistaken for 'junk mail' or 'spam' email by recipients and thus dismissed. We considered that using online lenders' existing personal account management facilities would be a cost-effective and secure channel that built on the way in which customers currently engage with their lenders.



3.194 We considered the possibility that some lenders operating from high street premises (and potentially some smaller online lenders<sup>113</sup>) may not have any online personal account management functionality. Mandating the use of an online portal to deliver the summary would potentially require significant development costs for these lenders, and would thus be potentially disproportionate. Furthermore, borrowers borrowing from high street premises may be less likely to be regular users of an online account management function, where one is available, and hence may be less likely to view a summary if it were located on a lender's website. We therefore considered that the provision of a summary in hard copy or by email would also be an appropriate means of distributing the summary to high street borrowers.

3.195 We considered that it would generally make sense for online borrowers to be informed by email of the availability of a summary, though other channels such as SMS might also be used. We considered that the most appropriate means of contacting high street borrowers was likely to vary according to how lenders normally kept in touch with existing customers. As such, we considered that high street lenders should be able to choose their preferred method of communicating that a summary was available (eg by post or email), provided that this was through a medium appropriate to the customer in question (ie that was consistent with the way in which other important messages were communicated to the customer).

- *Data protection and security*

3.196 We identified a number of potential data protection and security issues with respect to distributing summaries of payday loans usage. Principally these related to the potential for fraud or identity theft and the social sensitivity associated with using payday loans.

3.197 We were told that these issues could arise, in part, because of the transience of borrowers which meant that lenders could not be certain that a borrower's contact details would remain correct for any extended period of time.<sup>114</sup> Because of this we considered that there were particular benefits of the summary being presented through an online personal account management system, where this is available. However, we are conscious that neither borrowers nor lenders are a homogenous group and we welcome further views on the most appropriate ways of distributing a summary, while preserving the impact of this measure.

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<sup>113</sup> However, we are not aware of any online lenders that do not create an online account into which returning customers may log in.

<sup>114</sup> Dollar noted that its customers were often transient ([Dollar response hearing summary](#), paragraph 38).

- *Provisional decision on method of distribution*

- 3.198 We provisionally decided not to require the distribution of a summary by post because of the potential cost of administration and distribution of a summary with little or no additional benefits in terms of effectiveness relative to other channels.
- 3.199 Because of data protection and security concerns we considered that requiring a summary to be sent by email may not always be appropriate (but that individual lenders would be best placed to decide), and we considered that SMS was not a practical or reliable way of communicating this information, though it could be an appropriate means of communicating that a summary was available.
- 3.200 We therefore provisionally decided that for online borrowers the summary should be presented using a lender's online account portal (where such a portal exists<sup>115</sup>). The availability of the summary should be communicated to online borrowers by a method that is consistent with the way in which other important messages are communicated to the customer (eg email, SMS).
- 3.201 We provisionally concluded that borrowers whose loan has been issued from high street premises should also have the opportunity to review the cost of their borrowing. As it was less likely that high street borrowers would be regular users of lenders' online account management function, we provisionally concluded that greater flexibility should be allowed to high street lenders to determine an appropriate and cost-effective means of delivering the summary and informing the customer of its availability. So, for example, some high street lenders might choose to inform customers (eg by email or SMS) that a hard-copy summary would be available in-store on request or, alternatively, automatically distribute a summary by post or email, once a loan has been repaid. High street lenders may also choose to make the summary available through the same methods as online lenders, where this is consistent with the way in which they normally communicate important information to the borrower.

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<sup>115</sup> As noted above, we are not aware of any online lenders that do not create an online account into which returning customers may log in. However, we would welcome further views on the best way for online lenders without this functionality to deliver the summary to borrowers.

*Trigger point for making the summary available to borrowers*

3.202 We considered what would be the most effective timing for providing any summary. We identified two principal options:<sup>116</sup>

- (a) time-based or periodic: distribution determined on a standard cycle for all lenders with which a borrower has had a credit facility in a defined period; and
- (b) event-based: distribution determined by a borrower's activity with a given lender.

3.203 We identified a periodic summary (that is, one sent out at regular intervals) as a possible remedy in our Remedies Notice. We noted that requiring all lenders to distribute summaries at the same time of year had the potential benefit of ensuring that borrowers who used multiple lenders would be able to establish an overview of the cost of their borrowing activities with all lenders by reviewing the various summaries together. This could reinforce the message to such customers that it was worth shopping around, given the cumulative cost of borrowing.

3.204 However, having reviewed the responses to our Remedies Notice and the results of our customer research<sup>117</sup> we considered that the information contained in periodic summaries would not necessarily be perceived by customers as timely (that is, they would not be aligned to customers' borrowing behaviour) unless summaries were sent out with great frequency. This would reduce the impact of this remedy on borrowing behaviour and hence reduce its effectiveness. We therefore took the view that the potential benefits arising from the alignment of the dates of summaries from multiple lenders were unlikely to exceed the diminished impact through reduced timeliness of the summaries.

3.205 In contrast we considered that event-driven distribution would ensure that receipt of the summary was driven by the behaviour of a borrower and would thereby maximise the likelihood that the summary would arrive in a timely manner and thus be perceived as relevant. By having a summary available at the point of settlement of a loan, a borrower would be better able to associate the impact of their behaviour (for example, with respect to timeliness of payment) for that specific loan with the cost of that loan. In addition, making a

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<sup>116</sup> We also considered the development of a regulatory database of loan information to allow a single summary to be produced. However, we discounted this as requiring significant development costs and was thus likely to be disproportionate.

<sup>117</sup> [TNS BMRB research with payday lending customers](#), p42; Appendix 1.1, paragraphs 176–216.

summary of previous borrowing costs available at the conclusion of a loan would help counteract any tendency for over-optimism by a borrower.

- *Provisional decision on trigger point for summary*

3.206 For the reasons outlined above we provisionally concluded that a summary should be made available within 24 hours of finalising the repayment of a loan. For the reasons set out below in paragraph 3.216, it should cover the loan that has been repaid and also the costs of borrowing with that lender over the preceding 12 months.

*Ensuring borrowers have had the opportunity to receive and review the summary*

3.207 We considered ways to ensure that borrowers had had the opportunity to review the summary before taking out a subsequent loan.

3.208 We considered that requiring the summary to be displayed in an online lender's account management system would allow a remedy to be designed that required the summary to be presented to a borrower at the point at which they logged on, regardless of the method or point in time that a borrower chose to access the lender's website. A simple confirmation button or tick box could then be clicked to allow the borrower to acknowledge that they had reviewed the statement. This might occur at any point after the customer had been informed that a summary would be available.<sup>118</sup>

3.209 In relation to high street borrowers, we considered that it would be similarly practicable to ask returning customers, when taking out a subsequent loan, whether they have received and reviewed the summary relating to their most recent loan with that lender. Where this has not occurred (and where a customer had not previously requested a summary from the lender), a copy of the summary should be presented to borrowers for review before any further loan is taken out. To demonstrate that the summary has been received, a signed<sup>119</sup> declaration should be recorded by the lender, either at the point that

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<sup>118</sup> We noted that returning online borrowers applying for a new loan may for a number of reasons not use the same account as previously (perhaps as the result of forgotten login details). In such circumstances we identified that a borrower on creating an account might not be associated with previous loans and would not be requested to review a summary. Given the extensive use of CRA data for confirming identity we judge it unlikely that a lender could issue a loan to a previous borrower without identifying their previous loan relationship, unless there was a significant period of time (perhaps two to five years) since a previous loan had been issued. We consider that lenders will be best positioned to consider how to ensure their systems identify such an eventuality and how to ensure that borrowers are shown a summary of their borrowing history prior to an additional loan being taken out.

<sup>119</sup> An electronic signature or affirmation incorporated into the loan application would be acceptable subject to the lending process adopted in store.

a customer requests the summary or prior to the commencement of a subsequent application.

3.210 In paragraph 3.197 we noted that certain borrowers may change their contact details on a regular basis. By using a web portal, or presenting borrowers with a hard copy of the summary (eg in store), borrowers were more likely to have received and had the opportunity to review the summary before taking out their next loan. Provided the summary is appropriately concise, this would enable borrowers to review the content of the summary before deciding whether or not to take out a loan with their existing lender. We provide an example of how a summary might be displayed online in Appendix 3.2.

- *Provisional decision on ensuring customers have had opportunity to consider the summary*

3.211 To ensure that this remedy is effective, it is important to maximise the likelihood that customers read and engage with the summary. As such, we would expect lenders to take all reasonable steps to ensure that borrowers have the opportunity to review the summary. We have therefore provisionally decided that lenders should obtain confirmation that the borrower has reviewed the summary issued following the conclusion of the borrower's most recent loan before that lender allows the borrower to start an application for another loan. We have indicated above how online and high street lenders might go about obtaining such confirmation.

#### *Content of summary*

3.212 We considered that there was a balance to be found in making any summary both accessible and informative. The content of the summary should be sufficient to make borrowers aware of the total cost of their borrowing and the costs arising from late payment or default, but should not contain unnecessary or confusing information that might reduce customer engagement.

3.213 To achieve this balance, we considered that a summary of borrowing should consist of information relating to (a) the loan that had just been repaid, and (b) details of borrowing over a preceding period. The remedy would thus need to specify the level of information provided on both aspects and the appropriate time period to be covered by the summary. To encourage shopping around, the summary should also include a link to one or more accredited PCWs (see Figure 3.1).

3.214 We discuss the issues relating to the content of the summary in greater depth in Appendix 3.2 and we present an example of how this might be presented in that appendix.

*Provisional decision on the content of the summary*

3.215 With respect to the borrower's most recent loan with a lender we provisionally concluded that a summary should include:

- (a) The initial value of the loan.
- (b) The original duration of the loan or the facility.
- (c) Details of any subsequent increase in the value of the loan or the duration of the loan.
- (d) An account of whether payment was received in full and on time or whether partial or late payment was received. Where the loan was repaid in multiple instalments, the summary should contain details of the number of instalments where the borrower either did not make the agreed repayment or payment was late.
- (e) The value of:
  - (i) fees and interest charges relating to the original loan or credit agreement;
  - (ii) any fees or interest charges arising from rollover or extension of the loan; and
  - (iii) any fees or interest arising from late payment or default;
  - (iv) the total of (i) to (iii).
- (f) A summary of any costs accrued but not paid as a result of default or forbearance.

3.216 We provisionally concluded that an appropriate period for the summary of the preceding period was for the 12 months prior to the date of settlement of a borrower's most recent loan. This would give an indication of the cumulative cost of borrowing over a time period that was easy to understand and likely to be perceived by borrowers as relevant.<sup>120</sup> Given the importance of repeat borrowing in this market, we considered that information about cumulative borrowing costs over a 12-month period could represent a significant amount

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<sup>120</sup> We considered that 12 months was sufficient to allow a borrower to understand how the costs arising from their use of short-term loans accrued over a period of time and was likely to reflect an individual's cycle of expenditure around annual events such as summer holidays, birthdays and Christmas. We thought going beyond 12 months would make the summary less meaningful to their current situation.

of money, which would help emphasise the potential benefits of shopping around.

3.217 As a borrower may have taken out a number of loans from the same lender over this period we were conscious of the need to ensure that borrowers were readily able to absorb and reflect on their past borrowing. We therefore provisionally concluded that a summary of this 12-month period should include:

- (a) the number of loan or credit agreements in place over the course of the 12-month period;
- (b) the total value of fees and charges paid during this period; and
- (c) the total value of fees and charges incurred as the result of late or partial repayment during this period.

3.218 Where no other loans had been outstanding at any point in the preceding 12-month period we considered that a simple statement to this effect would be sufficient.

3.219 Lenders should not feel constrained by this remedy from providing more detailed historical information on loans to borrowers in addition to the summary.

*Using the summary to encourage shopping around*

3.220 We considered that providing a summary of borrowing costs would in itself stimulate interest in the cost of borrowing and potential alternatives. However, we also noted that those borrowers who were stimulated to consider the cost of borrowing would not necessarily know how to find a more appropriate loan and this could limit the remedy's impact in encouraging shopping around. We therefore considered that including a hyperlink to one or more accredited PCWs on the summary of borrowing costs would enhance the impact of the remedy package as a whole and would help borrowers compare lenders and potentially find a more appropriate loan. This would reinforce the impact of the obligation on lenders to include hyperlinks to accredited PCWs on their own websites (see paragraphs 3.103 to 3.106), by increasing the number of opportunities at which customers are invited to shop around and variety of

points in a customer's borrowing experience at which this information is presented to them.<sup>121</sup>

- *Provisional decision on using the statement to encourage shopping around*

3.221 We have provisionally concluded that the summary should include a short reference to the existence of accredited PCWs and that lenders will also be required to include a hyperlink to one or more accredited PCWs and/or the accrediting body's list of accredited sites.

#### *Implementation of remedy*

3.222 We have provisionally decided to implement this remedy by using our statutory order-making powers. We therefore provisionally intend to issue an order prohibiting lenders from providing payday loans to UK customers, unless borrowers are provided with a summary of their recent borrowing history with that lender and to take all reasonable steps to bring the summary to borrowers' attention. To achieve this, before an existing borrower commences a further loan application process with a lender, the lender should obtain confirmation that the borrower has reviewed the summary issued following the conclusion of the borrower's most recent loan with that lender.

3.223 We also propose to recommend to the FCA that it assists the CMA's monitoring of compliance, to the extent that its powers allow, as part of its regular oversight of authorised lenders.

3.224 To help ensure the maximum impact of the remedy and to avoid imposing any unnecessary costs, we would welcome further views on the detailed design of this remedy, both in terms of its content and the means and timing of its delivery.

#### ***Increased transparency regarding the role of lead generators***

##### *Summary of remedy*

3.225 Figure 3.8 summarises our remedy to increase the transparency of the role of lead generators<sup>122</sup> in the payday lending market.

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<sup>121</sup> For example, some existing customers might be prompted to visit a PCW having looked at a summary on conclusion of a previous loan, while others might be prompted by the disclosure on a lender's website when taking out a subsequent loan. Repetition of this information in different stages of the customer's borrowing experience may also reinforce its impact on customers.

<sup>122</sup> Any party that acts as an intermediary between borrowers and lenders by collecting and passing to providers of payday loans details, including personal contact information, of individuals seeking loans.



FIGURE 3.8

### Measures to increase transparency regarding the role of lead generators

In order to address competition problems arising from the operation of the lead generator distribution channel, the CMA has provisionally decided to recommend to the FCA that it should take the steps necessary to ensure that:

- Lead generators passing customer details to payday lenders in return for a payment:
  - disclose clearly, prominently and concisely using a means that ensures customer interaction that they are ‘not a lender’
  - state explicitly that the sale of customer details collected may not result in an offer of the cheapest loan that is available to meet the customer’s needs.

Given the wider concerns raised about the operation of intermediaries in the payday lending market, we consider that there is also a case for the FCA to conduct a more broadly-based review of the activities of lead generators and their compliance with CONC. Issues the FCA may wish to consider as part of such a review include the role of fee-charging brokers and the use of customer data.

#### *How the remedy addresses the AEC and/or resulting customer detriment*

3.226 We provisionally found<sup>123</sup> that there is often a lack of transparency in how the service that lead generators provide is described on their websites – particularly the basis on which applications are referred to lenders – and that many customers do not understand the nature of the service offered by lead generators. Following our publication of provisional findings – and the change to our terms of reference (see paragraphs 1.13 to 1.18) – we have gathered further evidence about the operation of lead generators and their role in the UK payday lending market. This is presented in the addendum to our provisional findings.

3.227 By requiring lead generators to provide clear and prominent information on the nature of their service and details of the commercial basis on which they sell customer details, we would expect a reduction in the number of instances where customers confuse lead generators with lenders, or use lead generators on the erroneous expectation that these intermediaries will match them with the best loan for their requirements. This is likely to induce some

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<sup>123</sup> [Provisional findings](#), paragraph 8.5(d).

customers to engage in more customer search, for example, by using an accredited PCW.<sup>124</sup>

3.228 We also expect this remedy to increase the likelihood that customers will make an informed decision to use a lead generator as an active choice, rather than as a result of a misunderstanding or by chance, and it will thereby play a part in improving the reputation of the market. Hence we provisionally considered that this remedy would contribute to alleviating the reputational concerns that have been a factor in inhibiting entry by providers with an established reputation in other markets (see our provisional findings, paragraph 8.6(b)).

### *Remedy design considerations*

3.229 We set out below our consideration of the main issues regarding the design of this remedy.

#### *Issue 1 – Promoting customer engagement – placement and wording of disclosure*

3.230 In designing this remedy we have been mindful that the context in which customers take out a payday loan may increase the likelihood that information presented to applicants may be dismissed in favour of making a speedy application. Two lead generators, Quidi and Ratio Network Limited, were of the view that customers rarely read, much less acted, on existing disclosures such as the representative APR text and cookie warnings, and our customer research indicated that customers are likely to be reluctant to scroll down through multiple screens to the bottom of a webpage.<sup>125</sup>

3.231 In light of the challenge to engage customers we first considered where and how a disclosure should be placed to maximise customer engagement.

3.232 Responses to our Remedies Notice indicated that respondents were generally in favour of a disclosure which appeared both on an intermediary's home page and during the application process.

3.233 Based on these responses and the customer research, we took the view that for the purposes of this remedy 'prominently' should require lead generators<sup>126</sup> to place the disclosure prior to the point at which an applicant can input their details into an application form or fields that capture customer

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<sup>124</sup> See our discussion of our PCW remedy in paragraphs 3.4–3.113.

<sup>125</sup> [TNS BMRB research with payday lending customers](#).

<sup>126</sup> Including when lenders, having declined an applicant, offer to pass the applicant's details on to a lead generator.

contact information, such as phone numbers or email addresses.<sup>127,128</sup> Our review of the main websites used by lead generators<sup>129</sup> indicated that implementing a remedy in this way would significantly increase the transparency of existing websites – only 3% of websites reviewed disclosed the lead generators' broker status above the first 'Apply' button on the home page, and 22% of websites reviewed made no mention that the firm was a broker anywhere on the website.<sup>130</sup>

- 3.234 We noted that it was also important that the disclosure was prominently placed on any landing pages to which a borrower is directed by means of marketing materials (emails, SMS, banner advertisements etc). We would expect the disclosure to be made in a similar font size to other mandatory disclosures, such as the existing representative APR text, and to be visible on the first screen a borrower sees, irrespective of the means by which the borrower is accessing a lead generator's website (smartphone, tablet, laptop, desktop etc).
- 3.235 Our customer research suggested that applicants were more likely to read/engage with a disclosure which forced an interaction, such as a modal dialogue box with yes/no buttons. Quidi told us that it thought that consumers did not engage with pop-ups,<sup>131</sup> as at the point at which a pop-up appeared a customer was likely to have made their mind up on a course of action. It also told us that one of the ways in which there was human interaction with a message was via a modal window.<sup>132</sup> We also noted the Australian Government requirement for an interactive consumer warning in the Australian payday lending market (see Appendix 3.3). We therefore took the view that requiring customers to interact with the disclosure in such a way was an important part of ensuring its effectiveness.
- 3.236 We then considered how the choice of words might be expected to affect levels of customer engagement and understanding. During our customer research, respondents told us that they were likely only to skim the text of any disclosure and would be put off reading wording which looked too dense or

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<sup>127</sup> Also including telephone and SMS application systems used by lead generators.

<sup>128</sup> This was supported by our analysis of how customers interacted with the website of a large lead generator ([X]), which showed that only 3% of customers visited the 'how it works' or 'frequently asked questions' pages of the website.

<sup>129</sup> We asked the lead generators in our sample to provide details of their top ten payday loan websites. These websites were reviewed between 11 and 18 September 2014. See addendum to provisional findings report.

<sup>130</sup> Also known as 'above the fold', that is prior to any scrolling down by the user.

<sup>131</sup> Quidi gave the example of the EU requirement for websites to provide disclosure on the use of cookies on websites that almost all internet users ignored without engaging with the message.

<sup>132</sup> A modal window requires a user to confirm they have read a message before they can interact with the main website.

complicated.<sup>133</sup> Accordingly we considered several aspects of the potential wording of a disclosure in paragraphs 3.237 to 3.240 below.

3.237 In relation to the description of the service offered by a lead generator:

- (a) We considered that applicants were more likely to understand that they were entering details in a lead generator's website if the disclosure included the words 'is not a lender' in addition to the statement 'is a broker'.
- (b) We considered that terms such as 'passing customer details' or 'introducing customers' was not a sufficiently clear description of the process by which applications from potential borrowers are auctioned by lead generators in a pingtree.<sup>134</sup> We considered that a more explicit, while still concise, statement such as 'sells your details' would be likely to increase customer engagement and set out clearly the nature of the commercial relationship. Our customer research indicated that blunt, unambiguous messages would be likely to communicate the nature of the sites quickly and clearly.<sup>135</sup>
- (c) We considered two possible approaches to describing the basis on which customer details are sold by lead generators:
  - (i) Our analysis indicated that lead generators generally sold customer details on the most favourable commercial terms for the lead generator concerned. Buyers of leads in ping trees were generally those which had submitted the highest bid at the time of the auction. We therefore considered that including the wording 'sells your details to the highest bidder' in the disclosure would be likely to maximise customer engagement.
  - (ii) We also considered that broader wording such as 'sells your details on the best terms for us rather than you' was an alternative option, and had the advantage that it did not pre-suppose an applicant's knowledge of the pingtree auction process.

Three parties submitted that there were circumstances in which leads were not sold to the highest bidder including Credit Benefit Services, Stop Go Networks and SGE Loans.<sup>136</sup> In cases such as SGE we noted that

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<sup>133</sup> [TNS BMRB research with payday lending customers](#), p36.

<sup>134</sup> The auction mechanism by which many lead generators sell leads to payday lenders and other third parties.

<sup>135</sup> [TNS BMRB research with payday lending customers](#), p37.

<sup>136</sup> Credit Benefit Services indicated that a lender bidding for a higher volume of leads at a set price might be offered a lead in preference to a lender seeking a lower volume at a higher price. Stop Go Networks told us that it

further consideration would need to be given on a case-by-case basis as to how, for example, lead generators who were effectively advising customers which loan to select from a number of possible options might best be described.

- (d) We considered that variations on the word 'matched' should be avoided in a disclosure given the possible connotation that a loan offer resulting from an applicant's use of a lead generator had been subject to some sort of review relating to suitability or value for money.

3.238 We considered two options for text regarding the potential offer of a loan:

- (a) 'cheaper loans may be available elsewhere/direct from lenders'; or
- (b) 'may not result in an offer of the cheapest loan available to meet your needs'.

3.239 Although we considered that (a) was potentially more easily understood in isolation by applicants, we provisionally decided that (b) was preferable. This was because we considered the wording a better fit overall in the context of the message. We also noted that (a) risked the unintended consequence of raising the ranking of lead generator sites in borrower searches for 'direct lenders' if applicants were using this search term as a way of avoiding brokers.<sup>137</sup>

3.240 Figure 3.9 shows an example of a dialogue box illustrating the considerations discussed above.

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might choose to sell leads to a lender rather than a broker bidding a higher price, in order to maintain good relationships with lenders. SGE Loans told us that in cases where its call centre employees discussed a number of loan offers with borrowers, the product chosen by the customer might be the 'best match' for the borrower, as discussed with the call centre employee who was aware of the best match options for the customer as determined by the SGE Loans CRM system which matched the loan options available with the customer requirements to find a 'best match'. The system lists available loans in four groups: best matches, same-day credit, alternative loans and alternative credit.

<sup>137</sup> Additionally we noted that (a) might not just be applicable to lead generators, for example in a response to our Remedies Notice My Home Finance stated that 'it was probably true for most lenders that cheaper loans may be available elsewhere so requiring this wording in a disclosure seems prejudicial'.

FIGURE 3.9

**Illustrative example of lead generator dialogue box**

**Lead Generator A example**

- We are a broker, not a lender
- We sell your application details on the best terms for us rather than you
- This may not result in an offer of the cheapest loan available to meet your needs.

Do you wish to proceed?      Yes      No

Source: CMA.

*Issue 2 – Technological considerations*

3.241 SGE and Stop Go Networks suggested that it might be difficult to fit an extra disclosure on to the smaller screens of smartphones, and this could be a problem given the increasing use of mobile devices by customers as a means to access the online payday lending market. We noted this potential issue but considered that it was capable of being overcome through the design of the relevant website or smartphone applications – for example, it would be possible for home screens to display a combination of disclosures pinned to the bottom of the first screen and dialogue boxes which would take into account other required information including the representative APR and the CONC ‘risk warning’ (see the provisional findings, paragraph 3.26(f)). We also noted that it might be possible for information to be provided to potential borrowers using the page description or ‘snippet’ displayed by lead generators when advertising using paid search (see Figure 3.10).

FIGURE 3.10

**Google AdWords advertisement showing page description**

Payday Loans and Short Term Loans - Beeloans.co.uk  
[www.beeloans.co.uk/payday-loans](http://www.beeloans.co.uk/payday-loans) ▼  
At Bee Loans, we use specialist systems to automatically talk to a large panel of lenders, and match your details with their criteria for acceptance. This means ...  
Google+ page · Be the first to review

Description →

Source: Google, accessed 19/09/14.

3.242 We noted the need for any disclosure requirement placed on lead generators to avoid being too prescriptive regarding technological considerations, thereby ensuring that it would remain applicable if future technological developments led to borrowers accessing information in new ways and/or on new devices. This led us to the view that the obligation should be phrased in terms of principles and/or higher level objectives (for example, that disclosure should be clear, prominent and concise), with guidance being issued as necessary as to how to implement these principles through different media.<sup>138</sup>

### *Issue 3 – Link to price comparison websites*

3.243 We considered whether a disclosure placed on lead generators' websites should include a link to one or more PCWs. We noted that our customer research indicated a mixed response to prompts which used 'test disclosures' including a link to a PCW.<sup>139</sup> We considered that the most important function of this proposed disclosure was to ensure that applicants understood that the value for money represented by different lenders' loan offerings had not been taken into account in the auction process operated by lead generators. Considering both our customer research, and our objective of providing customers with the greatest opportunity to understand the disclosure, we provisionally decided not to recommend a link to a PCW.

3.244 We considered that notwithstanding the absence of a link to a PCW in the text, some customers would be prompted by this disclosure to search the market for cheaper loans, for example, by returning to a search engine until they identified either a lender or a PCW. This process would be expected to increase customers' exposure to different lenders and encourage shopping around. In addition we noted that any borrowers visiting the websites of lenders (including following referral by a lead generator) would encounter a link to a PCW as a result of our price comparison remedy discussed above (see paragraphs 3.103 to 3.106).

### *Other issues*

3.245 During our investigation of this sector of the market, a number of parties raised concerns about the operation of this section of the UK payday lending market and the substantial volume of customer complaints generated.<sup>140</sup> Many of the issues raised – for example, regarding fee-charging brokers and the lack of control or transparency for customers as to who might receive their

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<sup>138</sup> We noted that lead generators also communicate with customers using SMS messages and telephone calls and that a disclosure should relate to these media in addition to existing web-based communications.

<sup>139</sup> TNS BMRB research with payday lending customers, p36.

<sup>140</sup> FOS, 'Ombudsman warns consumers about payday loan middlemen', 19 August 2014, pp69&70.

data – go wider than the contribution of the lead generator channel to the AEC we have provisionally found. In light of these concerns and our evidence on the extent of data sales by lead generators, it seems to us that there is a case for a broader review of the operation and practices of this sector, possibly timed to take place during the authorisation process for lead generators that is now getting underway.

3.246 In our Remedies Notice we asked for views on whether lenders should be prohibited from selling or providing customer details to third parties including, for example, selling declined leads to lead generators. One lender (Global Analytics) submitted that selling leads helped customers find a loan at the time of their need.<sup>141</sup> Wonga submitted that a general prohibition on lenders selling or providing customer details to third parties would have the unintended consequence of precluding lenders from sharing data with CRAs.<sup>142</sup> Similarly, SGE told us that prohibiting lenders from selling or providing customer details to third parties would not be in the interest of the customer, especially if the lender was not able to provide the customer with a loan.<sup>143</sup> Having considered this issue further, our provisional view is that this issue would be better treated as part of any wider consumer-focused review of the sector, rather than as a remedy to the AEC that we have provisionally found.

#### *Implementation of remedy*

3.247 We considered that the implementation of the disclosure remedy would sit well within the FCA's payday loan reporting requirements taking effect from October 2014, and could build on the relevant 'status disclosure' obligations in CONC. We considered that the FCA's full authorisation process would be a natural time frame during which to conduct any wider review of consumer and compliance issues, and undertake any enforcement action determined necessary by the FCA. We therefore provisionally decided to address the problems we identified by means of making a recommendation to the FCA.

3.248 We have therefore provisionally decided to recommend to the FCA that it should take the steps necessary to ensure that lead generators passing customer details to payday lenders in return for a payment:

- (a) disclose clearly, prominently and concisely using a means that ensures customer interaction that they are 'not a lender'; and

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<sup>141</sup> [Global Analytics response to Remedies Notice](#).

<sup>142</sup> [Wonga response to Remedies Notice](#), paragraph 7.15.

<sup>143</sup> [SGE response to Remedies Notice](#).



- (b) state explicitly that the sale of customer details collected may not result in an offer of the cheapest loan that is available to meet the customer's needs.

3.249 Given the wider concerns raised about the operation of intermediaries in the payday lending market, we consider that there is also a case for the FCA to conduct a more broadly-based review of the activities of lead generators and their compliance with CONC.

#### **4. Remedies that we are not minded to take forward**

4.1 In our Remedies Notice, we invited views on two remedies that we were not minded to take forward at that stage, including on whether either or both of them should be given further consideration. These potential remedies were:

- (a) prohibition of additional fees; and
- (b) FCA 'badging' of authorised lenders' websites.

4.2 We consider each of these options in turn below. We then consider a number of options put forward in response to the Remedies Notice.

##### ***Prohibition of additional fees***

4.3 We considered a remedy which would prohibit the charging of any fees in addition to interest charges on the principal lent to customers.

4.4 We have provisionally found that it can often be difficult for customers effectively to compare prices of loans in different scenarios (see our provisional findings, paragraph 8.5). By prohibiting additional fees, any comparison of the price of loans would potentially be simpler.

4.5 We noted in our Remedies Notice that the FCA was considering the most appropriate way of implementing its obligation to deliver a price cap. Given this, we saw little merit in considering additional direct restrictions on fees and charges ourselves. Rather our focus has been on measures that will empower customers to find the best-value product for them and thereby impose greater competitive pressure on lenders to offer terms better than those specified by any current or future regulatory requirements.

4.6 No party submitted to us that we should take a different approach, and we consequently have not considered this option further.

## ***FCA ‘Badging’ of authorised lenders’ websites***

- 4.7 In the Remedies Notice, we considered a remedy that would allow the websites of payday lenders to promote the fact that they were authorised and regulated by the FCA (with the ability for a visitor to confirm on the FCA's website that the lender was authorised). A similar system is used for the registration of online pharmacies. This type of regulatory ‘badging’ of lenders’ websites might give customers confidence that the lender they were using was being supervised, which might help address reputational barriers to entry and/or expansion.
- 4.8 However, we judged that the remedy would be unlikely to be effective because consumers’ expectations of supervision and authorisation might differ from the scope and nature of the FCA’s regulatory activities and an unintended ‘expectation gap’ might arise. Further, we were concerned that any badge may have a deleterious effect on the FCA’s ability to change its authorisation and/or supervisory arrangements. While we would expect the strengthening of the regulatory framework to reduce reputational barriers to entry, we did not wish to do anything that would detract from the obligations on lenders themselves to improve their business practices or that could give customers a misleading impression about particular lenders.
- 4.9 No party submitted to us that we should take a different approach, and we consequently have not considered this option further.

## ***Additional remedies proposed in response to the Remedies Notice***

- 4.10 We received a number of suggestions of additional remedies from third parties.
- (a) Wonga told us that the CMA should consider making a recommendation to the FCA (and the Government, as appropriate) that the price cap should be subject to a periodic review.<sup>144</sup>
  - (b) The Association of British Credit Unions Limited (ABCUL) told us that the Pew Institute had found the prohibition of single-instalment loans in Colorado to be particularly effective.<sup>145</sup>

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<sup>144</sup> [Wonga response to Remedies Notice](#), paragraph 1.11.

<sup>145</sup> [ABCUL response to Remedies Notice](#), pp2–3; The Pew Institute has undertaken various pieces of [research into short-term credit](#).

- (c) The Debt Advice Foundation recommended that all non-online advertising of single instalment-loans should be prohibited.<sup>146</sup>
- (d) Money Advice Scotland (and others) recommended greater public education on personal finance.<sup>147</sup>

4.11 We considered each of these in turn.

#### *Periodic review of the price cap*

- 4.12 Wonga suggested that if sufficient competition was found to exist as a result of any package of remedies introduced by the CMA then the price cap should be lifted.<sup>148</sup>
- 4.13 We understand that the FCA will be undertaking periodic reviews of the price cap. It was therefore not clear to us what additional benefit would arise from us making a recommendation in this area, nor how this would address the AEC and/or resulting customer detriment which we had identified.

#### *Prohibition of single-instalment loans and restricting advertising of single-instalment loans*

- 4.14 We were told by ABCUL that prohibiting single-instalment loans would ensure repayment schedules better reflected a borrower's capacity to repay (by repaying the capital over a longer period of time the amount of capital repaid in each instalment would be lower).<sup>149</sup> Similarly, as noted above, the Debt Advice Foundation suggested that all non-online advertising of single-instalment loans should be prohibited.<sup>150</sup>
- 4.15 It was not clear to us how this proposal would address the AEC we have provisionally found. Moreover, without imposing further regulation of prices, it was not clear to us that the total cost of credit would be reduced as a result of restricting single-instalment loans (although instances of default might be reduced). We considered that this would potentially be disproportionate if different types of credit were subject to unequal restrictions; for example, credit cards, overdrafts and other lines of credit could all be paid in single instalments.

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<sup>146</sup> [Debt Advice Foundation response to Remedies Notice](#), p4.

<sup>147</sup> [Money Advice Scotland response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), p2.

<sup>148</sup> [Wonga response to Remedies Notice](#), paragraph 1.11.

<sup>149</sup> [ABCUL response to Remedies Notice](#).

<sup>150</sup> [Debt Advice Foundation response to Remedies Notice](#), p4.

- 4.16 We understand that the FCA is reviewing lenders' assessment of affordability as part of its authorisation process. If the result of this review leads to tighter criteria, lenders may choose to offer multiple-installment products to those less able to afford to repay a loan in a single instalment.
- 4.17 In proposing a ban on advertising of single-installment loans other than online, the Debt Advice Foundation noted that 83% of loans were taken out online.<sup>151</sup>,<sup>152</sup> However, we considered that it might be disproportionate to prevent lenders who may service borrowers that do not have access to the internet from advertising in channels that their customer base would access.
- 4.18 As we were not able to establish how such a restriction on either the ability to offer or advertise single-payment loans would remedy the AEC that we have provisionally found, we provisionally decided not to pursue these proposals.

### *Improved education on personal finance*

- 4.19 We considered whether borrowers needed a greater level of financial literacy and whether this would address the AEC we have provisionally found. We thought that there could be clear benefits from this – not limited to payday lending – but we considered that directly addressing the specific features of this market that we have provisionally found would be a more cost-effective, focused and timely means of tackling the AEC and resulting customer detriment that we have provisionally found.

### ***Provisional conclusion***

- 4.20 We therefore provisionally decided not to adopt any additional remedies to those outlined in Section 3.

## **5. Relevant customer benefits**

- 5.1 In deciding the question of remedies, the CMA may 'have regard to the effect of any action on any relevant customer benefits (RCBs) of the feature or features of the market concerned'.<sup>153</sup> RCBs are defined in the Act and are limited to benefits to relevant customers in the form of:<sup>154</sup>

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<sup>151</sup> Based on our provisional findings.

<sup>152</sup> [Debt Advice Foundation response to Remedies Notice](#), p5.

<sup>153</sup> [Section 134\(7\)](#) of the Act.

<sup>154</sup> [Section 134\(8\)\(a\)](#) of the Act.

(a) lower prices, higher quality or greater choice of goods or services in any market in the UK (whether or not the market to which the feature or features concerned relate); or

(b) greater innovation in relation to such goods or services.

5.2 The Act provides that a benefit is only an RCB if the CMA believes that:<sup>155</sup>

(a) the benefit has accrued as a result (whether wholly or partly) of the feature or features concerned or may be expected to accrue within a reasonable period of time as a result (whether wholly or partly) of that feature or those features; and

(b) the benefit was, or is, unlikely to accrue without the feature or features concerned.

5.3 In the Remedies Notice, we invited parties to inform us of any RCBs to which we should have regard. No party submitted any evidence about any possible RCB. Nor did we identify any RCBs ourselves.

5.4 We provisionally concluded that there were no RCBs that might be lost as a result of introducing our proposed package of remedies. Consequentially, we see no need to modify our proposed remedy package to take account of RCBs.

## **6. The need for remedial action**

6.1 In Section 8 of our provisional findings, we set out a number of features of the payday lending market which meant that price competition between payday lenders was not effective, and which resulted in customers paying more for their loans than we would expect in a well-functioning market.

6.2 Since the publication of our provisional findings, the FCA has implemented new rules in relation to Continuous Payment Authorities (CPAs) and rollovers, has taken enforcement action against a number of lenders and has announced its proposals for a price cap.<sup>156</sup> A number of lenders have also reported deteriorating financial performance and a significant reduction in the number of loans issued. In this section we consider the impact of these developments on the effectiveness of competition between payday lenders, and on the ongoing need for remedial action to address the AEC that we have identified.

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<sup>155</sup> [Section 134\(8\)\(b\)](#) of the Act.

<sup>156</sup> See [Section 3 of our provisional findings](#) and paragraphs 1.19–1.21 above.

- 6.3 We begin by describing recent developments in the financial performance of the main payday lenders. We then discuss the key elements of the FCA's proposed price cap, and potential implications of these proposals for the payday lending market. We then discuss the potential consequences of both the cap and lenders' recent financial performance for the effectiveness of competition between payday lenders, and for customer detriment. Finally we set out our provisional conclusions on the need for remedial action.

### ***Recent financial performance of payday lenders***

- 6.4 Our analysis of the recent financial performance of payday lenders is set out in Appendix 6.1. This indicated that the most recent financial performance of the major lenders was weaker than in previous years. Three of the 11 major lenders have left the market, Cheque Centres, CFO and H&T; and The Cash Store has entered administration.<sup>157</sup> A comparison of the financial performance of the remaining seven major lenders showed that for the first half of 2014 (January to June) against the equivalent period in the prior year:
- (a) payday lending revenue and the value of new lending were both around 20% lower than in 2013; and
  - (b) total net profit was 1.4% lower than 2013.
- 6.5 The different relative rates of decline in revenue and profit resulted in an increase in the net profit margin of the major lenders to 26%, up from 21% in the first half of 2013. We identified two factors supporting lenders' relatively strong profit margin performance: an increase in repeat borrowing,<sup>158</sup> which rose to 83% from 79%, and lower impairment costs.
- 6.6 We considered that the evidence of market exit, combined with the lower levels of revenue and new lending were primarily due to lenders anticipating

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<sup>157</sup> On 6 October 2014 EZCORP, Inc, the parent company of Ariste (trading as Cash Genie), issued a press release announcing a plan to exit the online lending business in the UK. EZCORP stated that Recent changes in the UK regulatory environment relating to 'high-cost short-term credit' have created challenges for the Cash Genie business. These changes include (a) the transfer of regulatory authority from the Office of Fair Trading (OFT) to the Financial Conduct Authority (FCA) in April 2014, (b) the enactment by the FCA of regulations that focus on the affordability of the credit extended (i.e., the customer's ability to repay), the use of continuous payment authority to collect repayments, and sustained use of short-term credit products, and (c) the publication in July 2014 of the FCA's proposal for rate caps on high-cost short-term credit products that are scheduled to become effective in January 2015. In light of these changes in the regulatory environment, and in the context of the refinement in Company strategy, the Company has decided to exit the Cash Genie business as soon as practicable. [www.sec.gov/Archives/edgar/data/876523/000087652314000092/a2014discops.htm](http://www.sec.gov/Archives/edgar/data/876523/000087652314000092/a2014discops.htm).

<sup>158</sup> Repeat borrowing is generally more profitable than first-time borrowing due to lower customer acquisition costs and lower impairment costs (see [provisional findings](#), paragraphs 7.90–7.99).

and adjusting to the tougher regulatory environment,<sup>159</sup> including the implementation by lenders of tighter lending criteria for new customers and changes to collection practices.<sup>160</sup> Lower levels of revenue and new lending did not appear to be due to increased price competition and we concluded that the most recent financial performance did not provide any evidence that the features giving rise to the AEC had diminished in significance.

### ***The FCA's price cap proposals***

- 6.7 Following an announcement in November 2013, the Government introduced legislation to impose a duty on the FCA to place a cap on the price of payday loans. In July 2014 the FCA published its proposals for the cap.
- 6.8 The stated aims of the cap are to protect those whose financial position would become worse if they took out HCSTC and to protect those who struggle to repay because of escalating costs, while ensuring that most customers can continue to access HCSTC (and do so at a lower price). The FCA intends to publish its final rules in early November 2014, with a cap to come into force in January 2015.
- 6.9 The FCA's proposals have three key elements:
- (a) The initial cost cap of 0.8% of the outstanding principal per day, on all interest and fees charged during the agreed loan duration and when refinancing. This covers all the charges and fees associated with a loan repaid on time (this includes interest charges, but also charges for any ancillary charges, such as loan agreement charges, faster payment charges, insurance charges etc). Where a loan is repaid in instalments, the cap dictates the amount that can be charged on the outstanding balance.
  - (b) The cap for those in default of a total of £15 on fixed charges and interest at the same rate as the initial cost cap calculated per day on outstanding principal and fixed default charges.
  - (c) The total cost cap of 100% of the total amount borrowed applying to all interest, fees and charges.

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<sup>159</sup> See Appendix 6.1 for further details.

<sup>160</sup> Revenue may also be affected by the increased market penetration of instalment products, which accounted for 20% of the combined revenue of the remaining eight major lenders, up from 7% in the prior year. The revenue yield on instalment products is lower than monthly products.

### *Implications for the payday lending market of the FCA's price cap proposals*

- 6.10 Given the scale of the proposed reduction in charges that is signified by the cap, the FCA's proposals are likely to have significant implications for the payday lending market. Drawing on the FCA's analysis of these proposals, we identified three main effects that might be expected to result (see Appendix 6.2 for a more detailed analysis).
- 6.11 First, by reducing the expected revenue associated with a given customer, the cap is likely to cause lenders who currently charge above the cap to tighten their risk thresholds, granting fewer loans to relatively high-risk customers. This is because the expected gains from lending to the highest-risk customers are unlikely to continue to exceed the expected costs (given the risk that they do not repay). Modelling carried out by the FCA suggests that the cap could have a significant impact on the size of the market as a result – causing lenders to reject around 21% of applicants that they would have otherwise approved for a loan, and implying that 11% of customers are no longer able to obtain a loan from any lender.<sup>161</sup>
- 6.12 Second, because of its impact on the revenues that some lenders expect to earn on each loan, as well as on the number of loans that they issue, the cap is likely to cause the profitability of those lenders who currently charge above the cap to fall. This may mean that some less efficient and/or less well-resourced lenders exit the market. The FCA estimated that five out of the eight larger firms for which it carried out its modelling exercise would be at risk of exiting the market in the presence of the proposed price cap. However, the FCA emphasised that its static modelling provided a 'worst-case scenario' in terms of the impact on lenders. Similarly, while lenders in general supported the view that a number of less-efficient firms were likely to exit the market as a result of the cap, most lenders expected that a variety of suppliers – large and small – would remain in the market following the introduction of the cap.<sup>162</sup>
- 6.13 Third, the structure of the cap is also likely to influence the characteristics of the loan products that lenders offer, by affecting the relative profitability of different types of product or by making it more difficult to structure certain types of product in ways that comply with the structure of the cap. It is possible that certain types of product (and in particular certain combinations of loan duration and repayment structure) may no longer be viable as a result of the cap, and so the range of products on offer in the market may be reduced. Some examples of how lenders' product offering might be affected by the cap might include an increase in the use of daily interest rates, a simplification of

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<sup>161</sup> See FCA 'Technical annexes, Supplement to CP14/10' p68, Table 7.

<sup>162</sup> See Appendix 6.2, paragraph 19.



late fee structures, a reduced incentive for lenders to offer very short-term loans or loans of longer durations, and a reduction in the use of running account products (see Appendix 6.2 for further discussion).

### ***Implications of recent developments for the effectiveness of competition***

- 6.14 We considered the impact of the FCA's proposals and lenders' recent financial performance on the features of the market that we had identified in our provisional findings as giving rise to an AEC.
- 6.15 Those features which limit customers' responsiveness to prices generally reflect fundamental underlying characteristics of the short-term unsecured lending market,<sup>163</sup> and so would be expected to continue to restrict competition between lenders in the presence of the proposed price cap. For example, the cap is highly unlikely to reduce the perceived urgency underpinning many borrowers' decisions to take out a payday loan, or remove the uncertainty that many customers face when making the decision of which lender to borrow from.
- 6.16 The cap is also unlikely to mitigate any of the characteristics of the payday lending market which limit the constraint that lenders face from the threat of entry and expansion by putting smaller lenders at a relative disadvantage when establishing themselves in the market.<sup>164</sup> The cap may even weaken the constraint further, if by reducing expected post-entry profitability the cap reduces the incentive for new lenders to enter, and increases the resources and time a new entrant requires to overcome its initial disadvantages and establish itself in the market.
- 6.17 A further potential effect of the proposed price cap on competition is that it may further dampen price competition between lenders by providing a 'focal point' or 'going rate' for payday loan pricing. One lender raised the possibility that the combination of this effect, together with higher market concentration<sup>165</sup> and increased price transparency provided by PCWs, will facilitate mutual recognition of interdependencies between lenders. This lender suggested that this could in turn facilitate the emergence of tacit coordination.<sup>166</sup> We also considered that the possibility of lenders pricing up to the level of the cap could be facilitated by the barriers to entry and expansion giving rise to an AEC that we had identified in our provisional findings (and

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<sup>163</sup> See [provisional findings](#), paragraph 8.5.

<sup>164</sup> *ibid*, paragraph 8.6.

<sup>165</sup> See paragraph 6.12.

<sup>166</sup> Wonga told us that the proposed price cap might provide incentives to signal to the regulator that lower industry prices were not sustainable so as to avoid further reduction of the cap when the FCA reviews it.

possibly by those barriers being raised by the cap itself – see paragraph 6.16 above).

- 6.18 We took the view that the possibility that the proposed price cap, and some of its consequential effects, might facilitate tacit coordination would further increase the need for remedies that expose lenders to greater competition and incentivise entry and expansion, such as those that we have identified in our proposed package of remedies. However, while we acknowledged the possibility that the proposed price cap might become a ‘focal point’ for coordination, we also noted that the significant variation in market shares, efficiency, costs and products offered by different lenders might be expected to frustrate efforts to coordinate. Moreover, we did not agree that the introduction of effective PCWs was likely to increase the likelihood of coordination. While better PCWs would increase the transparency of pricing information available to payday lenders – thereby making it marginally easier for lenders to monitor deviations from any coordinated outcome – we would expect that the main impact of this element of our remedy package would be to reward lenders who offer customers a good deal and to facilitate entry and expansion by smaller lenders with products that customers find attractive. Both of these latter effects are likely to significantly increase incentives on lenders to compete with each other rather than coordinate.
- 6.19 We identified two areas where the cap might moderate to a limited extent the adverse impact of some of the features of the market that give rise to an AEC. First, to the extent that it leads to some simplification of the products on offer in the market (eg in relation to late fees and charges), the proposed price cap may increase the comparability of different payday products, making it easier for customers to identify the best-value loan for their requirements. Second, to the extent that the cap – together with the FCA’s enhanced regulation of the payday lending sector more generally – improves the reputation of the sector and offers borrowers additional protection, this may reduce the risk perceived by customers considering switching lender, and reduce the deterrent faced by any businesses with established reputations in other sectors which might consider entering the payday lending sector. However, we did not expect these indirect effects of the cap to be sufficient to prevent the AEC that we have provisionally found, such that the need for competition-enhancing measures targeted on its underlying causes was removed.
- 6.20 As discussed in paragraph 6.6, we considered that the recent deterioration in payday lenders’ financial performance was likely to reflect lenders anticipating and adjusting to a tougher regulatory regime, rather than any increase in competition resulting from a weakening in the barriers to price competition that we had provisionally identified. Consequentially, we provisionally rejected

the view that these recent developments indicated that there was no longer a need for remedial action to address the AEC.

### ***Implications of recent developments for future customer detriment***

- 6.21 Given the above assessment, we provisionally concluded that the proposed price cap will not address the key underlying features of the market that we have identified as giving rise to an AEC. The proposed price cap might also give rise to a risk that price competition between payday lenders is further dampened (albeit around a lower interest rate than is currently observed in the market), for example if entry were discouraged or if the cap were to become a focal point for the price of payday loans.
- 6.22 However, by enforcing a significant reduction in the prices charged to customers who continue to be able to take out a loan, the cap may generate some of the beneficial effects that we might otherwise expect more effective price competition to bring about.<sup>167</sup>
- 6.23 Against this background, we considered what, if any, customer detriment was likely to remain as a result of the AEC that we have identified, and what scope for competition would continue to exist under the price cap regime.
- 6.24 In line with the FCA's analysis, we noted two possible outcomes that may arise from the introduction of the proposed price cap and that may affect the scope for future price competition and hence the benefits of any competition-enhancing remedies we might introduce:
- (a) Given the reduction in profitability that lenders will face as a result of the cap, they may not have the financial headroom to cut their prices further relative to their current level of costs.<sup>168</sup>

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<sup>167</sup> Modelling carried out by the FCA suggests that the total savings to customers resulting from the different elements of the proposed cap would be approximately £250 million per year. The FCA included in its analysis the savings to consumers who pay back on time, those who pay later than they expected and those who do not pay back (reducing their debts) (see paragraph 1.26 of the FCA's price cap proposal). In this context, we note that in our estimate of the detriment arising from the AEC that we have provisionally found (see provisional findings, Appendix 8.1) we only considered loans that were repaid in full and we did not include any late fees. As set out in paragraph 19 of Appendix 8.1, our estimate is therefore likely to understate, potentially by a substantial amount, the extent to which customers have been overpaying for their loans. We also did not include loans with a duration of more than 31 days, which approximately accounted for 17% of all loans made in 2012 (see [provisional findings](#), Appendix 8.1, paragraph 12).

<sup>168</sup> Wonga told us that the reduction in profitability resulting from the cap would also reduce the scope for innovation in relation to pricing structures and other non-price features.

- (b) The FCA's proposed price cap may facilitate the emergence of market conditions under which tacit coordination is more likely to arise (see paragraph 6.17).

6.25 Our view is that scope for substantive price (and non-price) competition within the constraints of the proposed price cap would remain:

- (a) First, even in the short term, some lenders' costs are likely to allow them to price beneath the cap for their products, and as such there is likely to be some scope for these lenders to undercut their rivals in the event that competition became more effective. We note that some lenders already charge around or beneath the cap level (or have done so historically)<sup>169</sup> and that there is considerable variation in the efficiency of different lenders.<sup>170,171</sup> This suggests that business models exist that allow lenders to operate viably with prices below the proposed cap. We also note that the FCA considered that there would still be a viable market for those lenders which decide not to exit.<sup>172</sup>
- (b) Second, as discussed in our provisional findings, more effective competition is likely to increase the pressure on lenders to compete for lower-cost customer groups, and such customers might be offered prices significantly beneath the proposed price cap.<sup>173</sup> Such competition currently takes place to only a very limited extent. Examples of customers who might benefit from an increase in this type of targeted price competition include customers with relatively good credit backgrounds or repeat customers with a proven repayment history.
- (c) Third, in the longer term we would expect to observe a downwards trend in many categories of lenders' costs. This might happen, for example, as lenders adapt their products to the cap regime; as lenders continue to adjust their business models in response to the FCA changes to CPAs

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<sup>169</sup> See paragraph 1.29.

<sup>170</sup> See [provisional findings](#) (for instance, paragraph 4.167, and the discussion about how the ability of assessing credit risk varies across lenders in Section 7).

<sup>171</sup> These differences in the efficiency may also increase as a result of the different way suppliers will adapt to the new regulatory regime.

<sup>172</sup> See the FCA's [consultation](#), paragraph 5.84.

<sup>173</sup> See [provisional findings](#), paragraph 8.11.

and rollovers;<sup>174</sup> as external CRA data improves;<sup>175</sup> and as a result of the natural trend for lenders to get better at assessing risk the more experience they have.<sup>176</sup> Without effective price competition, there will be no pressure for lenders to pass any cost reductions of this type on to customers.

- 6.26 In relation to the possible risk that the proposed price cap reduces the scope for competition by incentivising lenders to price at the level of the cap, we discussed above (see paragraph 6.17) how the cap might facilitate tacit co-ordination. We considered that the risk of coordination would only increase the importance of our proposed package of remedies, including the introduction of effective PCWs. By stimulating customers' responsiveness to prices and by facilitating entry and expansion our proposed remedies would increase incentives on lenders to compete with each other, therefore undermining the sustainability of coordination.
- 6.27 We concluded that the potential detriment to customers as a result of the AEC would still be significant even with the cap in place, especially given that the longer-term dynamic effects of competition<sup>177</sup> are very difficult to replicate through measures to control outcomes such as a price cap. Therefore, we concluded that significant further benefits could be realised by the introduction of effective remedies to the AEC that we have provisionally identified in the UK payday lending market. We did, however, take the impact of the FCA's proposed price cap into consideration as part of our assessment of the effectiveness and proportionality of our proposed remedies.<sup>178</sup>

#### *Provisional conclusion on the ongoing need for remedial action*

- 6.28 We provisionally concluded that the price cap – as currently proposed by the FCA – is likely to lead to significant changes in the payday lending market, including a significant reduction in the number of loans issued, some market exit, and a change in the nature and range of products on offer. In general,

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<sup>174</sup> For example, [Cash America International, Inc.](#) said that:

Turning to the U.K. As many of you are aware, our regulator there, the Financial Conduct Authority or FCA, published a rulebook this past winter. As Dan discussed in the call last quarter, many of those rules became effective April 1. One of the main rules that became effective July 1 is a limit on our use of continuous payment authority to debit customers' accounts. Under the new rule, we are only allowed 2 attempts when a debit fails due to lack of funds. We've been testing this change for the last several months and fully implemented it prior to the July 1 deadline. This change will likely result in slightly higher default rates in the U.K., but we believe we can offset much of that impact through additional collection efforts. The other significant rules become effective July 1 was a limit on the number of times we can expand a loan to 2. We made this change over a year ago and found very little impact due to a combination of effective underwriting and not being as aggressive with the number of extensions we made prior to the change.

<sup>175</sup> See paragraph 3.175.

<sup>176</sup> See [provisional findings](#), paragraphs 7.88–7.89.

<sup>177</sup> Such as, for instance, those mentioned in paragraph 6.25(c).

<sup>178</sup> See Sections 7 and 8.

the cap is unlikely to address the underlying features of the market that we identified as giving rise to an AEC, and – absent remedies to promote effective price competition – may further dampen price competition (eg if the cap became a focal point for payday loan pricing). While the cap may also have some limited beneficial consequences to the extent that it leads to greater simplification of the products on offer in the market, facilitating their comparability and/or improves the reputation of the sector, we did not expect these indirect effects to be sufficient to prevent the AEC that we have provisionally found.

- 6.29 While the cap will significantly reduce the price paid by many payday lending customers, and in this way generate some of the potential benefits that we might expect from more effective price competition between payday lenders, we provisionally concluded that a significant customer detriment would remain as a result of the AEC, even with the proposed price cap in place. Fundamentally, in the absence of effective price competition, there will be no incentive for lenders to compete below the cap, keeping their prices low and reflecting their costs in the prices they charge in the future. Absent effective competition, prices are unlikely to respond to changes in market conditions, such as technological developments, evolution in the products on offer, or changes in market structure. As a result, we consider that that there remains a need for effective and proportionate remedies to address the AEC that we have provisionally identified in the payday lending market.

## **7. Effectiveness of our proposed package of remedies**

- 7.1 Based on the assessment in Sections 1 to 6 above, we have proposed the following measures to be included within a package of remedies that will work together to address the AEC that we have provisionally identified:
- (a) Measures to promote the use of effective PCWs, in particular a requirement for lenders to publish details of their loans on at least one accredited PCW combined with a recommendation to the FCA to establish an accreditation scheme for payday loan PCWs (see Figure 3.1 in paragraph 3.4).
  - (b) A recommendation to the FCA to take steps to improve the disclosure of late fees and other additional charges (see Figure 3.2 in paragraph 3.114).
  - (c) A recommendation to the FCA to take steps to help customers shop around without unduly affecting their ability to access credit (see Figure 3.3 in paragraph 3.135).

- (d) A recommendation to the FCA to take further steps to promote real-time data sharing between lenders (see Figure 3.5 in paragraph 3.168).
- (e) A requirement for lenders to provide existing customers with a summary of the cost of borrowing (see Figure 3.7 in paragraph 3.181).
- (f) A recommendation to the FCA to take steps to increase transparency regarding the role of lead generators (see Figure 3.8 in paragraph 3.225).

7.2 In our assessment of the effectiveness of this package of remedies, we consider below:

- (a) how the package of remedies addresses the AEC and/or the resulting customer detriment (paragraphs 7.3 to 7.15); and
- (b) other aspects of the effectiveness of our proposed package of remedies (paragraphs 7.16 to 7.43).

***How the package of remedies addresses the AEC and/or resulting customer detriment***

7.3 We discussed the rationale for each element of the proposed package of remedies in Section 3. In this subsection, we summarise how the elements in the remedy package work together to remedy the AEC that we have provisionally found, and/or the resulting customer detriment.

7.4 We consider first how the proposed package of remedies addresses those features of the market that restrict competition between payday lenders by limiting the extent to which customer demand is responsive to prices. We then consider how the proposed package of remedies addresses those features of the market which restrict the constraint on payday lenders' prices that might otherwise be imposed by the prospect of new entry or expansion. We consider the synergies between the various measures and the coherence of the package of remedies later in this section (see paragraphs 7.37 to 7.43).

***Impact on the extent to which customer demand is responsive to price***

7.5 We have provisionally found that the limited extent to which customers respond to differences in payday lenders' prices is the result of a combination of features which tend to reinforce one another. These features are:

- (a) the context in which the decision to take out a payday loan is often made;
- (b) difficulties that customers face in identifying the best-value offer;

- (c) additional factors limiting customers' awareness of and sensitivity to late fees and other extra charges;
- (d) the role played by lead generators; and
- (e) the risk and loss of convenience perceived to be associated with switching lender.<sup>179</sup>

7.6 The proposed package of remedies will address this aspect of the AEC by lessening the extent to which these features reduce customer responsiveness to price and restrict competition between payday lenders. We consider below the contribution made by each element of the proposed package of remedies to addressing these features.

7.7 First, good quality PCWs provide an environment where customers can consider multiple offers simultaneously and compare prices on a like-for-like basis, enabling them to identify easily and quickly the best loan for their needs. Our proposed package of measures will encourage the use of PCWs among borrowers (including through a hyperlink on lenders' website and from the summary of borrowing costs) and – through the accreditation criteria – improve the quality of the PCWs available to payday loan customers. We expect this to increase the proportion of new and returning customers that shop around and improve the frequency and effectiveness of the comparisons that customers make prior to taking out a loan. This will in turn increase pressure on lenders to ensure that their rates are competitive relative to other offers. We would expect this effect to be significant, even with the FCA's proposed price cap in place (see Section 6).

7.8 Second, to the extent that actions taken by the FCA in response to our recommendations lead to an improvement in the clarity and prominence of how information about late fees and charges is presented, customers will be more likely to take this information into account in their choice of lender. This effect will be reinforced to the extent that accredited PCWs also display prominently information on late fees and other charges alongside the headline cost of the credit and by the proposed requirement on lenders to show such additional costs for a customer's most recent loan as part of a statement of borrowing costs. In our provisional findings<sup>180</sup> we noted that some customers pay limited attention to these additional costs, because they are confident that they will not have to pay them. However, we would expect increased prominence of these charges to increase competition among lenders as to the extent to which such fees are levied and the level at which they are set

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<sup>179</sup> See [provisional findings](#), paragraph 8.5.

<sup>180</sup> See [provisional findings](#), paragraph 6.92.



(having regard to the FCA's proposed cap) as part of their overall customer proposition and for fear of losing some customers if they do not offer good value overall.

- 7.9 Third, to the extent that our recommendations regarding the use of quotation searches and the development and use of real-time CRA databases improve customers' ability to find out if they are eligible for a loan without leaving a mark on their credit record, then this will support the other measures in our remedy package in encouraging customers to shop around for their loan.
- 7.10 Fourth, a retrospective summary of borrowing costs – which existing lenders must present to customers once a loan has been repaid and which customers are required to indicate that they have reviewed before applying for a further loan from an existing lender – will draw customers' attention to the costs associated with borrowing from their lender, and will encourage some customers to consider alternative offers. This will in turn increase the pressure on lenders to keep their terms competitive so as to retain existing customers.
- 7.11 Fifth, to the extent that actions taken by the FCA in response to our recommendations ensure that lead generators and other credit intermediaries provide clear, concise and prominent information on the nature of the service that they offer<sup>181</sup> this will improve customers' understanding of lead generators. As a result, the likelihood that customers use a lead generator on the mistaken expectation that they are dealing with a lender or that these intermediaries will match them with the best loan for their requirements will be reduced. We would expect this to prompt some customers to increase the extent of their search activity. This in turn will increase pressure on lenders to ensure that they offer loans that are competitive in terms of the value for money for customers, rather than the fees paid to intermediaries.
- 7.12 As a result of these effects, we expect that the proposed package of remedies will increase the extent to which customers are responsive to prices and choose the best loan for their requirements. This will in turn increase pressure on lenders to keep their prices low, rather than simply pricing at the level of the FCA's proposed price cap, in order to attract new customers and/or retain the existing ones, and in this way address the AEC and the resultant customer detriment that we have identified.

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<sup>181</sup> Including the fact that they are not a lender and a simple explanation of the basis on which customers are referred on to lenders (see Figure 3.8).

### *Impact on the constraint imposed by the prospect of entry or expansion*

- 7.13 We have provisionally found that the competitive constraint that might otherwise be imposed on payday lenders' prices by the prospect of new entry or expansion is weakened by a number of features:<sup>182</sup>
- (a) new entrants will face certain disadvantages relative to more established lenders, in particular in relation to the cost of customer acquisition and the assessment of credit risk; and
  - (b) the negative reputation of the sector reduces the constraint imposed on payday lenders' pricing by the prospect of new entry, especially by businesses with established reputations in other sectors.
- 7.14 We considered that our proposed remedy package will help to address the AEC by increasing the constraint imposed on established lenders by the prospect of new entry or expansion. In particular:
- (a) If more payday loan customers consult a PCW prior to taking out their loan, this would better enable new entrants and smaller lenders to raise awareness of their products, and so establish themselves in the market as a significant rival to incumbent providers. This is because this channel will allow a smaller lender with an attractive product to bring their product to customers' attention, irrespective of the lender's size or the time they have been in the market, by virtue of the product appearing prominently in comparison tables.<sup>183</sup> By providing for the accreditation of multiple PCWs, our proposed remedy is intended to facilitate competition between PCWs which we would expect to constrain the commissions charged to lenders by PCW operators.
  - (b) We also see significant benefits to competition associated with any measures which improve the utility of CRA data, by improving its coverage, accessibility or the frequency with which it is updated.<sup>184</sup> We would expect further developments in this area to reduce the disadvantage that new entrants and smaller lenders currently have in assessing customers' credit risk, relative to more established players.<sup>185</sup>

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<sup>182</sup> See [provisional findings](#), paragraph 8.6.

<sup>183</sup> There is evidence of this happening in other markets. For example, the CMA found that 'New private motor insurance providers have been able to enter the market and have attracted customers by posting competitive prices on PCWs rather than spending money on advertising.' (See [Private motor insurance market investigation: Final report](#), paragraph 8.4). See also our [provisional findings](#), paragraphs 7.41–7.80 for a discussion of the difficulties new entrants currently face in generating awareness of their products.

<sup>184</sup> See [provisional findings](#), paragraph 7.108, for a discussion about the current limitations of the information available from CRA data. Appendix 1.1 (paragraphs 160–164) reports the view of some lenders about at the importance of introducing real-time CRA data to encourage entry and promote competition in the market.

<sup>185</sup> See [provisional findings](#), paragraph 7.115.

- (c) The emergence of accredited payday lending PCWs would complement the regulatory actions of the FCA and contribute to improve the reputation of the sector. This would address the reputational concerns that some non-payday lenders (such as mainstream credit suppliers) have raised as factors that have inhibited entry to date. We would similarly expect the overall reputation of the market to benefit from the increased transparency in relation to late fees and additional charges and from lead generators displaying information about their role more prominently and explicitly.

7.15 We considered that, taken together, these measures would contribute to create a competitive environment where entry and expansion will be easier than is currently the case. As a result, we expect the package of remedies to result in established lenders facing a stronger competitive constraint from the prospect of smaller lenders expanding in the market and/or the threat of entry by providers established in other markets. This will put downward pressure on prices, reducing the customer detriment arising from the AEC.

#### ***Other aspects of the effectiveness of our proposed package of remedies***

7.16 For the reasons set out above, we have provisionally concluded that our proposed package of remedies will be effective in targeting a number of the main causes of the AEC that we have provisionally identified. In evaluating the effectiveness of our proposed package of remedies, we have also considered the following further factors:

- (a) the extent to which the remedy measures are capable of effective implementation, monitoring and enforcement;
- (b) the timescale over which the remedy measures will take effect;
- (c) the consistency of the package of remedies with existing and likely future laws and regulations; and
- (d) its coherence as a package of remedies.

#### ***Implementation, monitoring and enforcement***

7.17 In developing each of the remedy measures, we have considered how each remedy measure could best be implemented, monitored and enforced.

7.18 Our consideration of how each measure could be implemented, monitored and enforced is set out in our assessment of each option in Section 3. In summary, we have provisionally concluded that:

- (a) We propose to introduce by CMA Order, the prohibition on lenders from supplying payday loans unless details of their prices and products are published on at least one accredited PCW. We propose to recommend to the FCA that it establishes and administers an accreditation scheme for payday loan PCWs.
- (b) We propose to address the problems that we have identified in relation to late fees and other additional charges by means of a recommendation to the FCA, which is well placed to monitor and enforce compliance, using its existing regulatory mechanisms.
- (c) We propose that the measures to help customers assess their own credit-worthiness and to facilitate the development of real-time data sharing should be taken forward by means of a recommendation to the FCA.
- (d) We propose to introduce an obligation to provide a summary of a customer's borrowing history ourselves by means of a CMA Order. We propose to recommend to the FCA that it supports the CMA in monitoring lenders' compliance with this obligation, to the extent that its powers allow. It would fall to the CMA to enforce compliance with the Order and to take any enforcement action necessary to address any breaches of the Order under the Act.
- (e) We propose to address our concerns in relation to the operation of the lead generator channel by means of a recommendation to the FCA, which is well placed to monitor and enforce compliance, using its existing regulatory rules and mechanisms.

7.19 We therefore provisionally concluded that each of the measures was capable of effective implementation, monitoring and enforcement.<sup>186</sup>

*The timescale over which the remedy measures will take effect*

7.20 In evaluating the timescale over which the remedy measures within our proposed package of remedies are likely take effect, we considered:

- (a) the time that it is likely to take to implement the remedy measures following publication of our final report; and

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<sup>186</sup> In reaching this view, we noted that our proposed package of remedies contains a large number of recommendations compared with some other market investigations. We consider that this is appropriate to the particular facts and circumstances of this investigation, as the ongoing regulatory role of the FCA means that it is best placed to integrate many of the further actions necessary to address the AEC with its other interventions in the payday lending market (see [the Guidelines](#), paragraph 390). We will consult the FCA about the final remedies, but it will ultimately be a matter for the FCA to decide whether and how to implement our recommendations to it and over what timescale (see paragraph 1.5).

- (b) the time that it is likely to take for the remedy measures, once implemented, to remedy the AEC and the resulting customer detriment.

*Time taken to implement remedy*

- 7.21 The time taken to implement remedies following a CMA investigation will depend, in part, on whether the CMA is taking action itself or recommending action be taken by others.
- 7.22 Where the CMA is taking action itself, the implementation of remedies following a CMA investigation typically involves two stages. In the first stage, the CMA makes an Order.<sup>187</sup> This includes a period of informal consultation with relevant parties followed by a formal public consultation, as specified in Schedule 10 to the Act.<sup>188</sup> The CMA must make a final order within six months of the date of publication of the market investigation report. The CMA may extend this six-month period by up to a further four months if it considers that there are special reasons why a final order cannot be made within the statutory deadline.<sup>189</sup> In the second stage of implementation, the parties subject to any order take the action required by the CMA within the period specified in the Order.
- 7.23 We would expect to be able to put in place an order in relation to those measures that we propose the CMA implements (ie the prohibition on lenders from supplying payday loans unless details of their prices and products are published on at least one accredited PCW and the obligation on payday lenders to provide customers with a summary of their borrowing history) within six months of publishing our final report. An additional transitional period may be given to enable lenders to make the necessary changes to comply with the order.
- (a) In relation to the obligation to publish on an accredited PCW, this timescale will itself be determined by the time frame within which the FCA develops its accreditation scheme and PCWs obtain accreditation (see paragraph 7.27 below). However, once one or more accredited PCWs had been created, we would expect lenders to be able to comply with the order quickly (see paragraph 3.111).

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<sup>187</sup> It is also possible for the CMA to accept undertakings (see [the Guidelines](#), paragraphs 92 & 93). This is unlikely to be practicable in this case given the potentially large number of parties from whom undertakings would need to be sought.

<sup>188</sup> The action required by the CMA may be a one-off action (eg to implement a divestiture) or a continuing commitment (eg to comply with a behavioural remedy). A timescale is normally specified within the relevant Order/undertakings within which parties must take the necessary action.

<sup>189</sup> [Section 138A](#) of the Act. These time limits do not apply to any further implementation required after final undertakings have been accepted or a final Order made.

- (b) Given lenders' general comments on the relative ease with which existing communications with customers could be adapted, we would not expect any additional transitional period in relation to the obligation to provide a summary of borrowing costs to exceed a further three months, though we would welcome views on the length of any additional transition period.

7.24 The timescale for implementing the measures that we proposed to implement by means of recommendations will be a matter for the body to which we make the recommendation – in this case, the FCA. Our current expectation in relation to these measures is as follows:

- (a) Based on our understanding of the operation of the Ofcom and Ofgem schemes, we would expect the FCA to be able to put in place an accreditation scheme for payday loan price comparison and to have considered a number of the initial requests for accreditation by the end of 2015, such that lenders would be in a position to comply with their obligations under the Order within around 12 to 15 months of publication of our final report.
- (b) We would expect the FCA to be able to make significant progress in taking forward our recommendation in relation to late fees and other charges within 12 months of our final report.
- (c) We would expect the FCA to be able to make significant further progress in taking forward our recommendations in relation to enabling customers to assess their own creditworthiness and real-time data sharing within 12 months of publication of our final report.
- (d) We considered that the FCA's full authorisation process for credit intermediaries would represent a natural time frame during which to take forward our recommendations regarding lead generators. We would expect the FCA to be in a position to take these measures forward within 12 months of publication of our final report.

7.25 We concluded that we could reasonably expect all elements of the remedy package to be in place within around 12 to 15 months of publication of our final report.

*Time taken for remedy package to take effect*

7.26 We considered the likely time required for the package of remedies – once implemented – to take effect and to lead to greater competition between payday lenders.

- 7.27 One key factor on which this will depend is the time taken for PCW operators to decide to set up payday lending comparison tables and develop their sites to meet the accreditation criteria. We considered that this process was likely to take place within a relatively short period, given the potential appetite for providing such services which was revealed by our discussions with potential website operators. In developing our accreditation criteria, we have sought to avoid placing unnecessary technical restrictions, or imposing unnecessary burdens, on potential operators of accredited websites. As such, we would not expect it to be an excessively complex exercise for an established PCW to develop a payday lending comparison table,<sup>190</sup> or to adapt existing payday lending tables to meet the accreditation criteria. We would expect website operators to be able to develop their proposed price comparisons tables in parallel to the development of the accreditation scheme and the implementation of the accreditation process. Consequently, we would expect a number of website operators to have developed payday loan comparison tables and obtained accreditation within around 12 to 15 months of publication of our final report.<sup>191</sup>
- 7.28 While it would inevitably take some time for awareness of the existence of effective PCWs to improve among the payday lending population, we considered that this process would be assisted by the measures required of lenders regarding publicising the existence of PCWs and the accreditation scheme, as well as operators of PCWs' own efforts to promote their services.<sup>192</sup>
- 7.29 On this basis, we took the view that our proposals relating to PCWs were likely to have a material impact on the proportion of payday loan customers using PCWs within one to two years of publication of our final report and that this effect would continue to grow as awareness (and usage) of the sites developed.

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<sup>190</sup> We were told that there existed off-the-shelf aggregation technology and content management systems (see moneysupermarket.com's transcript) that would enable operators to implement a PCW relatively easily and quickly. A PCW (Gocompare.com) told us that it had used a third party provider (LoveMoney) as its supplier of price comparison services for financial products since 2011, and this provider had a panel of payday lenders. Gocompare had not incorporated this panel into its site so far but it said that adding this functionality to its website would be relatively simple.

<sup>191</sup> As set out in paragraph 3.42, we considered that the risk that no commercial operator would be interested in seeking accreditation and/or capable of meeting the necessary standards was low. In the unlikely event that this eventuality arose, and lenders worked together to develop an accredited site, then this might take longer to implement. Specifically, on the basis of the experience in the Home Credit market investigation, we considered that a new website could take up to a year to put in place following the publication of the Order requiring lenders to publish on an accredited website. See also footnote 72.

<sup>192</sup> For example, [X] told us that its total marketing budget was £[X]. It spent around £[X] a year on television and the majority of its remaining expenditure was Google-paid search. [X] provided figures of payday-specific pay-per-click spend in 2012 and 2013 (first six months to June) when it was active in the market 2012: £[X]; 2013: £[X]. [X]

- 7.30 We would expect that, following implementation, measures requiring lenders to make available a summary of borrowing to have an immediate effect on the behaviour of those customers with loans subject to the requirement. Again, we would expect that the likely impact of this measure would increase over time as a greater proportion of customers received summaries, and so were prompted to consider whether their previous lender was the best provider to meet their future requirements, and awareness was raised, through this measure, of the existence of accredited PCWs.
- 7.31 Measures requiring lead generators to disclose to potential applicants the service that they offer, would have an immediate effect on the understanding among new and repeat applicants taking out a loan via a lead generator. As with the other measures, we would expect the impact on the extent of competition in the payday lending market to increase over time, as a greater proportion of customers are exposed to the message.
- 7.32 Finally, the time taken for the recommendations to enable customers to assess their own creditworthiness, to encourage real-time data sharing and to improve the provision of information regarding late fees to have an effect will depend on the actions taken by the FCA. We note that the FCA has given significant attention to ensuring compliance among payday lenders and intermediaries,<sup>193</sup> and so would be likely to take an active and timely role in ensuring that lenders display information on late fees clearly and prominently. We also noted the considerable progress that had been made in respect to the provision of real-time CRA data in a relatively short period of time as a result of the FCA's efforts in this area.<sup>194</sup>

*Provisional conclusion on timescale for remedies to address AEC*

- 7.33 We provisionally concluded that the remedies would have a significant beneficial impact on competition within one to two years of publication of our final report and that this effect would continue to grow, as customers became more aware of the potential benefits of shopping around and of the tools available to help them do so.

*Consistency with existing and likely future laws and regulations*

- 7.34 As part of our consideration of the design of each of the measures in our proposed package of remedies, we considered whether any elements of this

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<sup>193</sup> See [FCA response hearing summary](#), paragraphs 32–35.

<sup>194</sup> *ibid*, paragraphs 31 & 32.



package would be inconsistent with other relevant laws and regulations applicable to the UK payday lending sector.

- 7.35 A particular focus of our assessment of this aspect of remedy design has been the interaction of our remedies with regulation governing the provision of consumer credit – in particular CONC and the CCD (see paragraph 3.3). This has shaped our design of the various elements of the remedy package. We will continue to keep the scope for such interactions under review as we finalise our decision on our preferred package of remedies.
- 7.36 We provisionally concluded that our proposed package of remedies, and the elements within it, are consistent with current and expected laws and regulations applicable to the UK payday lending sector.

#### *Coherence as a package of remedies*

- 7.37 We considered the extent to which the remedy measures contained within our proposed package of remedies were likely to be mutually reinforcing.
- 7.38 We identified a number of important synergies between the different elements of the package of remedies.
- 7.39 First, our measures work together to support the development and use of effective PCWs by payday loan customers.<sup>195</sup> The accreditation scheme for PCWs and the requirement for lenders to inform customers of the availability of such comparison tools both on their own websites and in the summary of borrowing costs would all be expected to increase the use of PCWs among payday loan customers, thus encouraging them to consider different lenders and compare prices before taking out a loan.
- 7.40 Second, our remedies may be expected to work together to increase customers' awareness of – and draw their attention to – the price of payday products.<sup>196</sup> The price of a loan will be the default ranking of products on accredited PCWs (see Figure 3.1) and this is likely to play an important role in driving customers' decision of which lender to borrow from, when using such sites. The summary of borrowing costs will help increase customers' awareness of the cumulative cost of borrowing, the impact of late fees and other additional charges and the potential existence of cheaper lenders in the market. Similarly, the recommendation to the FCA aimed at increasing the clarity and prominence of information on late fees and charges complements

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<sup>195</sup> See paragraphs 3.6–3.9 for further discussion on the reasons why we consider the development of an effective PCW sector to be important in order to enable payday loan customers to shop around.

<sup>196</sup> See paragraph 3.9.

the other measures by improving the visibility of these fees, and therefore making it more likely that customers will factor them into their borrowing decision.<sup>197</sup> We would therefore expect this combination of measures to result in an increase in borrowers' sensitivity to differences in price between lenders.

- 7.41 Third, the proposed measures have the synergy of simultaneously addressing both the demand-side features (relating to customers' lack of responsiveness to prices)<sup>198</sup> and the supply-side features (relating to barriers to entry and expansion)<sup>199</sup> of the market which give rise to the AEC that we have provisionally found. For example, the development of effective PCWs both encourages shopping around, and facilitates entry and expansion by providing an additional channel through which new entrants and smaller lenders – willing to compete on prices – can raise awareness of their offer and attract new customers. Similarly, we would expect developments in the provision of real-time CRA data both to mitigate the competitive disadvantage that new entrants and smaller lenders face relative to more established providers, and to reduce the potentially negative impact on a customer's credit record of applying for multiple loans in the process of shopping around.<sup>200</sup>
- 7.42 We also noted the synergies between our remedies and the regulatory action that the FCA is undertaking. We consider that in the presence of the proposed price cap, which might otherwise risk reducing price competition between lenders (eg by making entry more difficult and/or facilitating coordination), there will be increased importance attached to measures designed to enhance price competition between lenders. This is recognised by the FCA in its proposals.<sup>201</sup> In addition, the accreditation scheme for PCWs and requirements for lead generators to provide improved disclosure about their services will work alongside the cap and other measures being introduced by the FCA to help improve the reputation and perception of the payday lending sector and the market for short-term loans more broadly. We consider that a better regulated, more compliant payday lending sector with a less negative reputation will provide an environment more conducive to new entry – including by companies with the capability to transform the nature of competition<sup>202</sup> – and for effective price competition between lenders. We did not identify any ways in which the objectives of the various elements of the

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<sup>197</sup> Our remedy regarding PCWs complements and reinforces the benefits of this measures by providing a convenient tool that enables customers to compare offers along this dimension to help increase their responsiveness to late fees and charges.

<sup>198</sup> See [provisional findings](#), paragraph 8.5.

<sup>199</sup> *ibid*, paragraph 8.6.

<sup>200</sup> See paragraphs 3.169–3.171.

<sup>201</sup> See, for example, paragraph 1.84 of the FCA's [consultation paper](#).

<sup>202</sup> See [provisional findings](#), paragraph 7.117(a).

package of remedies could come into conflict either with each other or with actions by the FCA.

- 7.43 We therefore concluded that this represents a coherent package of remedies, whose elements are mutually reinforcing and which similarly supports the policy aims and objectives pursued by the FCA.

### ***Provisional conclusion on effectiveness of remedy package***

- 7.44 We have provisionally concluded that the proposed package of remedies represents an effective solution to the AEC that we have provisionally found.

## **8. Proportionality of our proposed package of remedies**

- 8.1 Many of the matters that we have discussed above relate directly to the issue of proportionality. These include considerations relating to the detailed design of individual remedy options (Section 3); the possibility that other less onerous remedy options could be effective (Section 4); whether any measures in our proposed package of remedies would result in a loss of RCBs (Section 5); whether there remains a need for remedial action in light of market developments (section 6); and the effectiveness of our remedy measures (Section 7).

- 8.2 In this section, we summarise our assessment of whether our proposed package of remedies would be a proportionate response to the problems we have provisionally found. We do this by considering the following questions:<sup>203</sup>

- (a) Is the package of remedies effective in achieving its aim?
- (b) Is the package of remedies no more onerous than necessary to achieve its aim?
- (c) Is the package of remedies the least onerous if there is a choice?
- (d) Does the package of remedies produce adverse effects which are disproportionate to the aim?

### ***Effective in achieving its aim***

- 8.3 For the reasons set out in Sections 6 and 7, we provisionally concluded that our proposed package of remedies would be effective in its legitimate aim of remedying the AEC and the customer detriment that is likely to continue to result from the AEC if its underlying causes are not addressed.

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<sup>203</sup> [The Guidelines](#), paragraph 344.

***No more onerous than necessary to achieve its aim***

8.4 In assessing whether the proposed package of remedies is no more onerous than necessary, we considered:

- (a) whether each measure within the proposed package of remedies is required to remedy the AECs that we have provisionally found; and
- (b) whether the design of each remedy measure within the package of remedies is no more onerous than it needs to be.

*Is each element of the package of remedies necessary?*

8.5 We considered whether it would be possible to achieve a sufficiently comprehensive solution to the AECs without implementing all of the measures in our proposed package of remedies.

8.6 Based on our assessment in paragraphs 7.3 to 7.15 of how the elements of the remedy package contribute to remedying the AEC, we took the view that each measure makes a material contribution to the effectiveness of the remedy package, such that its overall impact would be weakened if any single measure were removed from the package. The contribution to the overall impact of the package varies between remedies but each has an important role to play in addressing the AEC that justifies its inclusion in the package, and they are mutually reinforcing (see paragraphs 7.37 to 7.43). While the measures work together to address the AEC, we nonetheless considered some elements – in particular the measures to promote the development and use of effective PCWs – to be of particular importance in generating greater price competition, such that they would make a significant contribution to remedying the AEC even in the absence of the other remedies. However, in order to achieve as comprehensive solution as is reasonable and practicable to the AEC and resultant customer detriment that we have provisionally found, we consider that the complementary effect of the various elements of the remedies package is an important aspect of the effectiveness of the package as a whole.

8.7 We provisionally concluded that it was necessary to include each of the measures in our proposed package of remedies in order to achieve a sufficiently comprehensive solution to the AEC we have provisionally identified.

*Is the design of each remedy measure within the package of remedies no more onerous than it needs to be?*

- 8.8 Our consideration of the design and implementation of each of the measures is set out in Section 3.
- 8.9 In reaching our provisional decisions on remedy design, we have sought to avoid imposing costs and restrictions on parties that go beyond what is needed to achieve an effective remedy. For example, our approach to accrediting PCWs will enable existing and/or new website operators to seek accreditation, rather than creating a single authorised operator.<sup>204</sup> Similarly we have developed our proposed requirement for customers to be provided with a summary of borrowing costs in such a way as for lenders to use distribution channels that are most likely to be cost-effective for them (eg online lenders might distribute such a summary by means of email and/or access to an online portal) while achieving the aim of this remedy.<sup>205</sup> We have sought to strike a similar balance in terms of remedy implementation, for example our proposal to implement our remedies promoting quotations searches and real-time data sharing by means of a recommendation will allow greater flexibility to market participants to implement the necessary changes compared with prescribing a specific approach via an order. In these ways, we have sought to ensure that no measure within the proposed package of remedies is more onerous than it needs to be, in order to address the AEC.
- 8.10 We therefore provisionally concluded that our proposed package of remedies was no more onerous than necessary in order to remedy the AEC and resulting customer detriment.

***Least onerous if there is a choice***

- 8.11 If the CMA is choosing between two remedy measures which appear to be equally effective, it should choose the remedy measure that imposes the least cost or is least restrictive.
- 8.12 In addition to the measures included in our proposed package of remedies, we also considered some other possible ways of addressing the AEC and/or customer detriment. These included measures that we had put forward ourselves for consideration and some other measures that were put to us by parties in response to the Remedies Notice.

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<sup>204</sup> See paragraphs 3.35 & 3.36 for a discussion on the relative benefits of the accreditation scheme compared with creating a single authorised website.

<sup>205</sup> See paragraphs 3.194–3.197.

- 8.13 Our consideration of these alternative measures is set out in Section 4. We found that each of these alternative measures was of limited effectiveness and/or was not needed to remedy the AEC, if the measures in our package of remedies were pursued. We were not able to identify an alternative package of measures that would be both less onerous and effective in remedying the AEC. However, we took care to avoid including measures in our package of remedies that did not make a material contribution to remedying the AEC (see paragraphs 8.5 to 8.7).
- 8.14 We concluded that, to the limited extent that we have a choice between effective remedies, we have identified the package of remedies that imposes the least cost and is least restrictive.

***Does not produce adverse effects which are disproportionate to the aim***

- 8.15 We considered whether the package of remedies – or any specific measure within it – was likely to produce adverse effects which were disproportionate to the aim of remedying the AEC and/or the resulting customer detriment.
- 8.16 In reaching a judgement about whether to proceed with a particular remedy, the CMA will consider its potential effects – both positive and negative – on those persons most likely to be affected by it. The CMA will pay particular regard to the impact of remedies on customers. The CMA will also have regard to the impact of remedies on those businesses subject to them and on other affected parties (also in light of the possible implications of the FCA’s proposed price cap), such as other businesses (eg potential entrants, or firms active in upstream or downstream markets), government and regulatory bodies, the OFT and other monitoring agencies.<sup>206</sup>

***Benefits of remedy package***

- 8.17 We considered the likely benefits of the proposed remedy package.
- 8.18 As described in paragraphs 7.3 to 7.15 above, the key benefit of the package of remedies that we have proposed is to encourage price competition between payday lenders, and in this way to reduce the amount that customers pay for their loans and increase the extent to which charges reflect the costs of supplying a given borrower. By facilitating customers’ access to information about the different loans on offer, the terms of those loans and the role of intermediaries, we would expect our remedies to increase the proportion of

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<sup>206</sup> [The Guidelines](#), paragraph 348.

customers that successfully choose the most suitable loan for their requirements.

- 8.19 In our provisional findings, we concluded that the scale of the detriment caused by the AEC was likely to be material (see paragraph 1.4 for an indication of the expected detriment). This suggests that the potential savings to customers as a result of heightened competition between lenders that we would expect to result from our remedies proposals is likely to be significant. As discussed in Section 6, while the proposed price cap will reduce the extent to which customers are overpaying for their loans, and so reduce the scope for further price reductions, we nevertheless consider that there remains an important role for price competition between payday lenders under the new regulatory regime. Moreover, our proposed competition-enhancing remedies are likely to complement and enhance the beneficial impact of the FCA's price cap proposals and its other regulatory actions (see paragraph 7.42).
- 8.20 In light of this assessment, we considered that the scope for customers to benefit from increased price competition as a result of our proposed remedy package would continue to be material, notwithstanding the FCA's price cap proposals.<sup>207</sup> We reached this view, in light of the following considerations:
- (a) The likely future size of the market. Total revenue in the payday lending sector was around £1.09 billion in financial year 2012, or approximately £107 per loan. While this figure is likely to have fallen in 2013 (see Appendix 6.1 which describes the recent financial performance of the major lenders) and may fall further in the presence of the cap<sup>208</sup> we have seen no indication that the underlying demand for short-term loans will reduce dramatically. We also note that the FCA has set the cap at a level at which lenders will continue to be able to meet the majority of this demand. The FCA estimates that most payday loan customers will still be eligible for loans after the introduction of the proposed cap and that only 11% of individuals who would otherwise get HCSTC would no longer get

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<sup>207</sup> We considered the potential order of magnitude of any such further benefits that might accrue from increased competition. In our estimates of the customer detriment arising from the AEC that we provisionally found (see provisional findings, [Appendix 8.1](#)) we had considered a 'low' case competitive benchmark with a monthly interest rate of 22.5%, which we considered may be more relevant if the lowest prices then available in the market were more representative of the prices we might expect to see in a market in which competition was working more effectively. Using this 'low' case benchmark would imply annual savings to customers of around £74–£127 million (note that, unlike the FCA, we did not consider the savings to customers who pay back late and those who do not pay back, see footnote 167). This 'low' case benchmark is beneath the level of the FCA's proposed price cap (which corresponds to a monthly interest rate of around 24%). By applying the methodology described in [Appendix 8.1](#) of our provisional findings, a monthly interest rate reduction from 30% to 24% would result in annual savings to customers of around £58–£102 million. Comparing these two scenarios indicates that if increased competition prompted by our proposed remedies were to reduce prices towards the 'low' case scenario, the additional annual customer savings, over and above the benefits generated by the FCA's price cap proposals, would be of the order of tens of millions of pounds.

<sup>208</sup> Partly because many customers will be paying less for their loans and also as lenders tighten their lending criteria.

loans. We would therefore expect a significant market for payday lending – as defined in our terms of reference – to remain following the cap.

- (b) The weakness of price competition in the absence of the proposed remedy package, as evidenced by the extent of historical customer detriment that we had identified as arising from the AEC (see paragraph 1.4). As set out in Section 6, the proposed price cap is unlikely to address the underlying causes of the AEC.
- (c) The intrinsic limitations of a price cap in fully addressing the customer detriment arising from the AEC, as set out in Section 6, particularly once dynamic considerations are taken into account, and the continued scope for price competition under the cap, given:
  - (i) the differences in the efficiency of different lenders (and so the significant potential for differences in costs to be reflected in lenders' prices); and
  - (ii) the differences in the expected costs of supplying different customer groups (and so the significant potential for the costs associated with different types of customer to be reflected in the prices that they pay).
- (d) Our provisional conclusions on the effectiveness of our proposed package of remedies as set out in Section 7.

### *Costs of remedy package*

- 8.21 We considered the potential scale of the costs generated by the proposed remedy package. Our consideration of the costs of these remedies is ongoing and we would welcome further submissions on the costs of the various elements of the package, in light of the further detail provided on their specification in this document (see paragraph 1.10).
- 8.22 One aspect of the package that may generate material costs is our proposal to require lenders to provide data to one or more accredited PCWs. We considered below whether, and the extent to which, lenders, the FCA and PCWs seeking accreditation might incur additional costs as a consequence of this remedy. We nonetheless would welcome further views on the costs generated by this remedy in response to this consultation.
- 8.23 We did not receive any evidence to suggest that the costs to lenders associated with providing data to one or more accredited website operators would be material. We do not expect that the other obligations imposed as part of this remedy, in particular requiring lenders to display a hyperlink to a PCW from their own website, would involve any significant implementation costs for



lenders. We noted that lenders would incur referral (or click-through) fees for any customers they acquired through accredited PCWs.<sup>209</sup> However, lenders would be able to negotiate suitable commercial terms and would receive a commercial benefit in return for these fees (ie additional customers). In addition, any such additional costs to lenders associated with the accreditation scheme are likely to displace other costs in the distribution of payday loans (eg the costs to lenders of acquiring customers through lead generators, or direct advertising). Consequently, we did not consider any additional referral fees that lenders might pay to accredited PCW operators to be a relevant cost of this remedy.

- 8.24 We considered that there would be some relevant costs associated with operating and complying with the accreditation scheme. Under our proposals, the cost of operating the accreditation scheme would be borne by the FCA, which finances itself by charging fees to authorised firms in financial markets. To estimate the cost of operating with the accreditation scheme we liaised with Ofgem and Ofcom which currently run similar schemes in the energy and telecommunications sectors.
- 8.25 Ofgem<sup>210</sup> told us that it used a third party ‘auditor’ whose contract envisaged [X] of external review per website per year. This review consisted of checking the comparability of a PCW’s results to other accredited PCWs.<sup>211</sup> In addition, Ofgem staff conduct quarterly audits of each site. Currently, Ofgem did not charge any fee to PCWs for the audit this position is currently being reviewed.<sup>212</sup> The accreditation scheme also included a self-assessment of compliance by energy suppliers which was then reviewed by Ofgem staff and the auditor. The ‘one-off’ accreditation of a site is contracted at [X] hours per website. Ofgem typically deployed two to three full-time equivalent (FTE) staff who oversaw the accreditation and audit scheme, and management of the Ofgem Code.
- 8.26 Ofcom<sup>213</sup> told us that accredited sites were required to undergo an initial audit to be accredited and also undertake 18-month review audits<sup>214</sup> to ensure information was accurate and correctly presented. The direct cost to PCWs of accreditation related to the cost of a technical audit from an independent analyst commissioned directly by Ofcom through a periodic competitive tender process. For PCWs with a relevant turnover greater than £200,000, Ofcom

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<sup>209</sup> See paragraph 3.59.

<sup>210</sup> There are presently [11 accredited website operators](#).

<sup>211</sup> Practically, this involves inputting six standard customer profiles into each PCW and comparing the top 10 to 20 ranked energy suppliers.

<sup>212</sup> [Domestic third party intermediaries \(TPIs\): Confidence Code and wider issues](#)

<sup>213</sup> There are presently five accredited website operators.

<sup>214</sup> The first review will take place 12 months after initial accreditation and every 18 months thereafter.

recovered most of the costs of the audit fee from PCWs by charging £13,775 (initial audit) and £8,550 (review audit). In order to ensure that the costs of accreditation did not become a barrier to entry, Ofcom charged discounted fees to smaller PCWs (with a relevant turnover less than £200,000)<sup>215</sup> and subsidised the costs of the technical audit. Ofcom had two staff who managed and oversaw the accreditation scheme in addition to other duties, and estimated that the scheme required approximately 0.6 FTE employees.

- 8.27 On the basis of Ofgem's and Ofcom's experience, we considered that the total costs to the regulator and PCWs of operating and complying with an accreditation scheme would be unlikely to exceed £300,000 a year on average.<sup>216</sup> We would expect costs to be somewhat higher than this in the first year, as additional resources would be required to set up the accreditation scheme and accredit the initial providers. Conversely, we would expect costs to be somewhat lower than this once the scheme had been established. Although this is only an indicative estimate of the magnitude of the overall costs, it strongly suggests that operation of the accreditation scheme is likely to result in only modest costs relative to the size of the payday lending market (see paragraph 8.20(a)).
- 8.28 The scheme might also generate additional costs for PCWs seeking accreditation. For example, PCWs may have to bear the costs of managing the payday loan comparison table and monitoring/complying with the required standards. However, we expect that such additional costs – over and above the costs that would need to be incurred in any case – are likely to be very small, given the approach we have proposed to the accreditation criteria.<sup>217</sup>
- 8.29 Clearly, new PCW operators seeking accreditation would have to incur additional costs to develop a website on which to present payday loan information. We note, however, that our proposed remedy envisages that PCWs will seek accreditation on a voluntarily basis. There is no imposition on PCWs to include a payday loan comparison table on their site, nor is accreditation a prerequisite for operating a payday loan price comparison tool.

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<sup>215</sup> £1,000 for initial audit, and £500 for review audit.

<sup>216</sup> This estimate is based on the following assumptions: (a) the cost of any technical audit to grant accreditation to a PCW would be in the region of £10,000–£12,000 per year. If we assumed for indicative purposes that ten PCWs were granted the accreditation – which may overestimate the number of accredited websites, given the difference in the size of the payday lending market compared with energy or telecommunications – the total cost of audit would not exceed £100,000–£120,000 per year; and (b) based on the experience of Ofgem and Ofcom, the operation of the accreditation scheme might require one or two FTE employees of the regulator. If we take an indicative cost per FTE employee of £100,000 a year, the total cost for the FCA of supporting the scheme might be in the region of £100,000–£200,000 per year.

<sup>217</sup> [X] told us that the costs of managing payday loan data and ensuring compliance would be approximately around £40,000 per year, though if an infrastructure/system is in place already to promote other products, 'the additional cost of managing payday loans is virtually zero.'

We expect PCW operators to enter the accreditation scheme on the basis of commercial considerations as to whether the expected revenues are likely to outweigh the costs of designing and launching a payday loan comparison site. For this reason, we do not consider that any additional costs related to the development of new PCWs are relevant considerations to the assessment of this remedy.<sup>218</sup>

8.30 We also considered whether the other parts of our package were likely to generate significant costs for payday lenders or other parties. The remedies relating to disclosure of late fees (see Figure 3.2), summary of borrowing costs (see Figure 3.7) and transparency of lead generators' role (see Figure 3.8) would each require lenders and lead generators to change the way some information is presented to customers. These remedies could involve two types of costs for lenders:

(a) **Development costs** – We expect that our remedies relating to the disclosure of late fees<sup>219</sup> and the transparency of lead generators' roles<sup>220</sup> could be implemented with relatively simple changes to lenders' websites and documentation, and we do not expect these changes to generate any significant costs. The costs of implementing our requirement to provide a summary of borrowing costs might vary between lenders. Many lenders already allow customers to view aspects of their borrowing record on their website (through 'my account' type functions). We expect that most lenders could build upon these functions to meet the obligations of this remedy while only incurring very limited costs.<sup>221</sup> Some lenders that do

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<sup>218</sup> Although we considered it unlikely (see paragraph 3.42), we acknowledge that if no commercial operators were interested in seeking accreditation and/or capable of meeting the required standards, lenders would need to work together to create or commission a website that complied with the accreditation scheme. We would expect this to be implemented by means of a competitive tender process, the outcome of which would determine the cost to lenders of the remedy, in this scenario. In this context, we noted that [X] told us the cost of developing a price-table solution from scratch depended on the degree of sophistication, but an indicative estimate to have an 'up-and-running service' would be in the region of £[X]. Similarly, [X] said that implementing a complete system from scratch (which would entail 'an admin system to manage data, an admin system and processes to manage commercial agreements and proprietary tracking and reporting') would cost more than £1 million. However, we noted there exist alternative solutions that may limit the set-up costs. For example, [X] told us that its comparison tables (except for that covering six core insurance products) were powered by third party providers, which hosted the tables and provided the relevant data. This enabled [X] to add products to its range quickly, without needing particular expertise specific to the sector. In the case of financial products, its comparison tables were provided by [X] whose service was remunerated on the basis of the volume of products sold through [X] comparison table that it hosted (ie the revenues generated by the comparison table are shared between [X] and [X]). We also noted that the total set-up costs for establishing lenderscompared.org.uk (see paragraph 3.56) had been substantially less than £0.5 million. We therefore considered that if lenders were required to create or commission an accredited website the total costs of establishing such a site would be very unlikely to exceed £1 million and could be substantially less than this.

<sup>219</sup> Our expectation is based on what we have been told by a number of interested parties, see Appendix 1.1, paragraphs 111–114.

<sup>220</sup> We considered that lenders' views in relation to the costs of improving late fee disclosure would apply similarly to lead generators as the two remedies would entail similar activities.

<sup>221</sup> Our expectation is based on what we have been told by a number of interested parties, see Appendix 1.1, paragraphs 201–209.

not currently provide this type of service to customers through their website (typically smaller lenders or high street lenders) might need to do some additional development work to meet this obligation.<sup>222</sup> Overall, we do not expect these costs to be material, but we would welcome views on this issue in particular in response to this consultation.

(b) **Customer response** – These remedies could potentially involve a more indirect cost for customers if they make the navigation of websites more cumbersome. Customers may dislike having to click through more screens to take out a loan. Moreover, if customers have limited attention and can only process a limited number of messages, then the provision of additional information has an ‘opportunity cost’ in that customers are likely to pay less attention to other messages. We have sought to keep the disclosures in our provisional remedy package simple and would expect lenders and lead generators to have strong incentives to manage the implementation of these remedies to ensure that their websites continue to be easy to use, while providing customers with the relevant information prescribed in these remedies. As such, we did not expect this type of indirect cost to be material.

8.31 We noted that our remedies to assist customers to assess their own credit-worthiness and to encourage the development of real-time data sharing have been framed as broad recommendations to the FCA. We would consequently expect the FCA to take into account any material costs associated with these measures prior to imposing more specific obligations, should it decide to do so.

8.32 Finally, we considered the risks of our package of remedies leading to more indirect costs or unintended consequences. We considered the following risks:

(a) **PCW operator market power.** If our proposals result in PCW operators acquiring market power in the distribution of payday loans, then this might lead to increased commissions for lenders and higher prices to customers. In our view, the risk of PCWs acquiring significant market power in the payday lending market as a result of our proposed intervention is small, given that we expect there to be a number of accredited PCWs and that barriers to entry for PCWs seeking accreditation in this sector are likely to be low; moreover a number of lenders have strong brands which would give them negotiating strength in dealing with PCWs. Nevertheless, we expect PCW operators to be aware of their obligations under Chapters

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<sup>222</sup> See Appendix 1.1, paragraph 202.

I and II of the 1998 Act and Articles 101 and 102 TFEU and of the concurrent competition powers of the FCA and CMA, and to undertake such compliance audits as are appropriate.

- (b) **Distortions due to accreditation criteria.** If our accreditation criteria are too prescriptive then this could raise barriers to entry or stifle innovation in the PCW sector. However, we do not believe that this is a serious risk given the criteria that we have proposed. Our criteria leave considerable discretion to PCWs with respect to how they present information to customers and the commercial terms they reach with lenders. There is no indication that similar schemes have stifled competition in other sectors. In the energy market, for example, 11 PCWs operate under the accreditation scheme and a number of other PCWs operate outside the scheme.
- (c) **Reduced role of lead generators.** One potential consequence of the proposals is that could they result in a significant reduction in the extent to which customers use lead generators (as understanding of the service offered by these suppliers improves). A smaller proportion of applicants available via lead generators could potentially create difficulties for new entrants and small lenders who are currently heavily reliant on this channel to acquire new customers. However, we believe that a stronger PCW sector could provide these lenders with an alternative way of acquiring new customers, in a way that is likely to be more beneficial to customers and competition.
- (d) **Encouraging inappropriate use of payday loans.** One argument which was put to us was that a more effective PCW sector might encourage the use of payday loans, with detrimental consequences for those customers for whom a payday loan is not the most suitable credit product.<sup>223</sup> Related to this, we were conscious of the FCA's findings that many of the highest-risk payday loan customers may have been made worse off as a result of taking out their loan. Nevertheless, we considered that this risk would be best managed by the steps being taken by the FCA – for example, by regulating how lenders apply the affordability criteria, as well as the protections offered by the proposed price cap – rather than allowing the AEC to continue.

8.33 In light of this assessment, we considered that the costs associated with putting in place our proposed package of remedies were likely to be modest. We reached this view in light of the following considerations:

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<sup>223</sup> [Dominic Lindley response to Remedies Notice](#).

- (a) There would be some ongoing costs associated with operating and complying with the accreditation scheme. The main costs associated with the accreditation scheme are twofold: the technical audit necessary to assess PCWs' compliance with the required standards, and the costs of the regulator's personnel overseeing the accreditation scheme. Based on our provisional assessment in paragraph 8.27, these costs are unlikely to exceed around £300,000 a year.
- (b) The costs of the other remedies in our package are unlikely to be material. Based on the feedback we have received on these proposals to date, we do not expect the remedies relating to disclosure of late fees, summary of borrowing costs and transparency of lead generators' role to generate significant costs. However, we would welcome more detailed feedback on the cost of these measures, now that we have specified them in greater detail.
- (c) Our remedies to assist customers to assess their own creditworthiness and to encourage the development of real-time data sharing have been framed as broad recommendations to the FCA as to how it should seek to shape market developments to benefit customers and enhance the competitive process and do not contain specific obligations on firms. We are not therefore in a position to estimate specific costs that may ultimately arise from these recommendations, but we would expect the FCA to take into account the main costs associated with any subsequent actions, should it decide to impose more specific obligations.
- (d) Remedies have been designed in such a way to minimise the risk of unintended consequences. In particular:
  - (i) we do not expect our proposals to result in PCW operators acquiring market power in the distribution of payday loans, nor the accreditation criteria to raise barriers to entry or stifle innovation in the PCW sector;
  - (ii) a stronger PCW sector would provide lenders, which currently rely heavily on lead generators and might therefore suffer from a reduced role of these intermediaries, with an alternative way of acquiring new customers; and
  - (iii) we expect the FCA to monitor and intervene to prevent any inappropriate use of payday loans which could be encouraged by the wider availability of price comparison tools.

8.34 We will continue to review the costs of our remedies up to publication of our final report and would welcome further submissions and evidence on this matter.

### *Balance of benefits and costs*

- 8.35 We considered whether the benefits of the proposed remedy package exceeded its likely costs.
- 8.36 We concluded in paragraph 8.20 that the benefits from increased price competition as a result of our proposed remedy package would continue to be material, notwithstanding the FCA's price cap proposals. Set against these benefits, we considered, for the reasons set out in paragraph 8.33, that the costs of implementing our remedy package were likely to be modest. While we have not quantified every aspect of our remedies, we consider that the total costs associated with the remedy package are unlikely to exceed around £1 million<sup>224</sup> a year. Given this assessment of costs and the size of the payday lending market (see paragraph 8.20(a)), we considered that the package of remedies would need to result in only a very small further reduction in lenders' prices – of less than 0.2% – for the benefits to customers to exceed the costs of the package that is being proposed.<sup>225</sup> To place such a price reduction into context, the proposed price cap would limit the upfront interest and fees chargeable on a £100, 30-day single repayment loan to £24 (see paragraph 6.9(a)): a 0.2% reduction in the cost of this loan would be just under 5 pence. For the reasons set out in paragraphs 6.25 to 6.27 and in paragraphs 8.17 to 8.20, we consider that the remedy package is likely to lead to an overall reduction in prices of substantially more than this.
- 8.37 We have therefore provisionally concluded that the benefits of the proposed remedy package are likely to exceed its costs and that, consequently, the proposed remedy package was unlikely to give rise to adverse effects that were disproportionate to its legitimate aim. We will continue to review the costs and benefits of our remedies up to publication of our final report and would welcome further submissions and evidence on this matter.

### ***Provisional conclusion on proportionality***

- 8.38 We provisionally concluded that our proposed package of remedies represented a proportionate solution to the AEC and resulting customer detriment.

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<sup>224</sup> We consider that this range is likely to encompass the extent of ongoing costs associated with our remedy package, given that the largest ongoing cost that we have identified – of operating and complying with an accreditation scheme for PCWs – is unlikely to exceed around £300,000 a year.

<sup>225</sup> We consider that 0.2% is a cautious estimate of this figure – ie one that is likely to overstate the extent to which prices would need to fall in order for the benefits of introducing our proposed package of remedies to outweigh its cost. Given our assessment that total costs of the remedy package are unlikely to exceed around £1 million a year, and a market size by revenue in 2012 of over £1 billion in financial year 2012 (see paragraph 8.20(a)), a figure of 0.1% would also be justifiable. However, we took a cautious approach, to allow for the possibility that the future size of the payday lending market may be smaller than in 2012 and/or that the costs of our remedy package may exceed our current best estimate.

## **9. Provisional decision on remedies**

- 9.1 We have provisionally decided that we should introduce the package of remedies summarised in paragraph 7.1.
- 9.2 In our judgement, this represents as comprehensive a solution as is reasonable and practicable to the AEC and resulting customer detriment that we have provisionally found.



## Summary of evidence received

### Introduction

1. This appendix outlines the evidence we have received in response to our Remedies Notice.
2. We have not duplicated written responses in their entirety but identify key aspects of those responses, neither do we in this document provide commentary on the evidence and arguments submitted. Where issues overlap more than one remedy we have sought to group these issues as appropriate under a single remedy and this evidence is then drawn upon in our consideration within our provisional decision.

### General comments

3. Dollar told us that all remedies should apply to all providers of consumer credit to ensure competition was not restricted or distorted.<sup>1</sup>
4. Wonga noted the importance of adopting a holistic approach with respect to other regulatory interventions by the FCA either announced or planned, or future interventions (such as on real-time data sharing).<sup>2</sup>
5. Wonga identified a number of new regulatory burdens on its business as a result of the FCA assuming responsibility for the regulation of consumer credit. [REDACTED]<sup>3</sup>

### Consumer Credit Directive

6. Wonga noted that as that the Consumer Credit Directive prescribed for maximum harmonisation, the UK could not introduce national provisions diverging from those in the Directive in relation to matters falling within the scope of the Directive.<sup>4</sup> It was not clear to Wonga at this stage whether the CMA's proposed remedies (in particular Remedy 3 – measures to help customers assess their own creditworthiness) were incompatible with the Directive.<sup>5</sup>

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<sup>1</sup> [Dollar response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), paragraph 6.1.

<sup>2</sup> [Wonga response to Remedies Notice](#), paragraphs 1.3–1.12.

<sup>3</sup> *ibid*, paragraphs 1.13–1.16.

<sup>4</sup> *ibid*, paragraph 1.17.

<sup>5</sup> *ibid*, paragraphs 1.18.

## Price comparison websites

### *Design and basis of comparison*

7. The responses we received emphasised the use of the total cost of credit in presenting and comparing any information on price and that borrowers should be able to specify the value, duration and other features of a loan. However, some responses noted that the need to ensure a simple, well-designed and accessible design was important. Some challenges identified included the presentation of risk-based products.
8. We structure the points raised as:
  - (a) facilitating specifying and searching for a loan;
  - (b) facilitating comparison; and
  - (c) general design comments.

### *Facilitating specifying and searching for a loan*

9. CashEuroNet told us that customers should be able to set a duration and type of product and compare those products (for example, a three-month, multiple instalment loan) and apply other filters.<sup>6</sup> Wonga stated that customers should be able to specify the duration, value and structure (ie instalment vs traditional) of the loan.<sup>7</sup> Additional filters could be included to identify online lenders, lenders offering instant payment and those allowing early repayment.<sup>8</sup>
10. Dollar told us that a consumer should be able to specify the duration of the loan; value of the loan; total cost of credit; whether the loan was instalment or single payment; whether the lender was a member of a trade association; and other features such as fast payment options, method of payment, default changes and whether the processing service was 24 hours/seven days a week.<sup>9</sup>
11. Uncle Buck told us that the website needed sufficient functionality to allow consumers to search on any or all of those factors which they might consider

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<sup>6</sup> [CashEuroNet response to provisional findings and Remedies Notice](#), paragraph 8.4.

<sup>7</sup> [Wonga response to Remedies Notice](#), paragraph 3.24.

<sup>8</sup> *ibid*, paragraph 3.24.

<sup>9</sup> [Dollar response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), paragraph 3.5.7.

in assessing loan providers, and that it concurred with the suggestions put forward by the CMA.<sup>10</sup>

12. The Consumer Finance Association (CFA) told us that customers should be able to specify the duration and value of the loan, repayment structure and possibly payment flexibility (ability not to incur repayment charges) and customer reviews (which should be verified customers).<sup>11</sup>
13. Islington Debt Coalition told us that the inclusion of a filter for faster payment options should not be allowed unnecessarily to influence a borrower's choice.<sup>12</sup>
14. The Money Charity told us that borrowers should be able to specify the value of the loan and the date on which credit would be provided.<sup>13</sup> To allow customers to access high street loans, the ability to enter a postcode should be included.<sup>14</sup>
15. UK Credit told us that customers should be able to specify the loan value and their monthly affordable budget. Specifying the amount a customer could afford to repay each month would then filter appropriate loans. Remaining loans could then be filtered on a number of other factors, such as repayment structure, monthly interest rate, ability to make lump-sum payments/settle early, payment speed, APR (for loans with a duration of 12 months or longer), fees and charges, and the borrower's credit profile (good, fair, bad).<sup>15</sup>
16. A PCW operator told us that we should be careful not to have too many filters for the user to use otherwise there would be a risk of the tool becoming too complex to use. A user should be able to specify:<sup>16</sup>
  - (a) the type of loan required (payday, instalment, line of credit, personal loan);
  - (b) the amount of loan required;
  - (c) the duration the loan was required for;
  - (d) self-assessment of the borrower's own credit profile (poor/average/good/don't know); and

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<sup>10</sup> [Uncle Buck response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), p2.

<sup>11</sup> [CFA response to Remedies Notice](#), pp2&3.

<sup>12</sup> [Islington Debt Coalition response to Remedies Notice](#), pp2&3.

<sup>13</sup> [The Money Charity response to provisional findings and Remedies Notice](#), paragraph 11.

<sup>14</sup> *ibid*, paragraph 12

<sup>15</sup> [UK Credit response to Remedies Notice](#), p2.

<sup>16</sup> [A PCW response to Remedies Notice](#), pp1&2.

(e) whether they required funding the same day or not.

### *Facilitating comparison*

17. Dollar told us that providing a comparative cost of different loans taken out for different periods was fraught with difficulties. One way to do so was by a comparison of charges on the basis of total cost of credit per £100, but any such comparison should incorporate a facility which enabled a customer to compare the total cost of credit for different loans over different periods of time and which thus enabled a customer to make a meaningful assessment of the cost of that loan by reference to the period of time over which the borrowing took place.<sup>17</sup>
18. Uncle Buck told us that it should be clear what the total cost per £100 was (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.<sup>18</sup>
19. UK Credit told us that its preferred basis of comparison was total cost of credit, total amount repayable and whether fees and charges were applicable for late payments/default.<sup>19</sup>
20. Wonga stated that using APR as the basis for comparison was inappropriate<sup>20</sup> and that APR was not even a useful indicator of the cumulative cost of taking out multiple loans over the course of a year.<sup>21</sup> Wonga considered the total cost of credit for the specific loan (ie taking into account loan amount and duration) to be the most appropriate.<sup>22</sup> By default, products should be ranked by total cost of credit.<sup>23</sup>
21. A PCW told us that if the purpose of a comparison site was for the consumer to get the best-value loan, loans should be ranked in order of the total amount repayable and that ranking by total cost of the loan might encourage lenders to price more competitively in order to increase their exposure on the comparison site by featuring higher up the list.<sup>24</sup>

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<sup>17</sup> [Dollar response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), paragraph 3.5.8.

<sup>18</sup> [Uncle Buck response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), p2.

<sup>19</sup> [UK Credit response to Remedies Notice](#), p2.

<sup>20</sup> [Wonga response to Remedies Notice](#), paragraphs 3.9–3.14.

<sup>21</sup> *ibid*, paragraph 3.13.

<sup>22</sup> *ibid*, paragraph 3.25.

<sup>23</sup> *ibid*, paragraph 3.27.

<sup>24</sup> [A PCW response to Remedies Notice](#), p2.

22. The CFA told us that the cost of a loan should be displayed as a charge per £100 and the total amount to be repaid. Customers should be able to determine how the results were sorted.<sup>25</sup>
23. Islington Debt Coalition told us that a PCW should include both total cost of credit and the total amount to be repaid and that loans should be ranked on APR and total cost of loan.<sup>26</sup>
24. The Money Charity told us that the comparative cost of a loan should be displayed as an amount rather than a percentage, as this was the easiest method for customers to understand.<sup>27</sup>

### *General design comments*

25. Wonga stated that to appeal to customers, any PCW would need to be simple, comprehensive,<sup>28</sup> accurate, comparable, visible and easily accessible,<sup>29</sup> unbiased and permanent.<sup>30</sup>
26. Wonga stated that any move to risk-based pricing would make it difficult for a PCW to compare prices effectively or efficiently.<sup>31</sup>
27. The CFA suggested more innovative ways of presenting the cost of loans, such as the use of charts.<sup>32</sup>
28. The Money Charity told us that if a site allowed the pass-through of customer details (to the extent they had been entered) it would make it easier for borrowers to progress from finding the best value loan to taking out the loan, which would mean the PCW was competing with lead generators.<sup>33</sup>
29. Global Analytics told us<sup>34</sup> that a PCW should:
  - (a) enable risk-based pricing by integrating with CRA systems to share data to lenders;
  - (b) provide a comparison matrix to account for different durations showing the value of monthly instalments so that the customer could see repayment

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<sup>25</sup> [CFA response to Remedies Notice](#), p3.

<sup>26</sup> [Islington Debt Coalition response to Remedies Notice](#), p3.

<sup>27</sup> [The Money Charity response to provisional findings and Remedies Notice](#), paragraph 13.

<sup>28</sup> That is, to have the functionality to allow the comparison of products with different structures.

<sup>29</sup> That is, the site should be easily found from lenders' websites and should place high in search rankings.

<sup>30</sup> These characteristics are expanded upon in Wonga's submission. [Wonga response to Remedies Notice](#), paragraph 3.6.

<sup>31</sup> *ibid*, paragraph 3.9.

<sup>32</sup> [CFA response to Remedies Notice](#), pp2, 3 & 13.

<sup>33</sup> [The Money Charity response to provisional findings and Remedies Notice](#), paragraph 24.

<sup>34</sup> [Global Analytics response to Remedies Notice](#), p3.

amounts to best manage their cash flow in addition to the total cost of capital;<sup>35</sup> and

- (c) have clear process for ranking and filtering search results – this was particularly important if the PCW did not have the ability to provide an actual price for variably priced products.
- 30. Global Analytics told us that a ceremonial but secure website that drove little traffic, such as lenderscompared.org, might cost £1 million to build and around £200,000 to operate annually. Adding in real-time price comparison functionality, advanced search functionality, and broad participation by lenders would require a significant technology investment and ongoing maintenance.<sup>36</sup>
- 31. The Money Advice Trust told us that information on fees for late payment or rolling over loans should definitely be included on the price comparison site.<sup>37</sup>
- 32. My Home Finance told us that cost should be shown as a monetary amount broken into capital and interest.

### ***Operation, promotion and funding models***

- 33. Responses varied on the operational model. There was broadly a consensus that the operator should be independent (though some parties told us the lenders should have input), but views on the commercial relationship between a PCW operator and lenders differed. Parties differed on which body would be appropriate to operate a single stand-alone PCW or provide governance and whether this should be a public body, a trade association or a commercial PCW operator.
- 34. Parties identified that promotion of a site could be expensive but that leveraging an existing brand could reduce this. Views were mixed on whether lenders should be required to provide links to a PCW.
- 35. Dollar told us that if the CMA were minded to require that a payday-specific website were to be created, the website should be established with the full involvement of lenders in relation to its design and governance and should be

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<sup>35</sup> For example, if Lender W presents the customer with a £100 loan that is one month in duration and Lender L presents a similarly-sized loan with six months' duration, Global Analytics recommended that monthly payments relative to the customer's discretionary monthly income (income less expenses) be shown in addition to the total cost to borrow the amount.

<sup>36</sup> [Global Analytics response to Remedies Notice](#), p7.

<sup>37</sup> [The Money Advice Trust response to Remedies Notice](#), p7.

funded by all lenders in proportion to their revenues, that is, a similar approach to that adopted in the Home Credit investigation.<sup>38</sup>

36. Dollar told us that the most effective means of enabling payday lending customers to compare and to shop around for short-term lending would be to adopt measures which would ensure that payday lenders participated in existing PCWs operated by existing commercial operators, such as moneysupermarket.com. Such PCW operators had the required insight into the PCW market together with the appropriate expertise and market presence.<sup>39</sup>
37. Global Analytics told us that lenders should not be required to promote the comparison site, but lenders could choose to do so. It noted that the cost of developing a brand would likely be expensive (and noted that [§] spent £15 million per year on marketing). It told us that the UK Government should require all major search providers to provide a top-of-results link to the comparison site at no cost to the Government.<sup>40</sup>
38. Uncle Buck told us that it would not be appropriate for a consumer group, advice service or trade association to host the site.<sup>41</sup>
39. UK Credit told us that television and radio advertising would assist in raising the profile of the site and this could be further enhanced by instructing all lenders, captured by the scope of the site, to provide a link or details of the site on all of their advertising and marketing communications.<sup>42</sup>
40. Wonga stated that the website needed to be commercially viable on a stand-alone basis in the medium to long term, and that it would only be appropriate and proportionate for payday lenders to provide specified upfront funding to cover expenses for a defined period only.<sup>43</sup> Wonga suggested that the site could be financed on a pay-per-funded loan basis.<sup>44</sup>
41. Wonga stated that it might be more cost-effective for an existing PCW to operate the site to reduce development costs and to have an existing brand presence.<sup>45</sup>

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<sup>38</sup> [Dollar response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), paragraph 3.5.17.

<sup>39</sup> [ibid](#), paragraph 3.5.3(ii).

<sup>40</sup> [Global Analytics response to Remedies Notice](#), pp6&7.

<sup>41</sup> [Uncle Buck response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), p2.

<sup>42</sup> [UK Credit response to Remedies Notice](#), p2.

<sup>43</sup> [Wonga response to Remedies Notice](#), paragraph 3.15.

<sup>44</sup> [ibid](#), paragraph 3.16.

<sup>45</sup> [ibid](#), paragraph 3.17.

42. Wonga suggested three methods of promoting a PCW,<sup>46</sup> being:
- (a) lenders providing a reminder or link on application and settlement or on any periodic statement;
  - (b) requiring lead generators to include a link; and
  - (c) the use of an established PCW.
43. A PCW told us that it was extremely important that the website should be operated by an organisation that had considerable exposure to the short-term lending market and in particular in working with payday lenders. The company reputation must be considered alongside its current/past activities with the market. The site should be funded through a pay-per-click model with all lenders paying the same amount. The PCW should pay a proportion of these monies to debt charities.<sup>47</sup>
44. Debt Advice Foundation told us that the cost of maintaining and promoting such a site would be extremely high. It told us that searches for terms that one might expect to bring up a link to [lenderscompared.org.uk](http://lenderscompared.org.uk) did not bring up either a normal link or an advertisement. It said that this would suggest that significantly more promotion and optimisation of a payday loan comparison site would be needed if it were to be recognised, understood and used by borrowers.<sup>48</sup>
45. Islington Debt Coalition told us that a PCW should be independent of lenders and be clear how it was funded. It told us that if the market had not led to the creation of a PCW then external funding might be necessary or at the least that a government-led governance body be put in place. The PCW could be funded using a registration fee and lenders should be required to link to it in addition to a media campaign.<sup>49</sup>
46. My Home Finance told us that the PCW should be operated by a not-for-profit entity funded through a levy on lenders and that any levy should be waived for not-for-profit entities.
47. The Money Charity told us that requiring lenders to include a link to the website on their own websites and in communication with customers, with appropriate text explaining what the website offered, would raise awareness

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<sup>46</sup> *ibid*, paragraph 3.18.

<sup>47</sup> [A PCW response to Remedies Notice](#), p4.

<sup>48</sup> [Debt Advice Foundation response to Remedies Notice](#), p1. Debt Advice Foundation used the search term 'provident loan'.

<sup>49</sup> [Islington Debt Coalition response to Remedies Notice](#), p2.



of the website among existing payday customers.<sup>50</sup> The operator of the website would need a reasonably large advertising budget, particularly in the initial period of its operation, to reach existing and potential payday customers, as the ideal time for someone to use the site was before they visited an individual lender (by which point they might have already effectively decided which product to take).<sup>51</sup>

48. The Money Advice Service did not think that overseeing a payday loan PCW would fit well with the approach it was taking to supporting consumers.<sup>52</sup>
49. The Money Advice Trust said that the PCW should be seen as completely independent from the payday lending industry and seen as providing impartial, accurate information. It suggested that all loan companies and lead generation/credit brokers should be required to prominently display links to the website on their home page using prescribed wording. Search engines needed to return the website prominently when searches were made for common terms using search engine functionality such as Google AdWords.<sup>53</sup>
50. Google told us that many users of PCWs would simply type the name of the PCW (eg 'Moneysupermarket') into their browser address bar or into a search engine, rather than using a generic phrase, such as 'insurance price comparison'.<sup>54</sup> However, as awareness and use of a new PCW increased (eg through recommendations in internet blogs or discussion forums), this itself was likely to improve the site's ranking in Google search results.<sup>55</sup> Google told us that its search algorithms responded to PCWs in exactly the same way that they did to any other web content.<sup>56</sup> For these reasons, Google did not accept that there was any need to 'encourage' Google to display the payday lending PCW in its search results. Indeed, it could be counterproductive to try to do so. For example, any attempt to distort Google's search algorithm artificially would result in less relevant content being returned in response to users' queries, it would allow the manipulation of search results, and would harm the value of Google's service for users.<sup>57</sup>

### ***Panel of lenders and products***

51. Broadly, parties agreed that brokers and lead generators should be excluded from a PCW. Parties differed on whether non-payday products could be

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<sup>50</sup> [The Money Charity response to provisional findings and Remedies Notice](#), paragraph 30.

<sup>51</sup> *ibid*, paragraph 31.

<sup>52</sup> [The Money Advice Service response to provisional findings and Remedies Notice](#), paragraph 11.

<sup>53</sup> [The Money Advice Trust response to Remedies Notice](#), p6.

<sup>54</sup> [Google response to provisional findings and Remedies Notice](#), paragraph 30.

<sup>55</sup> *ibid*, paragraph 33.

<sup>56</sup> *ibid*, paragraph 36.

<sup>57</sup> *ibid*, paragraph 37.

included and whether all lenders should be compelled to appear on a PCW, or whether the PCW should be compelled to include all lenders.

52. CashEuroNet thought that a [single authorised] PCW should include all authorised lenders. It thought that the inclusion of lead generators could confuse customers.<sup>58</sup>
53. Dollar told us that all authorised high-cost short-term lenders should be required to participate in a PCW. Credit unions should be permitted (but not required) to participate.<sup>59</sup>
54. Dollar said that the most effective form of a PCW would be one that allowed the comparison of a number of different types of credit products. Furthermore, by restricting the range of products featured on a website to payday loans only, the CMA would make it more difficult for consumers to find the right product to meet their needs. In addition, a PCW which compares different types of financial products would go some way to addressing the CMA's concerns (albeit not accepted by Dollar) that payday loans faced weak competition from other forms of credit.<sup>60</sup>
55. Dollar did not believe that it would be appropriate for lead generators and other intermediaries to be permitted to participate. Lead generators offered potential access to a number of different products, many of which might not ultimately be available to a borrower (since the lead may not be purchased from the lead generator). Such offers would be subject to different terms and conditions. It was difficult to envisage a way in which a lead generator's offer could be simply and effectively incorporated into a PCW.<sup>61</sup>
56. Global Analytics told us that all loan types should be included in order to provide the customer with their range of options and affordability. Since all instalment loans could be prepaid at any time with no prepayment penalty, the search functionality and related results, even for borrowers looking for a less than one month loan, needed to include longer-term instalment loans. Otherwise, it was conceivable that lenders would create bespoke duration products solely for the purpose of bolstering search results.<sup>62</sup>
57. Global Analytics told us that the site could include additional statistics with respect to historical participation in the comparison site, such as approval rate, number of loans/customers funded, number of years in business,

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<sup>58</sup> [CashEuroNet response to provisional findings and Remedies Notice](#), paragraph 8.3.

<sup>59</sup> [Dollar response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), paragraph 3.5.14.

<sup>60</sup> *ibid*, paragraph 3.5.3(i).

<sup>61</sup> *ibid*, paragraph 3.5.15.

<sup>62</sup> [Global Analytics response to Remedies Notice](#), p4.

number of FOS complaints in the last year, 'Review Centre' ratings, and other important customer service features (hours of operation).<sup>63</sup>

58. Uncle Buck told us that only lenders with Interim Permission or Full Authorisation should be allowed to participate (and specifically that lead generators and brokers should be excluded and that the site should have flexibility to show different sorts of products in a meaningful way).<sup>64</sup>
59. A PCW told us that all authorised lenders should participate in a PCW. This would help instil trust both for the website and for the lenders themselves. A website would be devalued if a lender that offered exceptional rates/service was not on the website.<sup>65</sup>
60. UK Credit told us that an unbiased and effective price comparison site would be welcome, however, the scope should be broader than just the payday lending market as such a narrow product approach might give the impression that payday lending was supported by the publisher or simply restrict the customer's focus into thinking that alternative products were not available.<sup>66</sup>
61. The CFA identified the participation of sufficient lenders as a 'challenge' to establishing a PCW as well as the necessity to accommodate different sorts of products.<sup>67</sup>
62. Islington Debt Coalition agreed that intermediaries should be excluded.<sup>68</sup>
63. The Money Charity told us that any FCA-authorised lender offering HCSTC should be required to participate, and any other authorised lender offering unsecured loans of less than 12 months' duration should be allowed to opt in for inclusion.<sup>69</sup> Lead generators and other intermediaries should not be included in the comparison table, as they did not provide credit.<sup>70</sup>
64. The Money Advice Service told us that we should consider widening the scope of the comparison table considerably to include alternative products (eg credit builder credit cards, credit union loans, authorised overdrafts) and alternative courses of action where appropriate.<sup>71</sup> In the Money Advice Service's view, the key message for consumers should be that there may be a

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<sup>63</sup> *ibid*, p4.

<sup>64</sup> [Uncle Buck response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), p2.

<sup>65</sup> [A PCW response to Remedies Notice](#), p3.

<sup>66</sup> [UK Credit response to Remedies Notice](#), p2.

<sup>67</sup> [CFA response to Remedies Notice](#), p2.

<sup>68</sup> [Islington Debt Coalition response to Remedies Notice](#), p7.

<sup>69</sup> [The Money Charity response to provisional findings and Remedies Notice](#), paragraph 22.

<sup>70</sup> *ibid*, paragraph 23.

<sup>71</sup> [The Money Advice Service response to provisional findings and Remedies Notice](#), paragraph 10.

cheaper and less risky alternative to taking out a payday loan and they should consider their options carefully.<sup>72</sup>

- 65. The Money Advice Trust told us that all lenders that offered products that met the definition should be required to participate, but lead generators and credit brokers should be excluded from the site but be required to provide links to the site with prescribed wording on risk warnings and give information on the site in any marketing, calls, texts and websites.<sup>73</sup>
- 66. Transact told us that lead generators should be excluded from a comparison website.<sup>74</sup>

### **Other barriers**

- 67. A number of parties identified the potential effect that the policies of search engines could have on the promotion of a PCW.
- 68. [X] would welcome the intervention of the CMA to encourage the inclusion of payday loans on PCWs [X].<sup>75</sup>
- 69. Wonga noted the potential difficulty of a generic PCW hosting payday lending comparison tables due to advertising rules imposed by search engines.<sup>76</sup>
- 70. Uncle Buck told us that a key challenge would be to ensure that the website was 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.<sup>77</sup>
- 71. UK Credit told us that one of the main challenges for establishing an effective price comparison site would be obtaining and maintaining the accuracy of data with new lenders joining and leaving the market on a regular basis. It would be possible to overcome this by instructing each lender to submit data on a regular basis and by a defined date. FCA-authorised lenders would be quite used to collating and submitting product data to the regulator on a regular basis.<sup>78</sup>

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<sup>72</sup> *ibid*, paragraph 8.

<sup>73</sup> [The Money Advice Trust response to Remedies Notice](#), p6.

<sup>74</sup> [Transact response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), p4.

<sup>75</sup> [X]

<sup>76</sup> [Wonga response to Remedies Notice](#), paragraph 3.20.

<sup>77</sup> [Uncle Buck response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), p1.

<sup>78</sup> [UK Credit response to Remedies Notice](#), p2.

## ***Comments on effectiveness***

72. A number of parties told us that a PCW would not be effective in addressing the features and provisional AEC we have provisionally found.
73. The Association of British Credit Unions Limited (ABCUL) told us that it was doubtful of the potential for measures such as price comparison sites to address competition shortcomings because of the nature of our provisional findings (such as the inelasticity of demand). It noted that the CC had required the creation of a PCW for home-collected credit but told us that since its creation, home-collected credit had become, if anything, more expensive, with the largest lender – Provident Financial – raising its typical APR from 189% to 272%. ABCUL said that in home-collected credit very similar dynamics to those in payday lending were at play whereby borrowers were insensitive to price movements by virtue of limited borrowing options and, therefore, no amount of extra disclosure and comparability was likely to result in meaningful improvements in price competition.<sup>79</sup>
74. Debt Advice Foundation told us that it believed that the factors that discouraged current borrowers from shopping around would also discourage them from using a comparison website. The evidence shows that speed and convenience of access to cash was the prime driver, so any additional perceived barriers were likely to be rejected.<sup>80</sup>
75. Islington Debt Coalition told us that the specification of the scope of remedies would need to be considered to ensure that lenders did not engineer products to avoid regulation. It identified the risk that if borrowers made multiple applications from a PCW, their credit rating might be affected.<sup>81</sup>
76. The Money Advice Trust said that it was not convinced that a PCW would have a particularly beneficial effect. The Money Advice Trust referred to the PCW established by the CC and that it did not have the prominence it would need to influence consumer choices.<sup>82</sup>

## ***Third party research and reports***

### ***FCA***

77. In November 2013 the FCA began a thematic review in relation to the sale of home, travel and motor insurance through PCWs. It published its findings in

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<sup>79</sup> [The Association of British Credit Unions Limited response to Remedies Notice](#), p2.

<sup>80</sup> [Debt Advice Foundation response to Remedies Notice](#), p1.

<sup>81</sup> [Islington Debt Coalition response to Remedies Notice](#), p2.

<sup>82</sup> [The Money Advice Trust response to Remedies Notice](#), p5.

July 2014.<sup>83</sup> The FCA evidence base included a number of sources including a specifically commissioned piece of customer research.<sup>84</sup>

78. Although the FCA thematic review was on general insurance and not personal finance, we reviewed the FCA's findings for issues which would be relevant in commissioning or accrediting a PCW, though we are conscious of the extent to which a general insurance product can be tailored relative to a credit product.

#### *Utility of PCWs*

79. Many participants in the FCA's customer research identified significant benefits from using a PCW and 'there was little doubt' that they encouraged consumers habitually to 'shop around' for the lowest-cost general insurance quotes they could find. The PCWs were perceived to allow consumers to achieve in minutes what would otherwise take hours, and make a potentially boring and difficult job, relatively painless by presenting complex information in a simple and accessible way.<sup>85</sup>
80. Similarly, many participants found the volume of information and number of variables around GI products confusing or potentially overwhelming. Therefore, they tended to use the PCW in a way that would simplify the process and help make the purchase decision more manageable. As a result, many actively avoided engaging with the product options in detail.<sup>86</sup>

#### *Presentation of information*

81. The FCA found that PCWs had not always taken reasonable steps to provide sufficient, clear and consistent information to enable consumers to compare the available options and make an informed decision. This was evidenced in the way information was presented, the limitations of policy summaries and the 'more information' options on most of the PCWs. Instead of providing information, some PCWs would provide prompts such as 'check with insurer' or 'check the policy'. The extent and quality of information provided through policy summaries and 'more information' options also varied widely, both between different PCWs and products on the same PCW.<sup>87</sup>

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<sup>83</sup> FCA, [Price comparison websites in the general insurance sector](#), TR14-11.

<sup>84</sup> Atticus, on behalf of the FCA, [Price comparison website: Consumer market research](#), April 2014.

<sup>85</sup> *ibid*, p7.

<sup>86</sup> *ibid*, p8.

<sup>87</sup> FCA, TR14-11, *op cit*, p8.

82. The FCA concluded that it was difficult to compare policies other than on grounds of price.<sup>88</sup>

#### *Clarity of role*

83. The FCA found that the PCWs often did not make clear what role they were performing when providing quotes for insurance products or the nature of their service. This was because this information was rarely provided at an appropriate time or formed part of the quote journey, but was instead found in other locations on their website (such as within terms and conditions or other generic firm information).<sup>89</sup> Similarly PCWs generally did provide information on the basis on which they were paid but it was not always easy to find, as the information was provided separately from the quote process, in disclosures found elsewhere on the website.<sup>90</sup>
84. The FCA's customer research found that 'less sophisticated buyers' mistakenly believed that they had received advice or guidance in the course of arranging their insurance. The research indicated that this may be less likely to occur if the PCWs clearly stated the basis on which they were providing their service and did so as part of the quote journey, rather than relying on consumers finding this information elsewhere on the site.<sup>91</sup> Some customers mistakenly believed that the PCWs had delivered tailored quotes unique to their individual circumstances, due to the personal questions asked.

#### *Conflicts of interest*

85. A number of PCWs in the FCA's sample were part of a wider group that included brokers and/or insurers and the FCA examined customers' reactions when told of this relationship.<sup>92</sup> The FCA found that many expressed concern that such a relationship may potentially bias results and undermine the assumed and expected impartiality of the PCWs and the search results they provide.<sup>93</sup>

#### *Due diligence*

86. The FCA found that PCWs carried out due diligence on companies listed on their panel but some PCWs only undertook this when the provider initially

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<sup>88</sup> FCA, *ibid*, p8.

<sup>89</sup> FCA, *ibid*, p12.

<sup>90</sup> FCA, *ibid*, p13.

<sup>91</sup> FCA, *ibid*, p12.

<sup>92</sup> The FCA sought participants' reactions to the statement 'the price comparison website may be owned by or is part of the same company as the insurance provider'.

<sup>93</sup> FCA, TR14-11, *op cit*, p13.

joined their panel and did not assess periodically if the providers continued to hold the appropriate permissions. The nature and extent of due diligence also varied between PCWs.<sup>94</sup>

### *Other design issues*

87. The FCA noted a number of issues around the management and sharing of personal data.<sup>95</sup>

### *Consumer Focus*

88. In 2012, Consumer Focus commissioned mystery shopping of PCWs by eDigitalResearch.<sup>96</sup> We note that this research did not include any personal finance products but did cover 99 PCWs in a number of markets.<sup>97</sup>
89. Broadly, the research found that:
- (a) PCWs were not particularly good at saying how the search results had been ordered.
  - (b) Being able to reorder the search results is useful, as it allows consumers to view the list in a variety of ways. Similarly, if a consumer decides they do not want a particular type of product, being able to filter out some of the results and home in on those of interest, is also useful.
  - (c) On PCWs for train fares, package holidays and insurance additional fees and charges were not always displayed in a comparison.
  - (d) Not all sites were transparent on disclosing when price updates had taken place or how often they were updated.
  - (e) Very few PCWs offered the ability to report 'rogue or fraudulent' traders.
  - (f) 'Accredited' PCWs (with accreditation from a trade association for example) did not necessarily ensure a PCW offered better services than a non-accredited site.<sup>98</sup>

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<sup>94</sup> *ibid*, p14.

<sup>95</sup> *ibid*, pp14–16.

<sup>96</sup> eDigitalResearch, [Comparing comparison sites – Price comparison website mystery shopping report for Consumer Focus](#).

<sup>97</sup> The 99 sites includes multiple counts of PCWs which offer a comparison service to a number of markets.

<sup>98</sup> The research found that in energy and telecoms accredited sites tended to be 'better' than non-accredited sites, though in other markets this was not the case.



90. The research used the Consumer Protection from Unfair Trading Regulations as a benchmark. The relevant considerations were:
- (a) prices must be accurate;
  - (b) prices must be up to date;
  - (c) details of the product must be comprehensive;
  - (d) site owners must not misrepresent their independence;
  - (e) site owners must not post fictitious recommendations; and
  - (f) site owners must be open about suppliers who have paid for prominence.
91. In 2013 Consumer Futures published a report on consumer perceptions and experience<sup>99</sup> of PCWs. The report considered in detail aspects of web design and user experience.
92. Some of the key findings which might be transferable to a payday lending PCW included:
- (a) A key reason for negative experiences with a PCW was the lack of opportunity to customise or tailor the search.<sup>100</sup>
  - (b) Less than half of non-internet users were aware of the existence of PCWs but 93% of internet users were.<sup>101</sup>
  - (c) Users of PCWs have high levels of confidence in them, with 94% of customers stating they were fairly (73%) or very (21%) reliable.<sup>102</sup>
  - (d) Sites that rank by a variable other than price are liable to cause confusion.<sup>103</sup>
  - (e) Customers may review a ranked list of lenders and choose the first familiar brand and distrust deals perceived to be 'too good to be true'.<sup>104</sup>

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<sup>99</sup> RS Consulting on behalf of Consumer Futures, [Price comparison websites: consumer perceptions and experiences, Findings from qualitative and quantitative research](#).

<sup>100</sup> *ibid*, p59.

<sup>101</sup> *ibid*, pp13&25.

<sup>102</sup> *ibid*, p48.

<sup>103</sup> *ibid*, p49.

<sup>104</sup> *ibid*, p50.

- (f) Some consumers are interested in alternatives to price being used for ranking comparison results, as well as more filters, which would limit the number of options presented on-screen.<sup>105</sup>
- (g) Some consumers are aware and may be wary of the order of listing being affected by commercial agreements with the PCW.<sup>106</sup>
- (h) Some 70% of customers who were aware of accredited PCWs were influenced to some extent in their choice of PCW by the existence of accreditation.<sup>107</sup> Customers who were unaware of accreditation schemes considered sectoral regulators or consumer organisations like Which? to be appropriate bodies to accredit PCWs.<sup>108</sup>
- (i) Consumers said that accreditation gave them an extra level of reassurance, they did not actively seek this out, and did not miss it when it is not there. Nor are they likely to reject a PCW they have used because it is not accredited.<sup>109</sup>
- (j) Consumers' willingness to enter more personal details to customise their search depends to a certain extent on the type of product they are looking for. Consumers are more willing to answer detailed questions about themselves and their usage of a product or service when purchasing products that they understand need to be customised for them.<sup>110</sup>
- (k) Some consumers voiced concern about the possibility that details submitted to PCWs will be sold on to other companies without their knowledge, leading to unsolicited contact from a range of different companies.<sup>111</sup>
- (l) Around two-thirds of users of PCWs stated they reached a PCW by either entering the site's URL directly or searching for that specific site. Just under one-third of users reached PCWs by using generic PCW search terms.<sup>112</sup>
- (m) 83% of those aware of PCWs could name one or more of the four largest without prompting.<sup>113</sup>

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<sup>105</sup> *ibid*, p51.

<sup>106</sup> *ibid*, pp55–58.

<sup>107</sup> *ibid*, p59.

<sup>108</sup> *ibid*, p61.

<sup>109</sup> *ibid*, p60.

<sup>110</sup> *ibid*, p30.

<sup>111</sup> *ibid*, p31.

<sup>112</sup> *ibid*, pp19&20.

<sup>113</sup> *ibid*, p14.

## **Transparency of additional fees and charges**

93. Parties supported transparency in fees and charges and the lenders that responded tended to consider their own presentation to be appropriate and that other lenders should be required to be as transparent. Some parties noted that the need for a specific remedy would be subject to the FCA's consultation on its proposed price cap note.
94. Comments on the presentation of additional fees and charges focused on ensuring that they were made obvious to a borrower early on in the process.
95. Parties differed in their views on scenario-based examples as although they were simple to understand and could have impact, they would necessarily only relate to certain conditions and could prove misleading.
96. The costs of changing the presentation of additional fees and charges were not considered to be significant.

## ***General comments on the remedy***

97. CashEuroNet told us that it supported the CMA approach to improving customer awareness of additional charges and fees but noted the need to consider the impact of the FCA price cap.<sup>114</sup>
98. Dollar told us that it supported any proposal to require lenders to provide clear and timely disclosure to customers of the total amount payable if the loan was not repaid on time. It already provided this information to customers in a clear form and in some detail in its adequate explanation and SECCI documentation in accordance with its legal obligations. Equally consistent and clear information should be provided by all lenders. It would welcome enforcement of this requirement.<sup>115</sup> It was supportive of any proposal which required that lenders' websites showed such costs in a clear and transparent fashion which did not obscure or omit relevant information.<sup>116</sup>
99. Global Analytics told us that fees and charges, per the most recent FCA guidelines, were presented very prominently in all marketing material along with the new risk warning.<sup>117</sup>
100. Uncle Buck told us that following the OFT's review of payday lending, the transparency of default and other charges appeared to have improved on

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<sup>114</sup> [CashEuroNet response to provisional findings and Remedies Notice](#), paragraph 8.5.

<sup>115</sup> [Dollar response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), paragraph 3.6.1.

<sup>116</sup> *ibid*, paragraph 3.6.2.

<sup>117</sup> [Global Analytics response to Remedies Notice](#), p7.

lenders' websites. However, Uncle Buck believed that it should be made mandatory for these charges to be displayed and easily accessed from the home page, so the requirement could be for there to be a link from the home page to this information and for proper information about when charges were levied to be included.<sup>118</sup>

- 101. Wonga considered that its website presented all charges transparently but agreed that lenders should display clear information.<sup>119</sup>
- 102. Transact told us that that payday lenders must present information around fees and charges more prominently.<sup>120</sup>

### **Presentation**

- 103. Wonga told us that further information on charges and fees could be incorporated into the user journey before accepting a loan.<sup>121</sup>
- 104. Debt Advice Foundation told us that it agreed that lenders should provide clear, upfront disclosure and that the remedy stipulated the position and size of the information. Because of the use of mobile devices Debt Advice Foundation said it was vital that this information was not relegated to the bottom of a long page through which customers would rarely scroll.<sup>122</sup>
- 105. Think Finance<sup>123</sup> told us it was undertaking research that might result in dramatically simplifying the presentation of poorly understood financial information, providing borrowers with realistic scenarios, highlighting the consequences of late payment and hidden fees over time.
- 106. UK Credit told us that the potential for charges to be applied should be provided in the website as an early indicator and then by the lender to the customer before any purchasing decision was made.<sup>124</sup>
- 107. The Money Charity told us that disclosure should be presented as early as possible in the lending process.<sup>125</sup>

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<sup>118</sup> [Uncle Buck response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), p3.

<sup>119</sup> [Wonga response to Remedies Notice](#), paragraph 4.8.

<sup>120</sup> [Transact response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), p4.

<sup>121</sup> [Wonga response to Remedies Notice](#), paragraph 4.6.

<sup>122</sup> [Debt Advice Foundation response to Remedies Notice](#), p1.

<sup>123</sup> In September 2014, as part of a restructure at Think Finance Inc, the UK business has been re-registered under a new name 'Elevate Credit International Limited'.

<sup>124</sup> [UK Credit response to Remedies Notice](#), p4.

<sup>125</sup> [The Money Charity response to provisional findings and Remedies Notice](#), paragraph 41.

## ***Scenario-based examples***

108. Dollar told us that it believed that the introduction of scenarios where payment had not been made on the originally agreed date would not be helpful or informative to consumers, unless the scenario was taken at a sufficiently distant date from the due date (for example, 60 days past the due date) such that variations in lenders' models would not be misrepresented. Dollar's principal concern would be that in attempting to present clear information about possible default charges, consumers could be unintentionally misled about the imposition of default charges and that their decision-making might be influenced by inaccurate information.<sup>126</sup>
109. Uncle Buck told us that it did not believe the use of scenarios would be beneficial as the permutations were too great and arguably being required to show cost scenarios removed flexibility in the lender's toolbox where fees and interest may be waived on a case-by-case basis.<sup>127</sup>
110. Wonga told us that any disclosure of late fees using standardised scenarios could only ever be indicative as they depended on the circumstances of each loan.<sup>128</sup>
111. Islington Debt Coalition told us that scenario-based examples should be used and stated that on a PCW the total cost of a loan after having rolled it over once would be a helpful comparison.<sup>129</sup>
112. My Home Finance told us that it was impossible to specify late costs without risking misleading customers, however, a case study could be used as a warning.
113. The Money Charity told us that demonstrating fees and charges using example scenarios was a clear and relevant way to indicate to customers the amount they could have to repay.<sup>130</sup> It suggested three possible scenarios:
- (a) Repayment in full, on time – the 'as intended' scenario.
  - (b) Repayment in full, a certain number of days late.

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<sup>126</sup> Dollar response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference, paragraph 3.5.11.

<sup>127</sup> Uncle Buck response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference, p3.

<sup>128</sup> Wonga response to Remedies Notice, paragraph 4.6(b).

<sup>129</sup> Islington Debt Coalition response to Remedies Notice, p3.

<sup>130</sup> The Money Charity response to provisional findings and Remedies Notice, paragraph 43.

(c) The 'worst case' scenario – where the borrower has rolled over the loan in full and incurred all relevant default fees.<sup>131</sup>

114. The Money Advice Trust told us that it supported the demonstration of fees and charges in different scenarios because this was likely to have more impact at the outset when the consumer was initially looking at the cost of the loan. It was not convinced that the information would have the desired effect if presented in a notice prior to progressing to complete the full application or immediately prior to accepting the loan offered, as there was a possibility that the consumer would feel 'committed' to that particular loan at these stages, and the warning information would be disregarded.<sup>132</sup>

### *Cost of remedy*

115. Dollar told us that any measure which simply required lenders to disclose fees and charges on their own websites should not be particularly expensive or time-consuming as responsible lenders continually reviewed and updated their sites. Any measure which required new development or amendment of existing documentation would incur more resource, the level of which was very difficult to predict at this stage.<sup>133</sup>
116. Global Analytics told us that there had been little incremental cost in the existing disclosure regime and would therefore see minimal costs in any new disclosures. However, it was possible that different lenders might implement these disclosures differently and might not comply with certain standards and give them an unfair advantage. It told us that when customers applied online, they demanded a smooth and simple user experience and when they did not get it, they would drop out of the process, and this made additional process steps (including disclosures) more expensive to the lender. Disclosures were very important in the process, but must conform to uniform standards across all lenders.<sup>134</sup>
117. Wonga had not calculated the cost of including additional disclosure but considered it would be possible without a major redesign.<sup>135</sup>

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<sup>131</sup> *ibid*, paragraph 44.

<sup>132</sup> [The Money Advice Trust response to Remedies Notice](#), p7.

<sup>133</sup> [Dollar response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), paragraph 3.6.6.

<sup>134</sup> [Global Analytics response to Remedies Notice](#), p8.

<sup>135</sup> [Wonga response to Remedies Notice](#), paragraph 4.12.

118. UK Credit told us that the provision of information relevant to fees and charges should be no more onerous or costly than the provision of any other item of information.<sup>136</sup>

### ***Comments on effectiveness***

119. ABCUL told us that it was doubtful of the potential for measures such as further information disclosures to address competition shortcomings because of the inelasticity of demand and that many payday lenders were already very transparent about the fees they charged.<sup>137</sup>

### **Measures to help customers assess their creditworthiness**

120. Parties were broadly supportive of improving the ability of customers to shop around without impacting on their ability to ultimately access credit, but a number of technical issues were identified that could be potential barriers.

121. Broadly the issues identified were:

- (a) the differences in lending processes for different lenders;
- (b) the stage at which credit checks are undertaken;
- (c) the cost of undertaking additional credit searches;
- (d) the impact of removing the visibility of credit searches;
- (e) the difference in content of application and quotation searches;
- (f) providing a meaningful and non-misleading indication of the likelihood of acceptance; and
- (g) the technical challenge of integrating lenders' systems with a PCW or other aggregator.

122. However, some lenders (and in particular those that currently offer variable pricing) currently used quotation searches in their lending processes and did not see as many practical challenges.

123. We received differing evidence from parties on the difference in content between quotation and application searches.

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<sup>136</sup> [UK Credit response to Remedies Notice](#), p4.

<sup>137</sup> [The Association of British Credit Unions Limited response to Remedies Notice](#), p2.

### ***Distinguishing between eligibility, creditworthiness and affordability***

124. Dollar told us that the requirements of CONC might be undermined if an indication were to be given as to the likelihood of granting credit prior to appropriate checks being undertaken. Although affordability and creditworthiness checks were distinct assessments and procedures (in that someone who had a good credit record may well not meet the affordability criteria and vice versa), there was overlap between the two processes in that an indication of a customers' creditworthiness may well give rise to an unwarranted expectation on the part of the customer that they also meet the affordability criteria.<sup>138</sup>
125. Wonga told us that because of how lenders made lending decisions and that a large number of applications were rejected for reasons other than creditworthiness, it considered that there was limited benefit in providing customers with an indicative credit score or confidence index ahead of an application, because it would not be sufficiently reliable as an indicator of the likelihood of ultimate loan approval.<sup>139</sup>

### ***Use of credit searches***

126. CashEuroNet used quotation searches in its application process; where an applicant was offered a loan it notified its CRA.<sup>140</sup> Wonga used [ ] when a customer applied for a loan.
127. Dollar told us that it would support the enforcement of quotation searches rather than application searches in relation to applications made via lead generators (as multiple footprints may in such a case result from multiple applications by the lead generator rather than the applicant, and were therefore not a reliable indicator of 'credit hungriness').<sup>141</sup>
128. Equifax told us that from its understanding of the market it believed the practice of using quotation searches varied from lender to lender and was also dependent on whether the application was made direct to the lender or via a credit broker. It understood it was not uncommon for credit checks to be performed as early in the process as the lead generation stage, at the point the leads were being sold to the highest bidders.<sup>142</sup>

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<sup>138</sup> [Dollar response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), paragraph 3.7.1.

<sup>139</sup> [Wonga response to Remedies Notice](#), paragraph 5.7.

<sup>140</sup> [CashEuroNet response to provisional findings and Remedies Notice](#), paragraph 8.10.

<sup>141</sup> [Dollar response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), paragraph 3.7.8.

<sup>142</sup> [Equifax response to Remedies Notice](#), paragraph 6.



129. Equifax told us that the type of data returned to the lender on a quotation search was the same as that on an application search. In practice the potential difference in the actual data returned to the lender would be related to the different timing of the searches. An application search, typically performed at a later stage in the process, would be more likely to show other recent credit activity relating to the customer's interest in a payday or other credit facility, either in the form of other application searches or recently acquired loans.<sup>143</sup>

*Significance of credit searches in rejecting applications*

130. Wonga told us that only [REDACTED]% of the loan applications it currently declined were rejected on the basis of credit risk assessments. The majority of the declines were based on other criteria, in particular those relating to identity and fraud verification.<sup>144</sup>

*Significance of the number of previous searches*

131. One lender ([REDACTED]) provided us with details of the link between the acceptance rate of applications by borrowers who had been subject to different numbers of credit searches in the past three months and also the average standard CRA credit score for customers with a given number of searches.

FIGURE 1

[REDACTED]

132. Dollar told us that a record of the number of application searches made against a potential borrower would show the degree of 'credit hungriness' of a potential borrower. In its experience, [REDACTED]. In so far as it might be proposed that there be a prohibition on application searches, Dollar would [REDACTED].<sup>145</sup>
133. Dollar told us that it did not consider that there would be any advantage in elevating guidance on the use of quotation searches into a rule since such a change was unlikely to lead to any real benefit and was therefore likely to be ineffective as a remedy and thus disproportionate. If such action were to be taken, it should be adopted in relation to all consumer credit lending products, not just payday lending since it would be both disproportionate and

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<sup>143</sup> *ibid*, paragraph 7.

<sup>144</sup> [Wonga response to Remedies Notice](#), paragraph 5.6 (c).

<sup>145</sup> [Dollar response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), paragraph 3.7.8.

discriminatory (particularly bearing in mind the size of the sector) to include only payday lending products in this remedy.<sup>146</sup>

134. Global Analytics told us that prohibiting the visibility of credit searches to lenders, even within the context of real-time updates of credit facilities, would significantly and adversely affect customer outcomes due to an increase in poor lending decisions and fraudulent activity.<sup>147</sup>
135. Uncle Buck told us that the credit search ‘footprint’ was 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.<sup>148</sup>
136. Wonga told us [redacted].<sup>149</sup> Wonga told us [redacted].<sup>150</sup>
137. Equifax told us that in mainstream credit, a lender’s assessment of previous ‘credit’ or ‘application’ searches often formed an important element of the credit risk and fraud risk assessment process.<sup>151</sup> There was a risk that if application searches were not visible to lenders, a number of applications could be made by the customer and provisional approval obtained on multiple applications without lenders realising this. Unless lenders were always to check the real-time database for newly issued loans immediately prior to loan completion, the risk of unaffordable lending remained, with multiple loans being opened in quick succession.<sup>152</sup>
138. Experian told us that visible application searches helped identify credit-hungry individuals, which may be an early warning sign of an individual becoming over-extended and that they also played an important role in identifying patterns of potential fraud.<sup>153</sup>
139. The Money Charity told us that its understanding was that ‘footprints’ relating to credit searches were currently needed so that lenders could assess how likely the customer was to have opened further lines of credit in the period between the credit report being updated. As such developments in real-time data should reduce the need for third parties to be able to see searches.<sup>154</sup>

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<sup>146</sup> *ibid*, paragraph 3.7.9.

<sup>147</sup> [Global Analytics response to Remedies Notice](#), p9.

<sup>148</sup> [Uncle Buck response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), p3.

<sup>149</sup> [Wonga response to Remedies Notice](#), paragraphs 5.21 & 5.27.

<sup>150</sup> *ibid*, paragraph 5.6 (a).

<sup>151</sup> [Equifax response to Remedies Notice](#), paragraph 2.

<sup>152</sup> *ibid*, paragraph 9.

<sup>153</sup> [Experian response to provisional findings and Remedies Notice](#), p4.

<sup>154</sup> [The Money Charity response to provisional findings and Remedies Notice](#), paragraph 51.

### ***Methods of improving transparency of likelihood of acceptance***

140. CashEuroNet told us that if it was provided with the relevant customer identification information to enable it to complete its assessments, it would be able to provide a prospective customer with an accurate advance quotation in real time and would be happy to provide this service.<sup>155</sup>
141. CashEuroNet told us that that it was not necessary to potentially mislead customers with low-quality indicators of creditworthiness, as applications for loans could be made relatively easily.<sup>156</sup> Furthermore, it told us that it needed to rely on much more than just the overall credit score provided by the CRA, and it would not be appropriate to indicate eligibility based on a CRA credit score alone.<sup>157</sup>
142. Dollar told us that using a CRA's standard credit score as a tool for likely acceptance would not be workable or effective. Any such indicative 'credit score' would be so hedged by caveats, it would be almost meaningless. Credit scores between CRAs were not comparable and lenders' scorecards were continually being revised and updated, so to arrive at 90% (or any other percentage) was highly likely to be misleading and inaccurate.<sup>158</sup>
143. Dollar told us that it might be appropriate for payday lenders to be required to include links to independent websites such as Credit Expert and Noddle in order to enable customers to undertake individual credit checks by means of an independent website which was unconnected with any specific application for a loan.<sup>159</sup>
144. Global Analytics told us that an alternative to a PCW would be to require HCSTC lenders to perform a quotation search (at lower cost to the lender than currently offered by the CRAs) so that each customer got a specific approval and quotation that enabled them to shop around.<sup>160</sup>
145. Uncle Buck told us that it did not think that lenders should be required to provide indicative credit scores as there were a number of practical issues with this that could cause confusion for consumers as well as being potentially

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<sup>155</sup> [CashEuroNet response to provisional findings and Remedies Notice](#), paragraph 8.14.

<sup>156</sup> *ibid*, paragraph 8.10.

<sup>157</sup> *ibid*, paragraph 8.9.

<sup>158</sup> [Dollar response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), paragraph 3.7.14.

<sup>159</sup> *ibid*, paragraph 3.7.5.

<sup>160</sup> [Global Analytics response to Remedies Notice](#), p6.

misleading – the fact that scores from different CRAs would not be comparable and that scorecards were continually being updated and refreshed being just two.<sup>161</sup>

146. Wonga told us that there would be little difference in volume of information that a customer would need to provide to get an indication of the likelihood of being offered a loan.<sup>162</sup>
147. The Money Charity told us that applying to a lender was in practice the only way to determine whether a borrower would be accepted by a lender. At present the use of visible credit searches was a significant barrier to borrowers' ability to shop around. However, the development of real-time data sharing would reduce the need for application searches (rather than quotation searches), allowing customers to shop around by applying (and getting a definite outcome) rather than other methods which might only indicate that a borrower was likely to be accepted for a loan.<sup>163</sup> However, not all customers would go to the effort of submitting multiple applications to determine who would lend to them, and so the Money Charity would welcome the introduction of the use of an indicative credit score.<sup>164</sup> However, access to a borrower's own credit score was limited or would force the borrower to incur costs.<sup>165</sup>
148. The General Consumer Council for Northern Ireland (the Consumer Council) told us it agreed 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 would not be affected, and that this should be elevated to a rule by the FCA and not just guidance.<sup>166</sup>
149. The Money Advice Trust said that it would not generally support any measures that made it easier to take out a payday loan, which it would appear could be the possible consequence of prohibiting the visibility of a credit search by a lender. However, the Money Advice Trust would welcome the ability of a consumer to undertake a quotation search without affecting their ability to access credit. Therefore, it might be helpful if the guidance on this point in the FCA handbook was changed from guidance to a rule.<sup>167</sup>

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<sup>161</sup> [Uncle Buck response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), p4.

<sup>162</sup> [Wonga response to Remedies Notice](#), paragraph 5.9.

<sup>163</sup> [The Money Charity response to provisional findings and Remedies Notice](#), paragraphs 51–53.

<sup>164</sup> *ibid*, paragraph 57.

<sup>165</sup> *ibid*, paragraph 60.

<sup>166</sup> [The General Consumer Council for Northern Ireland response to provisional findings and Remedies Notice](#), p7.

<sup>167</sup> [The Money Advice Trust response to Remedies Notice](#), p7.

## *Integration with a PCW*

150. CashEuroNet told us there was a risk that integrating a standard eligibility assessment into the PCW could mislead customers about their eligibility and could compromise the ability of lenders to innovate with regard to their credit-worthiness assessment.<sup>168</sup> Wonga told us that there were a number of technical and operational issues around attempting to incorporate eligibility assessments with a PCW. Technical issues related to the bespoke lending processes and decisions undertaken by lenders and how this would be integrated, and how any indication of likelihood would be presented on a consistent basis across lenders.<sup>169</sup>
151. Dollar told us that there was considerable merit in ensuring that any newly established PCW was relatively simple, uncomplicated and user friendly in order to enable customers to compare different types of credit facilities and that the integration of an eligibility check would detract from this principal objective. Dollar also considered that it added to the complexity and expense of this proposal without establishing any sufficiently countervailing benefit.<sup>170</sup>
152. Wonga stated that PCWs requiring large amounts of personal data were less likely to be used and that any integrated assessment of eligibility would necessarily require a quantity of information.<sup>171</sup> Any PCW would need to be designed to interface appropriately with lenders' websites.<sup>172</sup>
153. UK Credit told us that the challenges of incorporating an eligibility check into a PCW would be significant. The check would be reliant upon manual input from the customer. If the customer inputs could be electronically verified this would provide a valuable tool as the customer would only be presented with loans for which they were potentially eligible. Incorporating electronic verification would be extremely difficult at the point of enquiry due to the customer permissions required to conduct such searches.<sup>173</sup>
154. Experian told us that if a payday loan PCW were developed, it should be relatively easy to integrate quotation searches into it.<sup>174</sup>

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<sup>168</sup> [CashEuroNet response to provisional findings and Remedies Notice](#), paragraph 8.11.

<sup>169</sup> [Wonga response to Remedies Notice](#), paragraph 5.24.

<sup>170</sup> [Dollar response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), paragraph 3.7.16.

<sup>171</sup> [Wonga response to Remedies Notice](#), paragraph 3.8.

<sup>172</sup> *ibid*, paragraph 3.22 (b).

<sup>173</sup> [UK Credit response to Remedies Notice](#), p5.

<sup>174</sup> [Experian response to provisional findings and Remedies Notice](#), p4.

## ***Customer understanding of credit checks***

155. Dollar told us that it supported the proposal to require lenders to state explicitly on their website and on any form requiring customers to enter their details whether they would undertake any form of credit check, and at what stage. To that end, Dollar would be prepared to state explicitly on the home page of its website whether and when a credit check would be undertaken in relation to any application. In addition Dollar would also be content to include a general informative paragraph about the objective and possible consequences of any credit searches undertaken.<sup>175</sup>
156. Uncle Buck told us that it was a requirement of the Data Protection Act to inform consumers that a credit check would be carried out.<sup>176</sup>
157. UK Credit told us that lenders should be obliged to inform the customer if they would conduct a credit search, what type of credit search would be performed, the implications of a 'hard' search (if there would be a 'hard' search) and at what stage(s) in the process it would be undertaken.<sup>177</sup>
158. The Debt Advice Foundation told us that credit scoring was currently considered to be a 'dark art' and as a result encouraged customers to feel that they were not in control of their own finances and stopped them even trying to understand how credit worked. Every effort should be made to ensure that customers had access to full information without jeopardising any future decision about a loan. It told us that if a customer were to be tested for risk, then they were entitled to know what the tests were. It should be made clear that every lender had different criteria, and that those criteria might change depending on a range of factors.<sup>178</sup>
159. Equifax told us that it supported the use of quotation searches prior to conducting an eligibility assessment and that it did not think that it was always clear to the customers in this market exactly what type of CRA search was being performed and when in the process this took place. Equifax would welcome the need for brokers and lenders to improve clarity.<sup>179</sup>
160. Experian told us that it was essential that a consumer was clearly informed of the type of search that would be undertaken and that as a credit search involved the processing of personal data, this notification and the provision of

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<sup>175</sup> [Dollar response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), paragraph 3.7.2.

<sup>176</sup> [Uncle Buck response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), p3.

<sup>177</sup> [UK Credit response to Remedies Notice](#), p4.

<sup>178</sup> [Debt Advice Foundation response to Remedies Notice](#), p2.

<sup>179</sup> [Equifax response to Remedies Notice](#), paragraph 4.

other information would in any event be required in order to comply with the Data Protection Act 1998.<sup>180</sup>

161. Experian's view was that whilst UK consumers were becoming increasingly aware of credit file issues generally (including the difference between an application search and a quotation search), this was a vital issue and there was still a long way to go. It had been working on public education campaigns to improve awareness.<sup>181</sup>
162. The Money Charity told us that there was a need for much greater awareness of credit checks and credit scores among all consumers, and that it would welcome initiatives to improve consumers' understanding of these.<sup>182</sup>
163. The CFA told us that that lead generators should not be advertising loans with 'no credit checks' given that the lenders they supplied used credit checks.<sup>183</sup>

### ***Real-time data***

164. Uncle Buck told us that increased data sharing would only be of benefit if it was applied across the whole consumer credit industry, so as to provide a more accurate picture of a consumer's financial position.<sup>184</sup>
165. Wonga told us that it was fully supportive of moves to improve real-time data sharing between CRAs and payday lenders and considered it beneficial for all payday lenders to be required to share data on a real-time basis. Wonga said that requiring other credit providers also to share data in real time would further improve the quality of CRA data.<sup>185</sup>
166. 118 118 Money told us that it believed that the introduction of real-time credit data-sharing was fundamental to the promotion of competition within the sector and encouraging new market entry. To the extent to which real-time data allowed customers better to understand their chances of obtaining credit 118 118 Money would also support it. 118 118 Money told us that to comply with its obligations to perform an affordability assessment, information from a CRA based on monthly updates could not be sufficient to undertake a credit-worthiness assessment.<sup>186</sup>

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<sup>180</sup> [Experian response to provisional findings and Remedies Notice](#), p5.

<sup>181</sup> [ibid](#), p5.

<sup>182</sup> [The Money Charity response to provisional findings and Remedies Notice](#), paragraph 58.

<sup>183</sup> [CFA response to Remedies Notice](#), p11.

<sup>184</sup> [Uncle Buck response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), p4.

<sup>185</sup> [Wonga response to Remedies Notice](#), paragraph 5.18.

<sup>186</sup> [118 118 Money response to provisional findings and Remedies Notice](#), pp13&14.



167. 118 118 Money told us that it would much prefer to have comprehensive real-time data available, such that it would know precisely the extent of a borrower's outstanding liabilities. If real-time data was adopted, the need for application searches would cease to exist, but in the absence of that possibility, application searches constituted a second-best option. 118 118 Money believed that restricting the use of application searches was addressing the symptom and not the cause of the problem.<sup>187</sup>
168. 118 118 Money told us that Callcredit had launched MODA within a closed user group of lenders, [X]. With respect to real-time data, 118 118 Money told us that the only effective answer was for a regulatory solution to be imposed which required complete open access on fair and equitable terms.<sup>188</sup>
169. Experian told us that it believed that a real-time system could only be at an optimum where the updates were truly 'real time' rather than on a daily or 24-hour basis. With a system with daily updates it might be that a consumer had applied for multiple payday loans online within the 24-hour period following the most recent update, which would mean that those applications would not be visible to any other lender considering a loan application in that same period.<sup>189</sup>
170. Equifax told us that for a real-time solution to be truly effective, data must be shared with all relevant CRAs to ensure there was a robust real-time database check available to all payday lenders, irrespective of which CRA a lender selected as their preferred agency.<sup>190</sup>
171. The Consumer Council told us that real-time data sharing would be a very welcome development, to ensure that payday lenders did not give further credit to people who were already indebted and struggling to pay back loans. It would allow decisions to be made on the most up-to-date information, and enable better-informed lending based on consumers' current outgoings and liabilities.<sup>191</sup>
172. The Money Charity told us that improvements in real-time data would obviate the need for application searches, which left footprints.<sup>192</sup>

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<sup>187</sup> 118 118 Money supplementary response to provisional findings and Remedies Notice, p1.

<sup>188</sup> 118 118 Money response to provisional findings and Remedies Notice, p11.

<sup>189</sup> Experian response to provisional findings and Remedies Notice, p3.

<sup>190</sup> Equifax response to Remedies Notice, paragraph 1.

<sup>191</sup> The General Consumer Council for Northern Ireland response to provisional findings and Remedies Notice, p8.

<sup>192</sup> The Money Charity response to provisional findings and Remedies Notice, paragraphs 51–56.



## **Cost of remedy**

173. CashEuroNet told us that creditworthiness assessments were a key part of innovation in this sector and that this innovation should not be hampered by efforts to improve customer understanding of their status prior to the lender having sufficient information to be able to effectively approve or deny a customer's loan.<sup>193</sup> Wonga told us that the cost of developing an eligibility indicator would be disproportionate given the lack of evidence that there was a problem which needed to be remedied.<sup>194</sup> Wonga noted that there would be additional costs arising from requiring an additional credit (quotation) search for every customer requesting an indication of eligibility.<sup>195</sup>
174. Global Analytics told us that it did not currently do quotation searches. Whilst acknowledging that a quotation search could have the benefit of encouraging the applicant to shop around, there could be additional costs to lenders.<sup>196</sup> Quotation search fees at the bureau, however, must be dramatically reduced in order for this to be a viable method.<sup>197</sup>
175. Wonga told us that there was a risk that providing an initial indication might be misleading and could negatively impact customers and lenders.<sup>198</sup>
176. Equifax told us that consideration would need to be given as to how in practice a restriction on the visibility of searches would be enforced, assuming it only applied to payday lenders. If the CRAs were to be required to categorise and filter credit searches depending on who the enquiry originated from and for what purpose, there would likely be new and significant systems and control changes required.<sup>199</sup>

## **Summary of borrowing**

177. A number of lenders noted that information on the costs of borrowing were available through other channels. Some parties thought that any statement or summary of borrowing costs should be provided only on the request of

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<sup>193</sup> [CashEuroNet response to provisional findings and Remedies Notice](#), paragraph 8.12.

<sup>194</sup> [Wonga response to Remedies Notice](#), paragraph 5.10.

<sup>195</sup> *ibid*, paragraph 5.11.

<sup>196</sup> [Global Analytics response to Remedies Notice](#), p10. Global Analytics gave the example that if they approved [%] of applications with a per-search cost of £[£], and they were forced to do a search on every site visitor, it would cause its data costs to go up by £[£]/[%] or £[£] per person lent to. This cost would be in addition to other costs already incurred by GA in assessing acquiring the customer and assessing their affordability.

<sup>197</sup> *ibid*, p10.

<sup>198</sup> Specifically, some customers who were given a low indication of acceptance might have been accepted but could be deterred from applying. Other customers might apply having received a positive indication but then rejected for other reasons. [Wonga response to Remedies Notice](#), paragraph 5.12.

<sup>199</sup> [Equifax response to Remedies Notice](#), paragraph 3.

borrowers and that unsolicited distribution might be undesirable for some borrowers.

178. Views of parties on the frequency of distribution of a statement differed, with different parties supporting frequencies ranging from monthly to annual and with differing trigger points.
179. Parties noted the potential cost of postal distribution of a statement and lenders preferred electronic distribution, though some noted that this might not be appropriate for high street lenders. A number of parties suggested that the method of distribution should be determined by the borrower.

### ***Existing ways of communicating borrowing history***

180. Dollar stated that there were existing rules in relation to the provision of similar statements and that the requirement to send a periodic statement had always featured as part of the Consumer Credit Act. Under the amendments made to the Consumer Credit Act in 2006, creditors had been required since 2008 to send annual statements on fixed-sum credit agreements where a customer still had a balance on their account 12 months after the loan had been taken out.<sup>200</sup>
181. Dollar told us that it already sent statutory annual statements to its customers under fixed-sum agreements where this requirement was triggered. For running account agreements, periodic statements were required. Customers also had the right to request a statement on their account and ad hoc statements were provided in response to such a request.<sup>201</sup>
182. Wonga told us that every customer had access to loan information through the 'My Account' section of its website.<sup>202</sup>
183. Wonga said that regular statements of borrowing costs to customers was a sensible approach to increase transparency and awareness of the total cost of borrowing.<sup>203</sup>

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<sup>200</sup> [Dollar response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), paragraph 3.8.1.

<sup>201</sup> [ibid](#), paragraph 3.8.1.

<sup>202</sup> [Wonga response to Remedies Notice](#), paragraph 6.3.

<sup>203</sup> [ibid](#), paragraph 6.5.

## Content

184. Dollar told us that the information to be included in an 'on request' statement should include details of the number and value of loans, together with total interest costs plus any fees or charges.<sup>204</sup>
185. Wonga told us that to provide meaningful information, a summary could contain the number of and the value, cost and duration of each loan taken out in the period, and the value and number of loans outstanding at the statement date.<sup>205</sup> A standard method of presentation might be necessary to assist comparison.<sup>206</sup>
186. Wonga told us that it would be prudent to require lenders to provide information in the periodic statements on where financial advice can be obtained.<sup>207</sup>
187. Global Analytics told us that lenders should not be required to market price comparisons in any way, such as through reference to a PCW on a statement.<sup>208</sup>
188. Islington Debt Coalition told us that the summary should include a link to the Money Advice Service.<sup>209</sup>
189. The Money Charity told us that the following information should be included on the statement:<sup>210</sup>
- (a) the amount lent to the individual in the period;
  - (b) the amount the individual has repaid in the period (including charges and interest); and
  - (c) the amount the individual has outstanding (including principal, charges incurred but not yet paid, and the amount of interest they would repay if they repaid any outstanding principal on time).<sup>211</sup>
190. The Consumer Council told us that it would be concerned that linking in the statement of borrowing costs to the comparison website could lead to the

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<sup>204</sup> [Dollar response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), paragraph 3.8.6.

<sup>205</sup> [Wonga response to Remedies Notice](#), paragraph 6.10.

<sup>206</sup> *ibid*, paragraph 6.5.

<sup>207</sup> *ibid*, paragraph 6.11.

<sup>208</sup> [Global Analytics response to Remedies Notice](#), pp13&14.

<sup>209</sup> [Islington Debt Coalition response to Remedies Notice](#), p5.

<sup>210</sup> Each of these should be given as a total figure and broken down into its constituent parts, which would also help raise awareness of additional fees and charges, albeit only after they have been incurred ([The Money Charity response to provisional findings and Remedies Notice](#), paragraph 70).

<sup>211</sup> [The Money Charity response to provisional findings and Remedies Notice](#), paragraph 69.

temptation of taking out further loans and that other credit products did not link to price comparison sites.<sup>212</sup>

191. The Money Advice Trust told us that the information would need to be presented in a prescribed format to ensure consistency of approach and to allow for easy comparison. As well as information on the number of loans, the length of the loan, the total interest, and fees and charges over the relevant period, it would be useful to include sources of free debt advice in the statements and links to free, independent information such as the PCW.<sup>213</sup>

### ***Frequency***

192. Wonga thought that statements every 6 or 12 months would be more suitable than more frequent statements because customers might disregard such regular statements, particularly if they were receiving similar statements from a number of lenders at around the same time.<sup>214</sup>
193. Islington Debt Coalition told us that a monthly frequency would be consistent with banks and credit cards.<sup>215</sup>
194. The Money Charity thought that a quarterly statement with an annual summary at the end of each financial or calendar year would provide regular updates without overburdening the industry.<sup>216</sup>
195. The Money Advice Trust told us that a statement should be sent out at least quarterly and that given the nature of the typical timescale of a payday loan, it could be argued that the statement should be sent more frequently than this.<sup>217</sup>

### ***Determining a trigger point***

196. Dollar told us it would only be supportive of a statement if the statement was provided at the specific request of the customer.<sup>218</sup> If statements were unrequested, it could give rise to issues in relation to customer confidentiality because a statement could be sent to an outdated address (which Dollar

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<sup>212</sup> [The General Consumer Council for Northern Ireland response to provisional findings and Remedies Notice](#), p8.

<sup>213</sup> [The Money Advice Trust response to Remedies Notice](#), p8.

<sup>214</sup> [Wonga response to Remedies Notice](#), paragraph 6.6.

<sup>215</sup> [Islington Debt Coalition response to Remedies Notice](#), p6.

<sup>216</sup> [The Money Charity response to provisional findings and Remedies Notice](#), paragraph 64.

<sup>217</sup> [The Money Advice Trust response to Remedies Notice](#), p8.

<sup>218</sup> [Dollar response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), paragraph 3.8.6.

thought likely, given the mobility of its customers) or to an existing address to which customers would prefer it not to be sent.<sup>219</sup>

197. Dollar also told us that post-contractual information was required to be sent in certain circumstances, for example Notices of Sums in Arrears and Notices of Default Sums. Where relevant, these also provided information on the cost of borrowing.<sup>220</sup>
198. Uncle Buck told us that a statement might 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 five single-period loans in a 12-month period.<sup>221</sup>
199. Wonga considered that any customer who had an outstanding balance at the date of the statement, or who had taken out a loan during the statement period, should receive a statement.<sup>222</sup>
200. Wonga said that receiving statements from payday lenders on or around the same date would enable the customer readily to compare their loans by lender across the period covered by the statements.<sup>223</sup>
201. Global Analytics told us that statements should be sent to borrowers taking out more than two loans in a period of six months and should continue until this was no longer the case or the customer chose to opt out of receiving them.<sup>224</sup>
202. The Consumer Council told us that it that it would be useful for consumers to receive periodic statements of their borrowing costs and that the statement could be produced monthly, and cease once the full and final payment had been made. Where possible it could be done electronically, as this was how the vast majority of consumers appeared to access payday loans.<sup>225</sup>
203. Islington Debt Coalition told us that all borrowers should receive a statement related to the interval of the instalments of their loan until the loan was repaid.<sup>226</sup>

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<sup>219</sup> [ibid](#), paragraph 3.8.2(ii).

<sup>220</sup> [ibid](#), paragraph 3.8.3.

<sup>221</sup> [Uncle Buck response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), p4.

<sup>222</sup> [Wonga response to Remedies Notice](#), paragraph 6.7.

<sup>223</sup> [ibid](#), paragraph 6.9.

<sup>224</sup> [Global Analytics response to Remedies Notice](#), p13.

<sup>225</sup> [The General Consumer Council for Northern Ireland response to provisional findings and Remedies Notice](#), p8.

<sup>226</sup> [Islington Debt Coalition response to Remedies Notice](#), p6.

204. The Money Charity told us that customers should cease to receive a statement once they had completed a relevant period without having any loans outstanding. However, these customers would receive an annual summary even if no additional loans had been taken out in the intervening period.<sup>227</sup> The date the statements were sent and the period they covered should be the same for all lenders to help customers with loans from multiple lenders to understand the overall cost.<sup>228</sup>

### ***Method of distribution***

205. CashEuroNet told us that any summary should be provided online or through email, as this was likely to be most appropriate for online payday customers.<sup>229</sup>
206. Dollar told us that where possible, the statement should be provided through customer log-in functionality.<sup>230</sup> Dollar told us that online operations might well be able to implement such a remedy more effectively and at a lower cost by incorporating the requirement into a borrower's personal payday loan account page. However, Dollar said that for high street lenders there were likely to be issues around confidentiality, effectiveness and disproportionate cost bearing in mind the uncertainty of any benefit to customers.<sup>231</sup>
207. Global Analytics told us that the statement could be made available to customers online on the website or through customer care at all times, with emails sent every two months and a physical statement sent every six months.<sup>232</sup>
208. Uncle Buck told us that providing information to customers on the periodic cost of borrowing could be handled within the 'customer log-in' functionality of many lenders' websites, though for retail providers a hard copy solution might need to be adopted.<sup>233</sup>
209. Wonga told us that because it offered an online account facility it considered that the most appropriate method of distribution of the statement to its customers would be online and that customers could be emailed to inform

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<sup>227</sup> [The Money Charity response to provisional findings and Remedies Notice](#), paragraph 66.

<sup>228</sup> [ibid](#), paragraph 68.

<sup>229</sup> [CashEuroNet response to provisional findings and Remedies Notice](#), paragraph 8.16.

<sup>230</sup> [Dollar response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), paragraph 3.8.6.

<sup>231</sup> [ibid](#), paragraph 3.8.5.

<sup>232</sup> [Global Analytics response to Remedies Notice](#), p13.

<sup>233</sup> [Uncle Buck response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), p4.

them of the availability of a statement.<sup>234</sup> Wonga stated that online distribution might not be appropriate for high street customers.<sup>235</sup>

210. The Money Charity told us that for customers who took out an online loan, an email statement seemed appropriate; for high street customers there should be the option to receive a statement by email or post.<sup>236</sup>
211. The Money Advice Trust told us that customers should choose the method of delivery.<sup>237</sup>
212. CashEuroNet told us that providing a summary online or via email would minimise costs.<sup>238</sup> Wonga told us that the cost of implementing a summary of borrowing through its existing customer account pages would be modest.<sup>239</sup>
213. Islington Debt Coalition told us that electronic distribution would be cheaper.<sup>240</sup>

### ***Comments on effectiveness***

214. Dollar told us that it was concerned that periodic statements were unlikely to be effective in achieving the CMA's aims. It noted that the CMA's assessment of a similar remedy in the home credit market was that it had been of 'limited effectiveness' and delivered 'relatively little benefit for some credit customers'.<sup>241</sup>
215. Global Analytics told us that such information was already presented to customers while processing the loan in a very clear manner. As a result, it deemed such steps unnecessary and potentially confusing to customers, and since customers tended to have loans with multiple lenders, receiving information in such a staggered manner might be unmanageable for customers.<sup>242</sup>
216. The Debt Advice Foundation told us that most people who were routinely seeing payday loans as their best option were likely to take little notice of this kind of information, and for those who were borrowing to cover social spending, it would be seen as completely irrelevant because the total cost of

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<sup>234</sup> [Wonga response to Remedies Notice](#), paragraph 6.8 (a).

<sup>235</sup> [ibid](#), paragraph 6.8 (b).

<sup>236</sup> [The Money Charity response to provisional findings and Remedies Notice](#), paragraph 67.

<sup>237</sup> [The Money Advice Trust response to Remedies Notice](#), p8.

<sup>238</sup> [CashEuroNet response to provisional findings and Remedies Notice](#), paragraph 8.16.

<sup>239</sup> [Wonga response to Remedies Notice](#), paragraph 6.12.

<sup>240</sup> [Islington Debt Coalition response to Remedies Notice](#), p6.

<sup>241</sup> [Dollar response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), paragraph 3.8.4.

<sup>242</sup> [Global Analytics response to Remedies Notice](#), p12.



their loans was not a significant factor to them, only the speed and convenience of accessing cash. It thought that for those worried about borrowing, a statement would increase anxiety and guilt.<sup>243</sup>

217. The Money Advice Trust told us that whilst it did not object to this idea in theory, it did not see that the remedy would have the desired effect on competition.<sup>244</sup>

## Lead generators

218. Money Gap Group (Money Gap) told us that regulation of lead generators was sufficient, however enforcement did not exist or was not sufficiently strong. It had seen brokers misleading customers and charging fees by pretending to be a lender. It did not see the transparency of lead generators as a problem because lender rates were usually around £30 per hundred borrowed so the financial impact of having taken out a loan via a lead generator rather than a lender was minimal. It had introduced a model which allowed customers to compare lenders which had provisionally approved their application, and chose the one that matched their needs. Money Gap told us that a declaration by a lead generator regarding the service they provided to customers and the relationship they had with lenders should be in a prominent position on their websites with a link to more information.<sup>245,246</sup>
219. SGE Group told us that CONC 3.7.4 should be a rule not guidance and that lead generators should be required to make a declaration as to the service they provided to customers and the relationship they had with lenders. It told us that the declaration should appear as a mandatory footer on all website pages.<sup>247</sup>
220. CashEuroNet told us that it welcomed measures that increased the transparency of the role of lead generators in the payday lending market.<sup>248</sup>
221. Wonga told us that lead generators should be subject to the same minimum transparency requirements standards as payday lenders. It told us that lead generators should be obliged to disclose (in a prominent way) the nature of

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<sup>243</sup> [Debt Advice Foundation response to Remedies Notice](#), p3.

<sup>244</sup> [The Money Advice Trust response to Remedies Notice](#), p8.

<sup>245</sup> [Money Gap Group response to Remedies Notice](#), p2.

<sup>246</sup> Money Gap also told us that its experience of operating in the Australian payday lending market, where customers were forced to click through a dialogue box asking whether they were sure they wanted to proceed, had significantly increased the rate at which customers dropped out of an application. We noted, however, that Money Gap considered the regulatory disclosure in Australia overwhelmed borrowers. Money Gap thought that a prominent reference on a lead generator's website to a more detailed explanation of the operation of the pingtree would be more effective than a short disclosure pop-up. Alternatively a borrower could be required to complete a tickbox to confirm they agreed to the terms and conditions.

<sup>247</sup> [SGE Group response to Remedies Notice](#), p7.

<sup>248</sup> [CashEuroNet response to provisional findings and Remedies Notice](#), paragraph 8.17.



their service, the relationship they had with lenders, and to make clear to customers that they were not lenders. It told us that given lead generators introduced customers to payday loan providers, lead generators should be obliged to publish the same financial 'risk warning' as payday lenders on their websites and in other promotional material.<sup>249</sup>

222. Dollar told us that greater transparency was required in relation to the role of lead generators. It told us that lead generators should be required to set out the nature of the service they provided on the initial pop-up frame as well as their home page and, in particular, make clear that the service did not necessarily result in them being provided with a payday loan which amounted to the best value for them. It told us that existing FCA guidance regarding transparency should be replaced by binding obligations, enforceable by the FCA and that the FCA should require brokers (as well as lenders) to display their interim permission or full authorisation permission number on their website in the form of a link to the FCA website.<sup>250</sup>
223. money.co.uk told us that existing regulation was not sufficient to ensure that clear information was provided to customers regarding the relationship between brokers and lenders. It told us that it was important to distinguish between the different types of credit broker when considering possible remedies. It told us that a declaration by lead generators should include information about the basis on which a customer was introduced to a lender, what the cost of credit would be from the cheapest and most expensive lenders that the intermediary sold applications to and an explicit statement that cheaper loans might be available from other lenders.<sup>251</sup>
224. My Home Finance told us that intermediaries should explain their exact role, how they matched borrowers with lenders (including whether lenders bid for borrowers), and the cost of credit and the details of fees paid by lenders. My Home Finance told us that a declaration by lead generators should be enforced by requiring intermediaries to make a declaration and by prohibiting lenders from using intermediaries that did not display an appropriate declaration.
225. A PCW told us that existing regulation was not sufficiently clear.<sup>252</sup> It told us that lead generators, affiliates and brokers should be required to make a declaration as to the service they provided so that customers could make an informed decision as to whether they would like to make use of a credit

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<sup>249</sup> [Wonga response to Remedies Notice](#), paragraphs 7.2 & 7.3.

<sup>250</sup> [Dollar response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), paragraphs 3.9.1 & 3.9.2.

<sup>251</sup> [money.co.uk response to Remedies Notice](#), pp1–3.

<sup>252</sup> [A PCW response to Remedies Notice](#), p6.

broking service or if they would prefer to source a loan directly from a lender. It told us that the declaration should include a full explanation of how customer details were passed to lenders and other brokers or organisations.<sup>253</sup>

226. MYJAR told us that lead generators should be required to display prominently their status as a broker and not a lender, and set out clearly and prominently how the process of passing customer details to lenders worked.<sup>254</sup>
227. Uncle Buck told us that it should be very clear to consumers who they were dealing with and that lenders and introducers/brokers should not appear on the same page on PCWs and that the FCA should undertake a more comprehensive review of lead generator/introducer websites with regards to compliance and transparency of offering. Uncle Buck told us that 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 provided. Any lead generator failing to display such a declaration should be prohibited from acting as a lead generator until such a declaration was clearly shown. In addition, there should be requirements on lenders only to work with reputable lead generators that fulfilled any obligations placed upon them.<sup>255</sup>
228. The CFA told us that the information that was provided to consumers should be improved to ensure that it was clear from the outset what type of firm a consumer was dealing with and that it was very important that the customer knew that the lead generator was not shopping for the lowest price and that they merely sold to the highest bidder.<sup>256</sup>
229. Global Analytics told us that brokers fulfilled a vital function in the market by making customer acquisition more affordable for lenders.<sup>257</sup> It told us that parts of CONC were sufficient but others (CONC 3.7.4) should be elevated from guidance to a rule and that there should be strict and severe enforcement of the rules.<sup>258</sup> It said that customers should choose the basis on which brokers matched them to credit providers.<sup>259</sup> Global Analytics did not agree with prohibiting the sale of customer information by lenders as it helped customers find a loan at the time of their need.<sup>260</sup>

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<sup>253</sup> *ibid*, p7.

<sup>254</sup> [MYJAR response to provisional findings and Remedies Notice](#), p10.

<sup>255</sup> [Uncle Buck response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), p5.

<sup>256</sup> [CFA response to Remedies Notice](#), p10.

<sup>257</sup> [Global Analytics response to Remedies Notice](#), p2.

<sup>258</sup> *ibid*, p14.

<sup>259</sup> *ibid*, p15.

<sup>260</sup> *ibid*, p16.

230. The Consumer Council told us that there was a need for very clear information to be provided by brokers from the outset, highlighting the fact that they were a brokerage service, and did not directly provide the loans. Any costs associated with their service should be clear and upfront – it would expect robust action to be taken against companies which did not meet these legal requirements.<sup>261</sup>
231. The Debt Advice Foundation believed the remedy to be nowhere near strong enough to counteract the negative activity of many lead generators. It would urge a regulation regime in which the lenders were held responsible for the activity of the lead generators which supplied them. It supported similar rules to those that were put in place to regulate the way in which a credit card company bore a responsibility for the actions of outsourced debt collectors.<sup>262</sup> The Debt Advice Foundation also told us that it agreed that declarations should be carried by lead generators and brokers, and that it was stipulated that that these should appear at the top of the home page and that lenders should be prohibited from using intermediaries that did not display an appropriate declaration.<sup>263</sup>
232. Dominic Lindley told us that to avoid scope for regulatory arbitrage any remedy aimed at credit brokers would need to ban authorised lenders from accepting leads unless they were from authorised brokers, and that the CMA should consider a ban on authorised lenders selling on customers' details. Dominic Lindley told us that credit brokers should be prohibited from storing a consumer's details in their system and re-selling them to multiple lenders and that the consumer's details should only be used in connection with their original application for credit.<sup>264</sup>
233. Islington Debt Coalition told us that existing regulation should be sufficient but required enforcement action, including the use of fines and penalties, as at present it was not always clear that such sites were not lenders and a statement of their nature should be required.<sup>265</sup> Furthermore, the CFA told us that the FCA should conduct a regular trawl of websites to identify firms that were not describing themselves correctly.<sup>266</sup>
234. Money Advice Scotland told us that existing regulation was not sufficient to ensure that clear information was provided to customers on the relationship

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<sup>261</sup> [The General Consumer Council for Northern Ireland response to provisional findings and Remedies Notice](#), p9.

<sup>262</sup> [Debt Advice Foundation response to Remedies Notice](#), p3.

<sup>263</sup> [ibid](#), p4.

<sup>264</sup> [Dominic Lindley response to Remedies Notice](#), pp3&4.

<sup>265</sup> [Islington Debt Coalition response to Remedies Notice](#), pp6&7.

<sup>266</sup> [CFA response to Remedies Notice](#), p10.

between brokers and lenders<sup>267</sup> and it encouraged the CMA and FCA to take stronger and more decisive action to tackle rogue firms in this sector, by introducing new rules if necessary.<sup>268</sup> Credit intermediaries should be required to declare specifically the services they provided and the relationship they had with lenders and this should be presented clearly on the landing page of a firm's website.<sup>269</sup>

235. The Money Advice Trust told us that it did not agree that existing regulation was sufficient and that FCA guidance should be strengthened in this area and at the very least made into binding rules. It agreed with the proposals that would require clarification of the basis on which the consumer would be introduced to the lender, the cost of credit from the cheapest and most expensive provider, and the suggestion that an explicit statement should be made telling the consumer that cheaper loans may be available from other lenders. It told us that all intermediaries should be required to make such declarations and lenders should also be prohibited from using non-compliant intermediaries. These measures should be enforced by the FCA. It told us that search engines such as Google could be required to limit allowing lead generators to operate by restricting the purchase of ad words for payday lending to fully regulated lenders. It agreed that lenders should be prohibited from selling or providing customer details to third parties.<sup>270</sup>
236. The Money Charity thought that CONC should be sufficient to ensure that clear information was provided to customers. Whilst it agreed that the presentation of intermediaries' websites would be difficult for borrowers to distinguish from lenders, it thought that enforcement action and a thematic review by the FCA would be appropriate.<sup>271</sup> It did not think the onward sale of details should be prohibited but that customers should be informed and given the option to opt out.<sup>272</sup>
237. Transact agreed that lead generators and other intermediaries should state explicitly the nature of their business and their commercial relationship with lenders. Further, intermediaries should be forced to make clear the service they were providing and indicate to the customer prominently the existence of

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<sup>267</sup> [Money Advice Scotland response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), p4.

<sup>268</sup> *ibid*, p3.

<sup>269</sup> *ibid*, p4.

<sup>270</sup> [The Money Advice Trust response to Remedies Notice](#), p9.

<sup>271</sup> [The Money Charity response to provisional findings and Remedies Notice](#), paragraphs 73–75.

<sup>272</sup> *ibid*, paragraph 77.

a commercial relationship with a lender that might affect a lead generator's impartiality.<sup>273</sup>

238. UK Credit told us that the emphasis should be on the introducer to make the declaration. The lender could be obliged to create such an obligation in any introducer contract and be liable if it failed to create such an obligation. The declaration should be provided in plain English and inform the customer:
- (a) on what basis the customer was being introduced to a lender (set fee/highest bid/tail end commission);
  - (b) whether or not the customer had been offered the cheapest loan available based upon total amount repayable (this may not be the most suitable product but would produce a consistent measure); and
  - (c) that alternative lenders and lending products were available (and that they may be more suitable for the customer).<sup>274</sup>

### **Additional remedies**

239. With regard to the prohibition of additional fees:
- (a) Dollar agreed with the CMA and told us that in light of the proposed price cap any such remedy would be duplicative, onerous and disproportionate;<sup>275</sup> and
  - (b) Wonga agreed with the CMA that there was no merit in the CMA considering additional restrictions on fees and charges, noting the anticipated FCA price cap and the potential distortion to the market.<sup>276</sup>
240. With regard to the potential accreditation of lender websites:
- (a) Dollar told us that it agreed with the decision not to accredit websites. Furthermore, it told us that all lenders with Interim Permission were required to include the GEN4 disclosure on their website – ‘Authorised and Regulated by the Financial Conduct Authority’ – and that it did not believe any further requirement was justified. It thought that lenders

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<sup>273</sup> [Transact response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), pp4&5.

<sup>274</sup> [UK Credit response to Remedies Notice](#), p6.

<sup>275</sup> [Dollar response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), paragraph 4.2.

<sup>276</sup> [Wonga response to Remedies Notice](#), paragraphs 8.2–8.6.

belonging to trade associations should disclose this (although not necessarily on the home page).<sup>277</sup>

- (b) Wonga agreed with the CMA that such an accreditation system would not be effective for the reasons outlined in the Remedies Notice.<sup>278</sup>
  - (c) The Money Advice Trust agreed that the accreditation by the FCA of lender websites should not be taken forward.<sup>279</sup> It suggested that the periodic statement adopt something similar to the new requirements on utility companies, which must indicate on regular customer statements if they believed a cheaper tariff was available.<sup>280</sup>
241. Wonga told us that the CMA should consider making a recommendation to the FCA (and the Government, as appropriate) that the price cap should be subject to a periodic review so that there was an opportunity to remove the capping mechanism if any package of CMA remedies was successful in stimulating additional price competition such that the price cap was no longer needed and/or deemed disproportionate in light of the changed market conditions.<sup>281</sup>
242. ABCUL told us about the work of the Pew Institute into different models of regulation of payday lending in individual states in the USA which concluded that the Colorado model of prohibiting 'bullet' or single payment loans led to lower charges. ABCUL told us that Pew's recommendation was that the principal factor producing better outcomes was loan affordability and that, to this end, payments should be limited to 5% of a borrower's monthly salary.<sup>282</sup>
243. The Debt Advice Foundation thought that advertising for single-instalment loans should be banned other than online (as 83% were taken out online<sup>283</sup>); this would also significantly reduce marketing costs for the major players, allowing the potential for product price reduction.<sup>284</sup>
244. Money Advice Scotland told us that it welcomed the possible remedies proposed; however, its view was that they would only go a small way to resolving problems in the payday loan market. Over the medium to long term, it called on Government, regulators and all market participants to divert more

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<sup>277</sup> [Dollar response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference](#), paragraphs 4.3–4.4.

<sup>278</sup> [Wonga response to Remedies Notice](#), paragraph 8.7.

<sup>279</sup> [The Money Advice Trust response to Remedies Notice](#), p10.

<sup>280</sup> *ibid*, p8.

<sup>281</sup> [Wonga response to Remedies Notice](#), paragraph 1.11.

<sup>282</sup> [The Association of British Credit Unions Limited response to Remedies Notice](#), pp2&3; The Pew Institute has undertaken various pieces of [research into short term credit](#).

<sup>283</sup> Based on our provisional findings.

<sup>284</sup> [Debt Advice Foundation response to Remedies Notice](#), p5.

resource to improve levels of financial capability within the public. In the shorter term, they would welcome further efforts to increase the availability of alternatives to payday loans.<sup>285</sup>

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<sup>285</sup> Money Advice Scotland response to provisional findings, Remedies Notice and Notice of a request for a variation of the terms of reference, p3.

## **Remedy design issues on measures to help customers shop around without unduly affecting their ability to access credit**

1. This appendix sets out in greater detail our consideration of the design issues relating to a potential remedy for improving the ability of borrowers to establish the likelihood of being offered a loan.
2. This appendix is structured thus:
  - (a) credit searches and their role in the payday loan application process;
  - (b) ways in which borrowers can assess their own creditworthiness; and
  - (c) encouraging the development and use of 'real time' data sharing.

### **Credit searches and their role in the payday loan application process**

3. An overview of the process for applying for and taking out a payday loan is provided in paragraphs 2.64 to 2.74 and Appendix 2.4 of our provisional findings. Here we focus on a specific aspect of that process relevant to this remedy option, namely the role of CRAs and the products that they offer to payday lenders to help them in assessing whether or not to offer credit to a particular borrower.
4. CRAs supply credit providers with a range of data products. These include application and quotation search products (collectively 'credit search' products), as well as other data products such as identity verification, fraud and anti-money-laundering data, income verification and a number of specific modules or 'blocks' of data which group similar variables together.<sup>1</sup>
5. We were told that credit searches were among the most expensive data product that lenders could purchase from a CRA. Because of this, in any lending decision they are typically the last piece of third party information to be purchased and the purchase of credit searches is only undertaken for

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<sup>1</sup> There is currently no specific regulation that requires the use of credit searches, but consumer credit regulation requires the performance of an affordability check before making an offer of credit ([CONC 5.2.2](#)). That affordability check is likely to require the use of some CRA data, though not necessarily a credit search, although a credit search would be the principal method of establishing what credit facilities have been issued by other lenders, providing an assessment of existing financial commitments. As a competition authority, we are not directly concerned with the performance of affordability and eligibility checks other than their impact on determining the supply of, access to and the cost of credit; we consider their regulation to be the responsibility of the FCA. As outlined above, our concern is that their design and implementation does not penalise rational behaviour.



applicants who have not already been excluded as a result of some other aspect of the assessment of eligibility, affordability or creditworthiness.<sup>2</sup>

6. In our hearings we were told that a typical application process would be designed by a lender to filter applications using the 'cheapest' data first. Prior to the use of any external data, lenders will use the information submitted by applicants to filter them according to the lender's criteria (such as income and employment status). Lenders would then use their own data to establish whether or not an application had been submitted by the applicant previously and whether the application had been unsuccessful and why. A panel of data might then be purchased from CRAs (both the primary and any secondary CRA) either as a single large data set or in successive 'blocks' as the application proceeded.
7. Because of this sequential use of data in increasing order of cost, and because a small proportion of applications might be approved for loans, only a minority of all payday loan applications are subject to a credit search and the proportion rejected as a result of credit searches, as opposed to other information, would be lower still.<sup>3</sup>
8. We asked lenders and CRAs about the pricing of CRA products. We found that there was a significant variation in the pricing structures, which are individually negotiated between each lender and the CRA(s) that they use. We found that the marginal cost of an additional credit search varied significantly, either as a result of the volume of searches purchased by a lender, or the particular CRA that lenders used. Broadly, however, we were told that the marginal cost of a quotation search varies from £0.10 to £1. Contracts between lenders and CRAs were typically structured such that the average cost of a search reduced with increased volume of searches. We were not aware of any difference in the cost of quotation and application searches (where the two provided the same context). However, in some circumstances where two searches were performed on the same individual, the marginal cost of the second search would be lower.

### ***Quotation and application searches***

9. As set out above, there are two main forms of credit search – quotation and application search. As the names suggest, quotation searches have been

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<sup>2</sup> For example Dollar told us it considered credit searches to be relatively expensive. [Dollar response hearing summary](#), paragraph 28.

<sup>3</sup> For example, Dollar told us [§] ([Dollar response hearing summary](#), paragraph 28). CashEuroNet told us that it used internal data and then fraud checks before undertaking a credit search ([CashEuroNet response hearing summary](#), paragraph 22). Global Analytics told us [§] ([Global Analytics response hearing summary](#), paragraphs 27 & 28). Wonga told us that only [§]% of applications were rejected on the basis of a credit risk assessment ([Wonga response to Remedies Notice](#), paragraph 5.6 (c)).

developed for situations where potential borrowers are seeking quotations for credit (for example, if the cost of the credit depends on a potential borrower's credit score), whereas application searches are used to help lenders establish whether or not to accept a potential borrower's application for credit, as part of the credit application process.

10. From a borrower's perspective, the principal defining feature of a quotation search is that other than the lender requesting the search and the CRA that the lender requested the information from, no other third party is able to see the search. In contrast, an application search will be visible to any third parties that subsequently undertake a credit search.<sup>4</sup> This difference is sometimes described in terms of leaving a 'footprint' on a customer's credit file. All credit searches are recorded by a CRA but may not leave a visible footprint to third parties. Quotation searches may be described as either not leaving a footprint or leaving a 'soft footprint' on a potential borrower's credit file, while any application searches are described as leaving a ('hard') footprint because of their visibility to third parties.
11. We then considered what the difference between application and quotation searches was with respect of their content. Most of the CRAs we contacted told us that quotation searches did not differ in content from application search. One CRA (Teletrack<sup>5</sup>) told us that it did not offer quotation searches because its customers (predominantly short-term lenders) had never requested them but were in the process of developing them. Where a lender undertook a quotation search, they would need subsequently to undertake an application search to ensure that no subsequent credit events had occurred and so that other lenders were aware that the customer had applied for credit.<sup>6</sup>
12. Experian told us that whilst it had standard credit data offerings, users of its data (such as lenders and insurers) often had specific data requirements (based on factors such as the sectors they were operating in and their risk appetite) and Experian sought to provide tailored credit data configurations in response to these requirements. As a result, the data supplied to each customer who requested a credit search could differ. Experian told us that quotation searches were a relatively recent development within the CRA industry and that there was not a standard definition of the data that was included, but that the desire to offer quotations quickly and for the purposes of shopping around meant that Experian's customers did not typically request

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<sup>4</sup> Credit searches will typically provide credit information relating to a defined period of time, and thus after a number of months or years these searches will cease to be included in the content of a credit search.

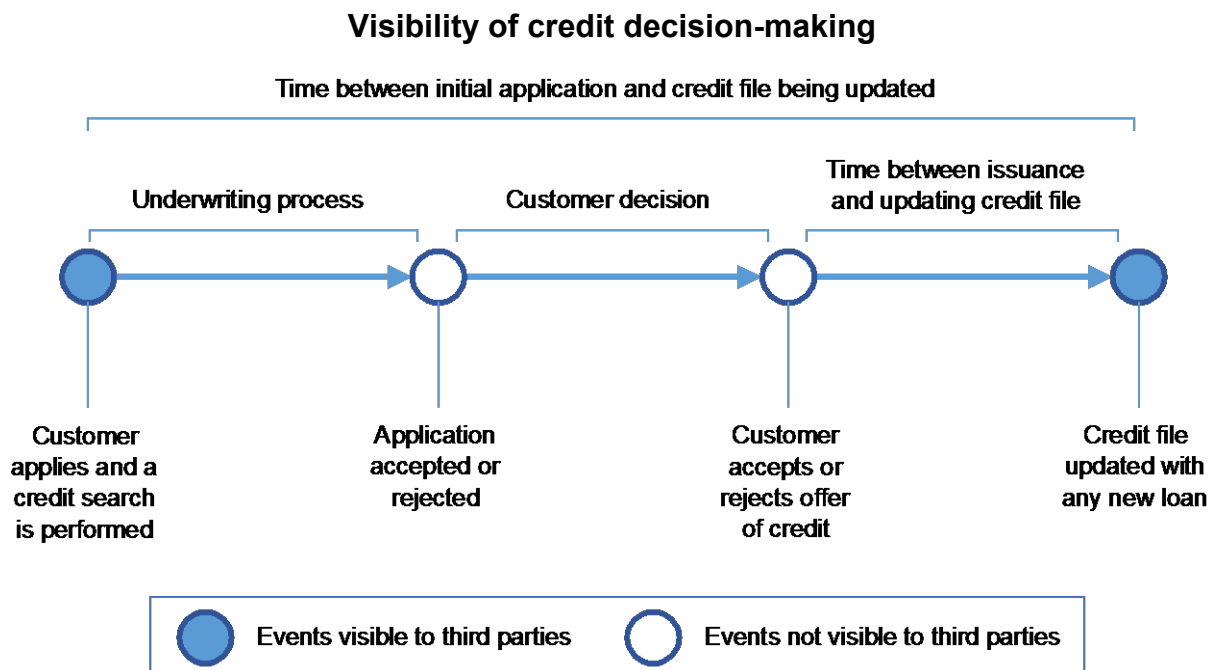
<sup>5</sup> [Teletrack response hearing summary](#), paragraph 9.

<sup>6</sup> Absent 'real-time' data sharing with CRAs, the existence of a new loan would only be updated on a monthly cycle, whereas the application search would be immediately visible.

the same volume of information. Experian's standard quotation search offering was based on far less data than a full search. Because of this, and because quotation searches are offered for very different reasons from full searches, the results of the two types of search were not directly comparable.

13. Following an application search, no further amendment is made to a potential borrower's credit record (and hence no further information is visible to a third party) until a loan is issued to that borrower. Because of this, in general it is not possible to differentiate from a potential borrower's credit record between a situation in which a potential borrower has been rejected on the basis of a credit search and one in which a potential borrower has been offered credit and has decided not to proceed with that offer (for example, because they had found a better offer elsewhere).<sup>7</sup> Figure 1 illustrates this graphically. The visibility to third parties of whether or not a credit account has been taken out is subject to (a) the speed of underwriting decision once the search has been made, (b) the point at which a borrower accepts the offer of a credit account and (c) the frequency with which the CRA database is updated.<sup>8</sup>

FIGURE 1



Source: CMA analysis.

<sup>7</sup> We understand that some CRAs do, however, receive and share a greater range of events on a customer's credit file. We were informed by LendingMetrics that the first point at which its platform updated a borrower's credit record was at the point that an automated offer of credit was made (before funds were released) and that it considered its system unique among CRAs ([LendingMetrics response hearing summary](#), paragraph 4).

<sup>8</sup> As noted, the historic frequency of lenders updating CRAs with credit information has been monthly.

14. We have been told by lenders and CRAs that the presence of application searches by a potential borrower is commonly used by lenders as a risk indicator.<sup>9</sup> This perception of increased risk relates to the uncertainty of whether or not an offer of credit has been made (and if so, whether a credit account has been opened) following an application search. The greater the number of application searches that are made by a potential borrower in a short period, the greater the perceived potential risk. This is because an excessive number of searches may indicate a credit-hungry (or even fraudulent) potential borrower, seeking credit from multiple sources at the same time. However, we note that a similar pattern might also arise if a potential borrower searches the market for the best-value loan product available to them, by means of taking out applications with a number of lenders.
15. Given the scope for legitimate borrower search activity to be interpreted negatively by lenders, we next considered the ways in which potential payday loan borrowers are able to assess their own creditworthiness and likelihood of being granted credit by individual lenders.

### **Ways in which borrowers can assess their own creditworthiness**

16. At present, most payday lenders do not use quotation searches. We are aware of one large payday lender (CashEuroNet)<sup>10</sup> which currently uses quotation searches; this is in part because it offers a variable priced product, such that a credit search may be required in order to inform a potential borrower about the price they would pay for a loan.<sup>11</sup>
17. Consequently, the only way that a potential borrower can currently establish whether or not they are likely to be accepted for credit by most payday lenders is to make an application for credit from that lender. As discussed above, this is likely to leave a footprint on their credit file (unless they have been rejected by that lender before the credit checking stage).
18. We noted that individuals are able to review their credit history online using services offered by some CRAs. These services may be offered on a free trial with an ongoing subscription thereafter, though some are offered free of charge. These services may also provide some form of indicative credit 'score'. However, we were told that these scores do not readily correlate to a lender's assessment of whether to lend to a potential borrower and that

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<sup>9</sup> See Appendix 1.1 for a number of submissions on this point.

<sup>10</sup> [CashEuroNet response hearing summary](#), paragraph 21.

<sup>11</sup> We understand that this was a result of needing to comply with CONC guidance.

generally lenders will not purchase a standard score or rating from a CRA, preferring to analyse raw data.

19. Individuals may also request a statutory credit report for a nominal fee.<sup>12</sup> However, this does not provide any contextual information such as an individual's credit score.<sup>13</sup> Our review of CRA websites found that these reports were not always promoted with equal significance to subscription-based products.
20. We also noted that some services are offered in other credit markets (for example, personal loans), integrated into PCWs, which provide a potential borrower with some indication of the likelihood of being accepted for a particular product by using various filters.<sup>14</sup> These services require lenders to share profiles of borrower attributes that must be met in order to obtain credit. The accuracy of the indication provided by such services also depends on the level of information shared by the lender to the service provider. We are unaware of any such service currently being offered in the payday market.

***Evaluation of potential measures to enable borrowers to search the market without adversely affecting their access to credit***

21. Against this background, we considered what measures might be put in place to enable potential borrowers to search the market without adversely affecting their access to credit. We identified the following areas in which further action could be taken to help address the AEC and thereby benefit borrowers:
  - (a) ways to help potential borrowers evaluate the likelihood of obtaining credit without having to carry out a full credit application;
  - (b) greater transparency of information about the use of credit searches; and
  - (c) increased use of quotation searches as an alternative to application searches.

***Ways to help potential borrowers evaluate whether they are likely to obtain credit without having to carry out a full application***

22. The assessment of creditworthiness varies considerably by lender and involves bespoke credit risk assessments that are designed by individual lenders. A lender's decision to offer credit will also include various filters for eligibility based on age, income and employment status as part of the

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<sup>12</sup> Currently £2.

<sup>13</sup> [Consumer Credit Act 1974, section 158](#). Since 2010, statutory credit reports are available online.

<sup>14</sup> HD Decisions provides this service to a number of price comparison websites. [Barclays](#) and some other banks and building societies offer an eligibility assessment using a quotation search.

regulatory affordability assessment that must be carried out. For these reasons, there are some practical limitations on the extent to which it is possible for potential borrowers to have certainty about whether they will get credit from a particular lender without, in effect, going through the lender's application process.

23. While a 'perfect' solution is not necessarily available, we expect that potential borrowers would value some early indication on their likely eligibility. This could alleviate concerns about being approved for a loan and as a consequence could stimulate them to focus on other aspects of lenders' offers. It could also help potential borrowers to focus on the offering of lenders who are more likely to offer them credit.
24. In particular, information about eligibility – and the likelihood of obtaining credit from particular sources – could add additional value to the services provided to potential borrowers by PCWs; this would allow potential borrowers to filter results by lenders that would be willing to offer them a loan, thereby further improving the potential borrowers' experience when shopping around. Various technological options could be developed to deliver this functionality – these might be based on the 'smart search' technology used for PCWs in other markets or some other mechanism such as the technology currently used by lead generators to operate their platforms.
25. We have provisionally decided to recommend that the FCA use the full range of its powers to encourage lenders to participate actively in initiatives that enable potential borrowers to evaluate their own creditworthiness and likely eligibility for payday loans. We considered whether to place a formal obligation on payday lenders to participate in such initiatives, for example through an Order. We also considered including a requirement to provide this functionality as part of the accreditation criteria for payday loan price comparison websites. However, we took the view that such obligations or criteria would be very difficult to specify with sufficient flexibility, given the fact that the technology to deliver such initiatives is still evolving and that, over time, the market may be able to develop such a solution; hence we provisionally concluded that a recommendation to the FCA was likely to be a more effective means of achieving our aim.

#### *Greater transparency of information about the use of credit searches*

26. In our provisional findings we did not specifically review the transparency to the potential borrower of information about the extent to which (or when) credit searches were used by lenders. However, as our remedies package is designed to encourage borrowers to shop around – and given the need to ensure that borrowers are not deterred from shopping around by concerns

about impairing their access to credit – we considered whether borrowers would benefit from greater transparency of information available to them on the use of credit searches.

27. Lenders typically make a declaration on their use of CRAs and their use of credit searches. Because of the filtering and loan approval process adopted by lenders, our understanding is that a relatively small proportion of applications are subjected to a credit search (see paragraph 7). To the extent to which this proportion is affected by fraudulent applications, then ‘genuine’ borrowers are more likely to be subject to a credit search.<sup>15</sup> It is also not evident to potential borrowers whether or not a credit search has been performed at the point at which their application has been declined. This means that potential borrowers whose application is declined do not know if they have had a credit search performed on them unless they (a) know which CRA the lender uses and (b) have an account with that CRA to allow them to review their credit file (or request a statutory credit report by post).
28. Because the existence of multiple credit searches on an individual’s credit file might reduce that individual’s ability to access credit (see paragraph 14), we see benefit in ensuring that all applicants are aware of whether a credit check has been performed if their application is rejected. By providing this information to potential borrowers, they will be aware if credit searches have been undertaken by lenders and will have a better understanding of the potential impact of those searches on their credit rating. We acknowledge that there might be potential risks allowing fraudulent applicants to be made aware of this fact,<sup>16</sup> although we also note that this information is potentially available (at a fee) to users who subscribe to CRA services and hence this risk is relatively low. We considered that such a disclosure would be best implemented by means of a recommendation to the FCA, which would be in the best position to weigh up any potential risk in terms of fraudulent application, to the extent to which this is material, and to integrate such a disclosure with other obligations on lenders at the point at which a customer has been turned down for credit.
29. We therefore provisionally decided to recommend to the FCA that it continue to work with lenders to improve the disclosure to potential borrowers of the lenders’ use of credit searches and specifically to consider whether lenders should disclose whether or not a credit search (and the nature of such a

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<sup>15</sup> It is not clear if this is a significant issue across the market.

<sup>16</sup> By allowing fraudulent applicants to establish if a credit check has been performed, they may be able to establish the nature of initial screening checks and make subsequent applications using this information.

search) has been conducted in the event that a potential borrower has been turned down for credit.

### *Quotation searches*

30. As set out above, quotation searches typically gather a similar set of information as application searches. Quotation searches have the advantage of not leaving a visible footprint on CRA databases and therefore they are less likely to discourage potential borrowers from shopping around. We therefore considered whether lenders should be required to conduct a quotation search, rather than an application search under certain circumstances (eg before a potential borrower was committed to taking out credit from a particular provider, or at a potential borrower's request) or whether there were other ways of encouraging greater use of quotation searches in situations where potential borrowers were not committed to using a particular lender.
31. We considered that there were a number of potential costs associated with always requiring quotation searches to be used by lenders. Lenders may be required to pay additional fees to CRAs – for example, they may have to conduct both quotation and application searches on potential borrowers who ultimately take out a loan with them, though we considered that the extent of such incremental costs had been exaggerated by some lenders who have submitted evidence to us.<sup>17</sup>
32. In addition, given the integration of credit searches into lenders' decision-making processes, we considered that there were other potential costs which could be significant, principally the development cost of amending lending processes<sup>18</sup> and the impact on credit risk assessment from losing visibility of those potential borrowers who were aggressively hunting credit.
33. Given this, and the volume of other changes currently being implemented by payday lenders, we have provisionally decided not to mandate the general use of quotation searches. Rather we consider it more appropriate to recommend to the FCA that it work closely with lenders, CRAs and operators of accredited price comparison websites to encourage greater use of quotation

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<sup>17</sup> For example, Global Analytics told us that requiring a quotation search for all applications would significantly increase the cost base of a lender and the price paid by borrowers. It was suggested that if [X%] of applications were rejected, [X] quotation searches would need to be purchased for every loan issued, and that this would require the cost of credit for a successful borrower to include an additional £[X] relating to the unsuccessful applications of others ([Global Analytics response to Remedies Notice](#), p11). In our Remedies Notice it was not our expectation that every application would require a quotation search but that where an application search is currently used, a quotation search would be used instead. We do not think that this example of an additional £9 of cost is realistic, given the use of other CRA data as outlined above.

<sup>18</sup> Experian told us that its quotation search was not the same as its application search for a range of reasons. See paragraph 12 above for greater detail.



searches, so that payday loan borrowers can effectively search the market for the best available loan for them, without adversely affecting their credit record.

34. In particular, we see significant benefits to the effectiveness of price competition in requiring the use of quotation searches where lenders offer products with multiple price points (for example, based on a finite number of tiers of risk or on a continuum, or where a lender offers multiple products that are ostensibly the same other than price). This is consistent with guidance in place at present and we propose recommending to the FCA that it consider whether this should be elevated to a rule. We are conscious that this guidance is specified for all types of consumer credit and acknowledge that the FCA is likely to wish to consider this wider context in evaluating this remedy.

### *Customer research*

35. As part of our research on possible remedies we asked borrowers about the benefit of being able to establish whether they would be offered credit by a given lender whilst shopping around using a PCW.
36. Among inexperienced users in particular, there was relatively low awareness of why establishing eligibility<sup>19</sup> might be useful, and the impact of multiple credit searches (as a result of being turned down). When they were told about this, there was a desire for this to be more widely publicised.<sup>20</sup>
37. Once aware that applying for a loan (the presence of a search) would be noted on their credit record, customers were mostly willing to trade off the hassle of entering personal information against securing an indication of the likelihood of approval. However, bad experiences with brokers – who were rarely recognised as such – fuelled discomfort with providing personal information on payday lending sites. This had led to the association of price comparison sites for payday loans with credit score deterioration, and lack of data security.<sup>21</sup>
38. There was support for the idea of details, once entered, being transferred over to a lender site for application. This was in regard to personal information as well as the specific loan entered. Whereas many felt this would encourage them to use the eligibility search function, others felt it was ‘nice to have’ and that an indication of eligibility was an incentive in itself.<sup>22</sup>

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<sup>19</sup> That is, the likelihood of being accepted on any ground, not just ‘eligibility criteria.’

<sup>20</sup> [Customer research](#), p26.

<sup>21</sup> *ibid*, p26.

<sup>22</sup> *ibid*, pp26&27.

39. Given that speed was often of the essence, customers were quite clear that if information was not transferred from the comparison site to a lender of their choice, they would be less likely to use the comparison site in the future. This was because customers were very reluctant to spend very much time taking out a loan.<sup>23</sup>
40. There was not a clear preference for the way in which eligibility information should be presented, although overall customers preferred clear and simple options that were easy to interpret.<sup>24</sup>

### **Encouraging the development and use of ‘real-time’ data sharing**

41. Next, we considered issues related to the development of real-time (or near real time) data-sharing schemes and their use by payday and other lenders. We start by outlining the current state of play, before considering what further action, if any, is necessary in this regard.

#### ***Data sharing – current state of play***

##### ***The extent of data sharing in relation to payday loans***

42. Most lenders will have commercial relationships with one or more CRAs. Lenders will typically use one CRA as their primary provider of credit information<sup>25</sup> (in addition to the lenders’ own lending data). CRAs may use additional CRAs for specific types of data or where a potential borrower’s credit file is ‘light’.<sup>26</sup> Some CRAs may also resell another CRA’s data through its own interface.<sup>27</sup>
43. At present, there is no obligation on lenders to share data with CRAs from which they do not also receive data. We were told by that in other credit markets lenders shared data with at least three CRAs (typically the largest) and that this extent of sharing was of the order of perhaps 97 to 98% of all credit markets.<sup>28</sup>
44. We were told by CashEuroNet that they did not share with a greater number of CRAs as there was no net benefit to them or their customers of doing so.<sup>29</sup>

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<sup>23</sup> [Customer research](#), pp26&27.

<sup>24</sup> *ibid*, p28.

<sup>25</sup> The data held by CRAs and offered to their customers (ie lenders) includes a wide range of information which may also include identity and income verification services.

<sup>26</sup> That is where the CRA has little or no credit information on an individual. The volume of data held on an individual is determined, for example, by the relationships that the individual’s bank has with CRAs.

<sup>27</sup> Such relationships tend to exist between a mainstream CRA and a niche provider of specialist information.

<sup>28</sup> [Equifax response hearing summary](#), paragraph 2.

<sup>29</sup> [CashEuroNet response hearing summary](#), paragraph 28. CashEuroNet told us that it chose not to share data with CRAs that it had not requested data from. CashEuroNet identified that there would be additional costs in

Teletrack told us that there was a tendency in the industry to see this data as the intellectual property of lenders and that any sharing would offer rivals a competitive advantage.<sup>30</sup> Equifax told us that lenders' reluctance to share their customer data stemmed from the fact that they thought their data might be abused or misused in some way or they might lose customers as a result.<sup>31</sup> However, during our hearings a number of lenders informed us that they were increasing the number of CRAs they were sharing with.

45. We are unaware of any sharing of information between CRAs, though there are some commercial arrangements (generally between a large/mainstream CRA and a smaller/niche CRA) for CRAs to resell each other's data or products.

### ***Real-time data sharing***

46. The FCA has encouraged the HCSTC<sup>32</sup> industry to work with CRAs to use 'real-time' data. We understand that the current definition/specification of 'real time' being offered or implemented by CRAs varies from near instantaneous data provision to daily/nightly batch updates. We understand that the FCA considers daily updates to be a significant improvement in the frequency of data sharing.
47. In its consultation paper,<sup>33</sup> the FCA identified a target of at least 90% of lending transactions to be reported to the CRAs in real time. We understand that, if daily updates are considered sufficient for this purpose, a target of 90% is likely to be achievable.
48. We note, however, that the extent of sharing of data in real time is currently limited by some CRAs to only those parties which provide data to the CRA in real time (and pay for a real-time service) whereas other CRAs make data available in real time to all their customers.<sup>34</sup> The FCA told us that it would like to see lenders sharing with at least two CRAs. Having given a very clear steer of what it expected from players in the market, both in terms of the frequency of information provided and the number of agencies to whom it was provided, the FCA told us that if it did not see evidence of progress by November 2014 it would consider introducing data-sharing requirements.<sup>35</sup>

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sharing data more widely without benefits to CashEuroNet and were uncertain about the benefits to customers given the reports of other credit providers basing lending decisions on the existence of a payday loan on a borrower's credit history.

<sup>30</sup> [Teletrack response hearing summary](#), paragraph 18.

<sup>31</sup> [Equifax response hearing summary](#), paragraph 2.

<sup>32</sup> High-cost short-term credit which includes payday loans.

<sup>33</sup> FCA, [CP14/10](#).

<sup>34</sup> That is, lenders and other financial institutions.

<sup>35</sup> [FCA response hearing summary](#), paragraph 28.

49. Furthermore, the richness of data that is shared in proposed or current real-time sharing platforms appears to vary significantly.
50. We were told that the pricing structure for real-time products from one CRA (Callcredit) included significant upfront fees.<sup>36</sup> It was put to us that the minimum revenue guarantees (and termination penalties) charged by some CRAs to access real-time information were significant, especially for new entrants and smaller lenders. Where a lender wished to enter the market on a small scale to collect initial application data to develop its lending models, it might be forced to choose not to adopt a real-time solution at the outset. Furthermore, lenders were required to provide 90 days of lending data before they could use the service, which would exclude new entrants using the system. However, we understand that as new products are launched by other CRAs, subsequent new entrants and smaller lenders may have a greater choice between the offerings of different CRAs.
51. We were told by Teletrack<sup>37</sup> that the proportion of credit agreements where information was shared with multiple CRAs was significantly lower than in more established credit markets. We considered that even where real-time data sharing existed, there would be residual uncertainty whether or not a borrower had been issued with a loan, because a lender could not be certain that their CRA's data set was complete. As a result, lenders would incur greater costs in either obtaining credit searches from multiple CRAs for no certain benefit, or the increased credit risk would be reflected in the price of credit offered.

*Evaluation of potential measures to encourage sharing of real time data*

52. We see significant benefits of real-time data sharing, both for lenders and borrowers as a whole. By increasing the frequency of data updates, the uncertainty facing lenders of whether a credit facility has been recently opened following a credit search is reduced. Increasing the frequency of CRA updates would reduce the risk that a potential borrower had accepted multiple loans without a third party lender being aware (though as we have identified in paragraph 13, both the speed of underwriting and the speed of the potential borrower's acceptance of credit may also affect the delay). The development, enhancement and uptake of effective schemes for real-time data sharing may be expected to reduce barriers to entry and/or expansion for lenders associated with assessing potential borrowers' creditworthiness. We also identified that it could facilitate shopping around by reducing the risk that legitimate

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<sup>36</sup> [REDACTED]

<sup>37</sup> [Teletrack response hearing summary](#), paragraph 18.

search behaviour would be misinterpreted as a sign of a credit-hungry borrower taking out multiple loans in a short period of time.

53. We noted that, prompted by the FCA, CRAs and the payday lending industry have made significant progress towards developing and using real-time data sharing and that, to date, it has not been necessary for formal regulatory action to be taken to achieve this aim. We also noted that the technology is still evolving in this area and that making further progress in this regard requires a variety of parties to work together and to make additional investments in what is a new and important product line for some CRAs. The potential benefits of increased real-time data sharing go wider than the issues of competition which we are investigating and are potentially also applicable to other markets.
54. Against this background, we provisionally decided not to impose our own, additional obligations on payday lenders in relation to real-time data sharing.
55. However, our analysis of the current state of play indicates that there is considerable variation in the extent of data that is shared and the frequency of data sharing, as well as the openness of real-time data-sharing schemes to new lenders.
56. Given the valuable role that real-time data sharing could play in addressing the AEC and resulting customer detriment, and the further scope for improvement, we have provisionally decided to recommend to the FCA that it continue to work closely with lenders and CRAs to encourage the development and use of real-time data-sharing systems that are open to all payday lenders and other credit providers. As part of this recommendation, the CMA proposes that the FCA should:
  - (a) monitor and promote developments in the supply and use of real-time credit information and the role that such developments can play in enhancing competition and ensuring that customers are not penalised for shopping around; and
  - (b) monitor and promote the sharing of credit information by payday lenders with more than one CRA. This will reduce the need for new entrants to purchase data from multiple CRAs and reduce the risk that customers are disadvantaged because of gaps in the coverage of particular CRAs; and
  - (c) monitor the terms of access to real-time data-sharing schemes to ensure that these do not act as a barrier to entry or expansion for new lenders.

## **Remedy design considerations relating to the proposed obligation on lenders to provide a summary of borrowing costs**

### **Introduction**

1. This appendix sets out in order:
  - (a) a summary of the findings of our customer research in respect of a summary of borrowing;
  - (b) our considerations on the possible methods of notification or distribution of a summary; and
  - (c) the design objectives of the presentation of that information on an individual's cost of borrowing.

### **Customer research**

2. In this section we document some of the findings from our customer research.
3. Our research found that borrowers' initial reaction to the idea of receiving a statement of borrowing were negative or neutral, as customers recognised that it could be uncomfortable or distressing to confront their spending. However, it was also perceived as a means of helping borrowers to 'keep on top of their finances', and potentially to deter others who were relying too heavily on payday loans.<sup>1</sup>

### **Content**

4. Participants in the survey said that they wanted each loan to be itemised so that they could see the amount borrowed, any interest and late fees paid, and the total amount repaid. They would also want to see the grand total borrowed and the total interest charged, across multiple loans if applicable. There was an expectation that there would be signposting to both money management/ debt advice as well as the independent price comparison site, included with the statement.

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<sup>1</sup> [Customer research](#), p40.

## **Presentation**

5. Although the value of statements, particularly for heavier borrowers, was accepted in principle, customers felt they would be fairly easy to ignore.<sup>2</sup>
6. Our research found that in order to ensure that customers looked at their statement, there was agreement that many would need to be forced to do so. Requiring customers to look at their statement at the point of taking out a new loan was envisaged as effective. On the other hand, linking to the statement after taking out a loan was seen as 'too late'; by this point in the journey customers did not want to engage further with payday loans and would be unlikely to read the statement.<sup>3</sup>

## **Notification or distribution of a summary**

7. We considered how best to distribute the summary to borrowers. We identified three main potential channels:
  - (a) post;
  - (b) email; and
  - (c) a web interface linked to a borrower's account.
8. We did not consider SMS (text messaging) to be a practical option for conveying the summary itself. We considered that the limitations of SMS message length (typically 160 characters) mean that it would be ineffective in communicating any meaningful information in respect of borrowing history but that it would be a potentially appropriate method for notifying borrowers of the availability of a summary.
9. A summary distributed by post would be an accessible format and would avoid the need for a borrower to have access to a mobile phone or the Internet. We considered that providing a copy of the summary in hard copy would allow customers to consider the cost of their borrowing and would also be readily accessible. However, we were conscious of the cost to lenders of distributing the summary by post and that for online lenders and borrowers this was not the usual method of communication, which may lead to the assumption that it was 'junk' mail. Furthermore, we considered that this would

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<sup>2</sup> *ibid*, p41.

<sup>3</sup> *ibid*, p41.

place the onus on borrowers proactively reviewing the summary and would not give assurance that a borrower had reviewed the statement.<sup>4</sup>

10. We then considered the use of email to send the statement. We had some concerns in respect of ensuring that borrowers received and read the email and also data protection which we discuss below.<sup>5</sup> There was also a risk that such an email could be profiled as spam by ISPs and email providers. However, as with SMS, we thought that email could be a useful way of notifying customers of the availability of the summary.
11. The final option we considered was to require online lenders to integrate a summary into a customer's account profile. A number of lenders told us that they either offered a similar facility, or their technology could be adapted with relatively little cost to provide this information.<sup>6</sup>
12. By integrating the summary into the existing lending process, it is certain that borrowers would be presented with the summary (and lenders could incorporate recording a borrower's declaration into the application process).
13. We considered that online distribution of a statement would not necessarily be an appropriate means of distribution for high-street borrowing. We considered that the provision of a hard-copy statement would be an appropriate alternative.
14. We considered that access through an online portal would allow lenders to record a declaration by a borrower that they had reviewed the summary before an additional loan would be issued. For loans issued in high street premises, a borrower could request the statement and sign a declaration of receipt.

#### *Considerations of data protection and security and accuracy of contact details*

15. We were informed by Dollar that payday loan customers changed their mobile phone numbers on a regular basis. Similarly Dollar told us that its customer base was often transient with respect of their contact details with customers potentially changing telephone number every two to three months.<sup>7</sup>

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<sup>4</sup> By divorcing the receipt of the summary from the usual loan application channel, we were concerned that any requirement to 'tick' or affirm receipt of the statement would be less likely.

<sup>5</sup> Paragraphs 15–16.

<sup>6</sup> Parties that referenced providing borrowers with an account management facility included: [Dollar hearing summary](#), paragraph 37; [CashEuroNet hearing summary](#), paragraphs 29–30; [Wonga hearing summary](#), paragraphs 49–50; [Elevate Credit International Limited \(formerly Think Finance UK\) hearing summary](#), paragraph 32.

<sup>7</sup> Dollar told us that its facility could easily be expanded to show any previous borrowing.

<sup>7</sup> [Dollar hearing summary](#), paragraph 38.



16. Because of the perceived transience of customers, issues relating to data protection would in part be linked to the length of time between a loan being issued (at the point at which personal information was most likely to be correct) and the point at which a summary was sent:
- (a) With respect to changing telephone numbers, we considered that there was a risk that on changing telephone number customers would either sell or share a SIM card or that a number would be recycled.<sup>8</sup>
  - (b) With any summary sent by post, there was a possible danger of a customer moving. We considered this to be a less significant risk.
  - (c) With respect to short-lived email addresses, whilst this would reduce the effectiveness of the remedy, it did not necessarily give rise to a concern with respect of data protection. Instead we identified the overall security of the email account as the most significant risk.

### **Design objectives**

17. We considered that for a summary to be effective it should:
- (a) be provided on a timely basis;
  - (b) be accurate;
  - (c) present financial information in clear, understandable terms;
  - (d) include only content that is relevant and meaningful to a borrower;
  - (e) provide the ability for a borrower to identify more detailed information and signpost where this information can be obtained; and
  - (f) avoid directly associating the repayment of a loan with the need to take out a further loan.
18. We considered that lenders may choose to assess the extent to which borrowers are using the statements, either through affirmative acknowledgement of review or by monitoring click-throughs from emails notifying the borrower of the availability of the summary, to the summary on a lender's website (using a hyperlink to a URL that would track an individual's journey to

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<sup>8</sup> Numbers are typically recycled once a phone has not been used for six months. See Ofcom: [Pay as you go mobile – use it or lose it](#).

the website). If a lender chose to send the summary by email, the opening of the email could be tracked using web beacons<sup>9</sup> or other means.

19. Any summary should be presented in the most appropriate format for an individual borrower. We consider that presentation of this information on a secure website, email, post or hard copy in store to be possible methods of distribution subject to a lender's consideration of taking appropriate data protection methods. Figure 1 shows an example of how this information might be presented using a customer's online account. Figure 2 shows the same page but with additional information on previous loans expanded.
20. Where a lender does not distribute the summary directly to a borrower (such as by providing it in a borrower's account online, or in hard copy in-store), a lender should ensure that a borrower is made aware of the availability of the statement. An example of how this might be communicated via SMS is shown in Figure 3.

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<sup>9</sup> The embedding of a graphic hosted on a website in an email. When the email is opened (assuming it is not opened in plain text format), the graphic is accessed and it is possible to track that the email has been opened.

FIGURE 1

**Example presentation of a summary of the cost of borrowing  
provided through a borrower's account**

[Home](#) | [How it works](#) | [How much does it cost](#) | [About us](#) | [My Account](#)▼ [John Smith](#)

**LenderA.com**[My Account](#)  
[Sign out](#)

Welcome back John,

Please review the information below before continuing:

You repaid your last loan of £260 on 3 July 2014.

- The cost of your loan was **£44.12** which includes **£15 of late fees** because you were late in repaying.
- You paid in a single instalment

In the previous 12 months you have taken out 4 loans with us which have cost you **£167.47** in total. By repaying on time you would have saved **£30.72**.

[\[+\] Click here for more detailed borrowing history](#)

You can check if you are getting the best loan for your borrowing needs on [www.paydaypricecomparison.com](http://www.paydaypricecomparison.com) an independent accredited price comparison site

I confirm that I have reviewed this information

Source: CMA.

FIGURE 2

**Example presentation of a summary of the cost of borrowing provided through a borrower's account with expanded summary of previous loans**

[Home](#) | [How it works](#) | [How much does it cost](#) | [About us](#) | [My Account](#)

[LenderA.com](#)

[▼ John Smith](#)  
[My Account](#)  
[Sign out](#)

Welcome back John,

Please review the information below before continuing:

You repaid your last loan of £260 on 3 July 2014.

- You paid in a single instalment
- The cost of your loan was **£44.12** which includes **£15 of late fees** because you were late in repaying.

In the previous 12 months you have taken out 4 loans with us which have cost you **£167.47** in total. By repaying on time you would have saved **£30.72**.

[\[-\] Click here for less detailed borrowing history](#)

Date of loan	Amount	Duration	Interest	Late fees	Total cost
4 Aug 2013	£150	6	£7.20	-	£7.20
14 Dec 2013	£184	30	£44.27	£12.13	£56.40
19 Mar 2014	£260	27	£56.16	£3.59	£59.65
22 June 2014	£260	14	£29.12	£15	£44.12
<b>Total (4 loans)</b>			<b>£136.75</b>	<b>£30.72</b>	<b>£167.47</b>

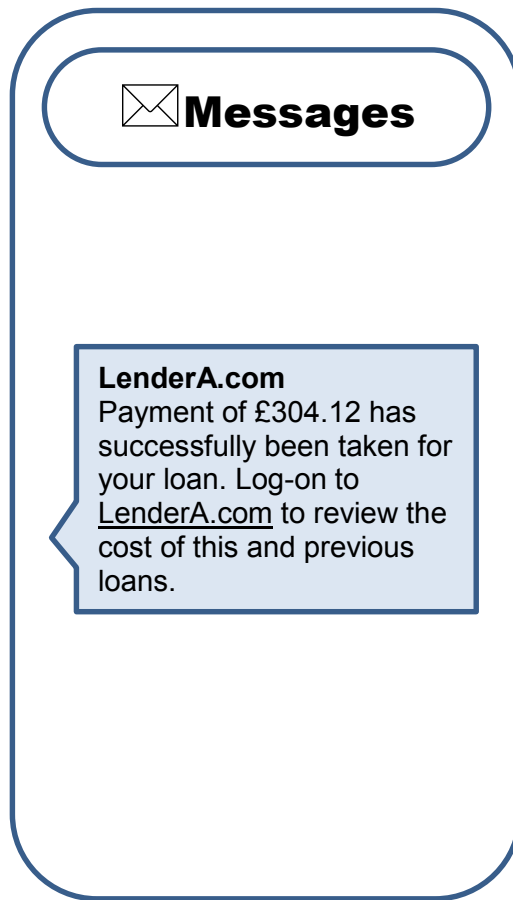
You can check if you are getting the best loan for your borrowing needs on [www.paydaypricecomparison.com](http://www.paydaypricecomparison.com) an independent accredited price comparison site

I confirm that I have reviewed  
this information

Source: CMA.

FIGURE 3

Example presentation of the availability of a summary by SMS (129 characters)



Source: CMA.

## Australian Government requirement for warning in small amount credit contracts

### Regulation 28XXB

1. Regulation 28XXB of the Australian National Consumer Credit Protection Regulations 2010 places a requirement on licensees to include a warning on their website(s) as shown below.

#### **28XXB Small amount credit contracts – requirements for warning on licensee’s website**

For paragraphs 124B (1) (b) and 133CB (1) (b) of the Act, the requirements for a licensee’s website are as follows:

- (a) a hyperlink, in the form of a boxed icon and the words ‘Warning about Borrowing’, must appear on the homepage and any webpage which contains information about the benefits or characteristics of small amount credit contracts and be displayed in a size that is not smaller than it would appear on the webpage using Arial font and 12 points in size;
- (b) the hyperlink must be in the form shown in Schedule 8;
- (c) the hyperlink must open a warning;
- (d) the warning must:
  - (i) be as set out in Schedule 9; and
  - (ii) use the typeface known as Arial; and
  - (iii) unless otherwise illustrated in Schedule 9, be displayed in a size that is not smaller than it would appear on the webpage using Arial font and 10 points in size; and
  - (iv) include the words ‘WARNING – Do you really need a loan today?’:
    - (A) at the start of the warning; and
    - (B) in bold font; and
  - (v) include the words ‘This statement is an Australian Government requirement under the *National Consumer*

*Credit Protection Act 2009*', displayed in a size that is not smaller than it would appear on the webpage using Arial font and 8 points in size;

- (e) an identical warning must immediately appear when a person clicks on an access point or link that would take the person to a webpage where the person can apply for a small amount credit contract;
- (f) an application form for a small amount credit contract must not be able to be accessed until the identical warning is closed or acknowledged.

*Example for paragraph (f)*

The acknowledgement can be done by clicking on a 'progress with application' button offered on the page.


(Source: [www.comlaw.gov.au/Details/F2012L02429](http://www.comlaw.gov.au/Details/F2012L02429). Accessed on 3/10/14.)

2. Figure 1 shows an example of the warning in use on a lead generator's website. We noted that the dialogue box was placed prior to the point at which an applicant could enter their details, and required an interactive acknowledgement from customers before proceeding with an application.

FIGURE 1

Example of warning in use in Australia

**WARNING – Do you really need a loan today?**

 **This statement is an Australian government requirement under the National Consumer Credit Protection Act 2009.**


It can be expensive to borrow small amounts of money and borrowing may not solve your money problems.

**Check your options before you borrow:**

- For information about other options for managing bills and debts, ring 1800 007 007 from anywhere in Australia to talk to a free and independent financial counsellor.
- Talk to your electricity, gas, phone or water providers to see if you can work out a payment plan
- If you are on government benefits, ask if you can receive an advance from Centrelink: phone 13 17 94

Go to [www.moneysmart.gov.au](http://www.moneysmart.gov.au) – MoneySmart shows you how small amount loans work and suggests other options that may help you.

**By clicking apply I acknowledge that I have read and understood this warning.**

**APPLY** 

Enter with no space  
**Driver License Number:**

Used to confirm your loan  
**Driver License State:**

**Est Monthly Living Expenses:**

Source: [www.pay-dayloans.com.au](http://www.pay-dayloans.com.au) (operated by Pingtree PTY Ltd). Accessed 19/09/14.



## **The impact of the FCA's proposed price cap**

### **Introduction**

1. In this appendix we describe the FCA's price cap proposals, published in July 2014, and discuss the likely impact of these proposals on the payday lending market (and on competition between payday lenders in particular). Our assessment is based on the FCA's initial proposals as set out in its consultation document – the FCA does not intend to publish its final rules until early November 2014.

### **The FCA's proposals**

2. As set out in our provisional findings, following an announcement in November 2013, the Government introduced legislation to impose a duty on the FCA to place a cap on the price of payday loans. The FCA must implement the cap no later than 2 January 2015.
3. In July 2014, the FCA published its proposals for the cap. The stated aims of the cap are to protect those whose financial position would become worse if they took out HCSTC and protect those who struggle to repay because of escalating costs, while ensuring that most customers can continue to access HCSTC (and do so at a lower price).
4. The three key elements of the proposals are as follows:
  - The initial cost cap of 0.8% of the outstanding principal per day, on all interest and fees charged during the agreed loan duration and when refinancing. This covers all the charges and fees associated with a loan repaid on time (including interest charges, but also charges for any ancillary charges, such as loan agreement charges, faster payment charges, insurance charges etc). Where a loan is repaid in instalments, the cap dictates the amount that can be charged on the outstanding balance.
  - The cap for those in default of a total of £15 on fixed charges and interest at the same rate as the initial cost cap calculated per day on outstanding principal and fixed default charges.
  - The total cost cap of 100% of the total amount borrowed applying to all interest, fees and charges.

5. To give an example of how the proposed cap would apply in practice, a customer borrowing £100 for 30 days would pay a maximum of: £24 during the agreed loan duration (ie 0.8% per day for 30 days); up to £15 fixed fees if the loan was overdue; and maximum late interest charge of 0.8% of outstanding principal for every day that the loan is overdue. The total amount charged cannot exceed £100, implying a limit on total late charges of £76 – although the borrower would need to be over two months late in repaying the loan in order for this maximum level of the cap to apply.
6. Where a loan is refinanced by a replacement agreement, the principal used to calculate the cap on the total cost of the loan is the higher of the original loan principal or the new principal, rather than the sum of these amounts. Similarly, for running account products, the principal used to calculate the total cost cap is the lower of the account credit limit or the amount of credit the lender actually advances. In contrast, where a loan is topped up, the top-up amount is added to the original principal in calculating the total cost cap.
7. The FCA is not proposing to impose restrictions on pricing structures beyond its general rules, so lenders will be able to structure their charges under the cap in any way they choose (so long as the total amount charged to borrowers does not exceed the relevant thresholds). For example, they may choose to charge upfront fees (or rollover fees), combined with daily interest charges below the level of the cap.
8. The FCA's consultation document proposes that the price cap should apply only to those credit agreements made on or after 2 January 2015, and not any pre-existing loans, unless a pre-2 January 2015 HCSTC agreement is varied in a specified way. It proposes that agreements which are in breach of the price cap should be unenforceable against the borrower. The FCA is proposing to review the cap in two years' time.
9. In addition to the price cap proposals, in its consultation paper the FCA also sets out its expectation that by November 2014 more than 90% of current market participants (by market share and volume of loans) will participate in real-time data sharing. It also expects that firms should share data more widely to improve the coverage of real-time databases. If these targets are not met, the FCA said that it would consult on the introduction of data-sharing requirements.

### **Impact of the FCA's proposals on the payday lending market**

10. In this section we summarise some of the most significant potential implications of the price cap proposed by the FCA for the payday lending market. We look in turn at the possible impact on lenders' risk thresholds, market structure

and the types of product on offer. This assessment is based on the cap as specified in the FCA's proposals (which may change following its consultation process).

### ***Tightening of lender risk thresholds***

11. By reducing the expected revenue associated with a given customer, the cap is likely to cause lenders to tighten their risk thresholds, granting fewer loans to relatively high-risk customers. This is because the expected gains from lending to the highest-risk customers are unlikely still to exceed the expected costs (given the risk that they do not repay). As a result, the cap is likely to lead to a reduction in the number of customers who are able to take out a payday loan, and to reduce the overall riskiness of the population of payday lending customers that continue to be approved for loans.<sup>1</sup>
12. In order to estimate the likely scale of this impact, the FCA uses loan-level data for a sample of eight payday lenders covering the period January 2012 to December 2013 to model each supplier's lending decisions.<sup>2</sup> The key assumption underpinning the model is that a firm will approve a loan only where lending to that customer would make a positive contribution – ie where the expected revenues associated with the customer exceed the costs directly attributable to that loan, ie acquisition and default costs. Using the risk scores assigned by lenders to loan applicants, or in the case of some lenders scores constructed by the FCA, together with information on the direct costs associated with customers in different risk bands, the FCA can then model for each lender which of the loans granted in 2012 and 2013 would have been unprofitable – and so would not have been made – had the cap been in place and per-loan revenues been at a lower level.
13. Using this approach, the FCA estimated that the proposed cap would lead to a significant reduction in the number of payday loans granted.<sup>3</sup> In particular, its model predicted that the price cap would cause lenders to reject around 21% of applicants which they would have otherwise approved for a loan. Looking across all lenders, it is estimated that 11% of customers that took out a payday loan in the period covered by the FCA's data would not have been approved for a loan by any lender had the cap been in place.

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<sup>1</sup> One factor which could offset a reduction in the number of payday lending customers is if lower prices stimulate demand for loans, attracting new customers to the payday lending market. In this regard, the FCA noted that there had been evidence of such a demand response in Florida, but it did not expect the cap to have a large effect on demand in the UK, mainly because customers did not seem to be very sensitive to price in general.

<sup>2</sup> See [FCA 'Technical annexes, Supplement to CP14/10', Technical Annex 1, for further details of the FCA's methodology](#).

<sup>3</sup> See [FCA 'Technical annexes, Supplement to CP14/10'](#) p68, Table 7.

14. As well as the reduction in the number of loans granted, the tightening of risk thresholds is also likely to lead to a reduction in the overall riskiness of the population of payday lending customers that continue to be approved for loans. Specifically, the FCA estimated that the proportion of first loans which would not be repaid in full in the presence of the cap would fall from over 40% to around 35%.

### ***Market structure***

15. A second potential impact of the price cap is that by reducing the revenues suppliers expect to earn on each loan, as well as the number of loans that they issue, suppliers' profitability is likely to fall. Given the scale of the likely reduction, this may mean that less efficient and/or less well-resourced lenders exit the market.
16. As part of the analysis underpinning its proposals, the FCA carried out a modelling exercise to estimate the extent of potential market exit that might result from the cap. To do this, it combined its estimates of the likely impact of the cap on lender revenues with information on the overheads of each provider (including – most importantly – collection costs, acquisition and marketing costs, and corporate overheads). A firm was assumed to be unlikely to remain in the market if its overheads significantly exceeded the contribution of the loans it was predicted to make in the presence of the cap.
17. Using this approach, the FCA found that five out of the eight firms for which it carried out the modelling would be at risk of exiting the market in the presence of the price cap. The FCA emphasised that its static modelling provided a worst-case scenario in terms of the impact on lenders, as it did not account for any dynamic effects as lenders respond to the cap (for example, changes to the types of products on offer – which are discussed in more detail below).
18. The lenders that we spoke to echoed the view that a number of less efficient firms are likely to exit the market as a result of the cap. For example, Global Analytics said that it expected many lenders to go out of business as a result of the cap, and that in order to survive a lender would need to be well capitalised.
19. However, most lenders expected more than three suppliers to survive. For instance, CashEuroNet told us that a number of small firms currently offered products priced below the cap, and that it was therefore unlikely that only three firms would remain in the market. It said that the key determinant of whether a lender survived would be the effectiveness of its credit models

rather than its size.<sup>4</sup> Dollar said that it expected more than three or four lenders to remain in the market, because lenders' products would respond to the cap.<sup>5</sup> Global Analytics said that it would not expect to make a profit in 2015 but it expected to regain profitability in 2016.

20. Supporting this, two of the smaller lenders that we spoke to (Think Finance and Provident<sup>6,7</sup>) made it clear that they intended to stay in the payday lending market in the presence of the cap.<sup>8</sup>

### ***Impact on the types of product on offer***

21. The structure of the cap is also likely to influence the characteristics of the loan products that lenders offer, by affecting the relative profitability of different types of product in different ways or by making it more difficult to structure certain types of product in ways that comply with the structure of the cap. One possible implication is that certain types of product (and in particular certain combinations of loan duration and repayment structure) may no longer be viable as a result of the cap, and so the range of products on offer in the market may be reduced. In what follows we discuss possible specific impacts of the cap on the pricing structures used by lenders, on loans of different durations, and on running account products.

### ***Pricing structures***

22. As well as imposing limits on the *level* of prices, the price cap may also influence the *way* in which lenders price their loans. For example, because the cap is applied per day of the loan, lenders may be discouraged from using traditional monthly interest rates which do not vary depending on whether a customer borrows for a full month or for just part of it. Instead, it may become more common to observe lenders imposing restrictions on minimum loan durations, or quoting customers daily interest rates.<sup>9</sup>
23. Similarly, the cap on default fees may be expected to encourage lenders to simplify and consolidate their late fee structure. In particular, some lenders currently charge a number of different types of late fees, triggered by different defaulting behaviour (for example, immediate fees for missing a payment,

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<sup>4</sup> [CashEuroNet response hearing summary](#), paragraph 9.

<sup>5</sup> [Dollar response hearing summary](#), paragraph 4.

<sup>6</sup> Provident told us that it did not offer 'traditional' payday loans repayable on the customer's next payday but rather it offered an instalment product with declining principal for either a 13- or-26 week period which was paid back weekly.

<sup>7</sup> [Provident response hearing summary](#), paragraphs 4–10.

<sup>8</sup> Think Finance, however, said that the cap would cause it to change the rate of progression within its product and would possibly cause it to eliminate some of the lower tiers.

<sup>9</sup> The FCA noted, however, that the lenders that remained in the market would still have some flexibility to choose their pricing structure (see the [FCA's Proposals for a price cap on high-cost short-term credit](#), paragraph 1.30).

further fees after a fixed period if the loan still has not been repaid, trace fees). By limiting the total fees that can be charged to £15, the scope for lenders to use multiple late charges will be greatly reduced.

### *Loan duration*

24. The price cap proposals may also affect the incentives of lenders to offer loans of certain durations.
25. First, the viability of some longer duration loans may be affected by the cap on the total cost of credit (ie the element that requires that lenders cannot charge customers more than 100% of the initial loan principal). In particular, the cap may make longer-term loans on which borrowers make little or no contribution to the loan principal until the end of the loan agreement unviable.
26. Relating to this, the FCA commented in its consultation document that the incentive for lenders to offer loans of duration longer than six months was particularly likely to be reduced by the cap.<sup>10</sup> [§]<sup>11</sup> Dollar said that its expectation was that products in the marketplace with durations of longer than six months would be unlikely to be observed in the presence of the price cap, given the 100% total cost of credit cap.<sup>12</sup>
27. Second, the cap may discourage loans of very small value or loans with very short durations. This could be the case if costs are incurred in making a loan, irrespective of the loan's size and duration (and so its expected revenue). For example, the costs of acquiring a customer via an affiliate, the administration costs associated with processing a loan and the cost of carrying out credit checks are all likely to be the same irrespective of the value or length of the loan. Because the cap level is set as a fixed proportion of loan amount and varies linearly with duration, lenders may find it difficult to recoup the disproportionately high costs incurred by relatively small loans within the bounds of the cap, and so may be disincentivised from offering such loans.
28. Supporting this, Wonga said that it expected the price cap to reduce the incentive for lenders to offer loans of smaller value and shorter duration. It said that the cap might cause lenders to impose minimum borrowing amounts, or minimum loan durations. Similarly, Dollar said that the cap may discourage very short-term loans, given providers' fixed origination costs.<sup>13</sup>

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<sup>10</sup> See [FCA 'Technical annexes, Supplement to CP14/10'](#), p116.

<sup>11</sup> [§]

<sup>12</sup> [Dollar response hearing summary](#), paragraph 16.

<sup>13</sup> *ibid*, paragraph 16.

29. There are, however, reasons to consider that an incentive will nevertheless exist for lenders to continue to offer small or short-duration loans. Specifically, this could be the case if there are marketing benefits associated with the simplicity or flexibility of a product offering that allows customers greater control over how much they borrow and how long for. Moreover, the propensity of customers to return to a lender for further loans implies that the expected revenue associated with a customer taking out a loan of limited value or duration is likely to extend beyond that single transaction. We note that CashEuroNet currently allows customers to borrow for very short periods using its FlexCredit product (which has a daily interest rate of 0.82%), without charging customers a fixed transaction fee.

#### *Running account products*

30. Finally, the cap on the total cost of credit may make certain types of running account product that offer customers line-of-credit type access to borrowing unviable. Specifically, customers with running account products that are making multiple drawdowns within the scope of the same running account agreement may be particularly likely to come up against the limit that the amount charged cannot exceed 100% of the credit limit or the maximum amount outstanding under the agreement. The cap may therefore encourage lenders to move away from running accounts, or to place restrictions on the minimum value of the initial loan advance or the number of drawdowns that can be made.
31. Relating to this, Think Finance told us that – if retained – the way that the total cost element of the cap was structured would force it to change its product from a running account into a multi-installment product. It believed that this would not be in the interest of customers as its running account product gave customers a way to only draw down what they needed when they needed it, while an instalment loan encouraged a customer to take out ‘extra’ as they never knew if they would get access to the funds they needed again. This would also be to the detriment of its customers, who valued the flexibility of being able to repay whenever they wanted to, without having a fixed instalment schedule.

#### **Impact of the cap on competition between payday lenders**

32. In this section we consider the potential impact of the price cap on the effectiveness of competition between payday lenders. We begin by discussing the potential impact of the cap on the features of the market that we have identified as giving rise to an AEC. We then discuss the impact of the cap on the customer detriment arising as a result of this AEC.

### ***Potential impact of the price cap for the features of the market giving rise to an AEC***

33. In our provisional findings, we identified two sets of features which together contribute to and help to explain the failure of payday lenders to compete on price, and give rise to an AEC. We discuss each of these in turn below, before discussing the possible impact of the price cap on the likelihood of coordination between payday lenders.

#### ***Features that limit customers' responsiveness to prices***

34. The first set of features weaken competition by limiting customers' responsiveness to prices by deterring or impeding customers from comparing the different loans available, and from switching lender. We considered that, in general, these features reflect fundamental underlying characteristics of the short-term unsecured lending market, and so will continue to restrict competition between lenders in the presence of the price cap. We identified two exceptions where the price cap may be expected to moderate to some degree the adverse impact on competition of some of the features: first, if it leads to some simplification and/or standardisation of the products on offer in the market, improving their comparability; and second, if it reduces the risk perceived by customers considering switching lender. Nevertheless, we did not consider that these effects would be sufficient to prevent the features that we have provisionally identified giving rise to an AEC.
35. More specifically, considering each of the features identified in our provisional findings in turn:
- (a) The perceived urgency of the need for a payday loan, and the focus on credit availability. The cap is highly unlikely to reduce the perceived urgency underpinning many borrowers' decisions to take out a payday loan, or remove the uncertainty that many customers face when making the decision of which lender to borrow from.
  - (b) Difficulties faced in identifying the best-value loan product on offer. Although it is possible that the price cap will lead to an increase in the homogeneity of the pricing structures used by different lenders (for instance, by encouraging the use of daily interest rates, and simplifying late fees), the underlying complexities associated with comparing loans with different durations and repayment options are likely to remain. In addition, the current lack of effective price comparison websites is likely to continue to impede customers from being able to identify effectively the best-value loan for their needs.



- (c) The heightened insensitivity to late fees. The price cap is unlikely to reduce the overconfidence affecting some customers regarding their ability to repay a loan on time. However, to the extent that it leads some lenders to simplify the structure of their late charges, this may improve the extent to which customers are able to understand those fees.
  - (d) The role of lead generators. We would not expect the price cap in and of itself to affect the extent to which borrowers understand the service offered by lead generators, or the success of these intermediaries in attracting loan applicants. The cap may, however, reduce the profitability of lead generators (given that the price of a lead is likely to be driven by the expected profitability of a customer), leading to the exit of some of these intermediaries from the market.
  - (e) The perceived risks and loss of convenience associated with switching lender. The price cap is unlikely to affect the loss of convenience associated with switching lender. To the extent that it serves to improve the reputation of the payday lending market, then customers might feel more comfortable trying new lenders in the knowledge that the cap offers protection from very high charges.
36. Given this, we concluded that it would continue to be the case in the presence of the price cap that features of the payday lending market would limit the extent to which customer demand is responsive to the price of payday loans, and reduce the pressure for lenders to compete to attract customers by lowering their prices.

***Features that weaken the constraint from entry and expansion***

37. The second set of features identified in our provisional findings adversely affect competition by weakening the constraint that might otherwise be imposed on lenders by the prospect of new entry or expansion.
38. Broadly speaking, we would expect the cap to further weaken the competitive constraint that lenders face from the threat of entry and expansion if, by reducing expected profitability, the cap reduces the incentive for new lenders to enter, and increases the resources a new entrant requires to overcome its initial disadvantages and establish itself in the market.
39. Thinking specifically about the disadvantages faced by new entrants relative to more established suppliers, the price cap is unlikely to mitigate any of the difficulties faced by new lenders in trying to raise customers' awareness of their product given the barriers to shopping around and switching that are present in the market, the strength of the well-established brands which

already exist, and the costs associated with advertising on a sufficient scale to be effective. The cap is also unlikely to remove the disadvantage that new entrants face when assessing credit risk, although developments in real-time data sharing may help in this respect.

40. One potentially positive effect on competition resulting from the cap – and the FCA’s enhanced regulation of the payday lending sector more generally – is that it may improve the sector’s reputation. This in turn may reduce the deterrent faced by any businesses with established reputations in other sectors which are considering entering payday lending, and may also make it easier for new entrants to establish banking relationships.
41. In this respect, we noted that when contacted after the publication of the FCA’s proposals, RBS told us [§].
42. We concluded that – by reducing profitability – the cap was likely to reduce the likelihood of entry and expansion in the market, and was unlikely to remove the disadvantages felt by new entrants which were identified in our provisional findings. To the extent that it improves the sector’s reputation, the cap might have the beneficial effect of widening the pool of potential businesses which would consider entering the payday lending market, although we did not consider that this effect would be sufficient to prevent the AEC that we have provisionally identified.

### **Coordination**

43. We also noted a further potential impact of the price cap on competition – that it may increase the likelihood of coordination between lenders. This could be the case if the cap provides a salient focal point around which lenders seek to coordinate their prices – weakening competition by incentivising lenders to avoid competing with each other to their mutual benefit, and instead simply pricing to the cap.
44. A number of lenders said that suppliers may respond to the FCA’s price cap by pricing at the ceiling. For example, Dollar said that it expected to see some concentration of pricing around the cap level, subsequent to its introduction. This reflected what it had observed when caps had been imposed in the USA or Canada.<sup>14 15</sup> Think Finance said that one effect of the price cap might be for lenders to migrate towards the 0.8% cap rate.

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<sup>14</sup> [Dollar response hearing summary](#), paragraph 17.

<sup>15</sup> While the academic literature investigating the impact of ceilings on loan prices is limited, a study by DeYoung and Philips (*International Journal of Banking, Accounting and Finance*, Vol 5, Nos 1/2, 2013) – who looked at the

45. Any coordination of this type would be assisted by the features of the market giving rise to an AEC that we have identified. Specifically, the barriers to entry and expansion that we have identified will act to help to ensure that new entrants are unlikely to undercut incumbent providers successfully, and the barriers to shopping around and switching will reduce the incentive for any one lender to reduce its own prices to win business from its rivals. On the other hand, we also noted that the likelihood of coordination subsequent to the cap being introduced would be hampered by the large variation in the efficiency, costs and products offered by different lenders.

### ***Customer detriment***

46. As set out above, while it may encourage competition by improving the reputation of payday lending and leading to more standardised products, the price cap will not resolve the key features of the market that we have identified as giving rise to an AEC, and may give rise to a risk that price competition between payday lenders is further dampened (albeit around a lower interest rate than is currently observed in the market) if the price cap were to become a focal point for the price of payday loans.
47. However, by enforcing a significant reduction in the prices charged to customers that continue to be able to take out a loan, the cap may generate some of the beneficial effects that we might otherwise expect more effective price competition to bring about.
48. Against this background, we considered what, if any, customer detriment was likely to remain as a result of the AEC that we have identified, and what scope for competition would continue to exist under the price cap regime.
49. In line with the FCA's analysis, we noted two possible outcomes that may arise from the introduction of the price cap and that may affect the scope for future price competition and hence the benefits of any competition-enhancing remedies we might introduce:
- (a) Given the reduction in profitability that lenders will face as a result of the cap, they may not have the financial headroom to further cut their prices relative to their current level of costs.
  - (b) The FCA's price cap may facilitate the emergence of market conditions under which tacit coordination is more likely to arise (see paragraph 6.17).

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pricing patterns of payday lenders in Colorado (where a cap was introduced in 2000) between 2000 and 2006 – found that loan prices moved upward toward the legislated price cap over time and the variation in prices across payday loans diminished.

50. Our view is that scope for substantive price competition within the constraints of the price cap would remain:
- (a) First, even in the short term, some lenders' costs are likely to allow them to price beneath the cap for their products, and as such there is likely to be some scope for these lenders to undercut their rivals were competition to become more effective. We note that some lenders already charge around or beneath the cap level (or have done so historically)<sup>16</sup> and that there is considerable variation in the efficiency of different lenders.<sup>17,18</sup> This suggests that there exist business models that allow lenders to operate viably with prices below the proposed cap. We also note that the FCA considered that there will still be a viable market for those lenders which decide not to exit.<sup>19</sup>
  - (b) Second, as discussed in our provisional findings, more effective competition would increase the pressure on lenders to compete for lower-cost customer groups, and such customers might be offered prices significantly beneath the price cap.<sup>20</sup> Such competition currently takes place to only a very limited extent. Examples of customers who might benefit from an increased, but targeted, price competition include customers with relatively good credit backgrounds or repeat customers with a proven repayment history.
  - (c) Third, in the longer term we would expect to observe a downwards trend in many categories of lenders' costs. This might happen, for example, as lenders adapt their products to the cap regime; as lenders continue to adjust their business models in response to the FCA changes to CPAs and rollovers; as external CRA data improves;<sup>21</sup> and as a result of the natural trend for lenders to get better at assessing risk the more experience they have.<sup>22</sup> Without effective price competition, there will be no pressure for lenders to pass any cost reductions of this type on to customers.
51. In relation to the possible risk that the price cap reduces the scope for competition by incentivising lenders to price at the level of the cap, we discussed in the main document (see paragraph 6.17) how the cap might

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<sup>16</sup> See paragraph 1.29.

<sup>17</sup> See our [provisional findings](#) (for instance, paragraph 4.167, and the discussion about how the ability of assessing credit risk varies across lenders in Section 7).

<sup>18</sup> These differences in the efficiency may also increase as a result of the different way suppliers will adapt to the new regulatory regime.

<sup>19</sup> See the FCA's consultation, paragraph 5.84.

<sup>20</sup> See our [provisional findings](#), paragraph 8.11.

<sup>21</sup> See paragraph 3.183.

<sup>22</sup> See our [provisional findings](#), paragraphs 7.88–7.89.

facilitate tacit coordination. We considered that the risk of coordination would only increase the importance of our proposed package of remedies, including the introduction of effective PCWs. By stimulating customers' responsiveness to prices, and by facilitating entry and expansion, our proposed remedies would increase incentives on lenders to compete with each other, therefore undermining the sustainability of coordination.

52. We concluded that the potential detriment to customers as a result of the AEC would still be significant even with the cap in place, especially given that the longer-term dynamic effects of competition<sup>23</sup> are very difficult to replicate through measures to control outcomes such as a price cap. Therefore, we took the view that significant further benefits could be realised by the introduction of effective remedies to the AEC that we have provisionally identified in the payday lending market.

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<sup>23</sup> Such as, for instance, those mentioned in paragraph 50(c).

## **2014 financial performance**

### **Introduction**

1. This appendix is structured as follows:
  - (a) We first summarise the regulatory changes which have occurred within the payday lending market since the beginning of the payday lending market investigation.
  - (b) Against this background, we then summarise the main changes to the major lenders during this time, including ownership, product mix and FCA regulatory actions.
  - (c) Finally we discuss the financial performance of the major lenders for the first half of 2014 (H1 2014) in comparison with the first half of 2013 (H1 2013).

### ***Regulatory changes since the beginning of the investigation***

2. On 1 April 2014 the FCA took over regulation of the consumer credit industry, including payday lending. The CONC became effective at this time, containing the FCA's rules on consumer lending.
3. Detailed rules relating to the assessment of affordability and creditworthiness of customers before entering credit agreements are particularly relevant to payday lenders. While section 55B of the CCA included requirements to assess the creditworthiness of a borrower before concluding the lending agreement, prior to April 2014, detail of what would satisfy those requirements were statutory guidance issued by the OFT and included in the Irresponsible Lending Guidance. Section 55B of the Consumer Credit Act and the relevant OFT Guidance has now been replaced by CONC 5.2 and 5.3.
4. Another important power the FCA now has is the ability to appoint, or require a lender to appoint, a skilled person. The FCA can commission a report by a skilled person where necessary, or appoint a skilled person to collect and update information where it considers that its rules have been contravened.
5. From 1 July 2014, the FCA's rules imposing limits on rollovers and the use of CPAs for HCSTC came into force. A HCSTC loan can only be rolled over twice, while HCSTC lenders are restricted to two CPA attempts on a customer's account. The customer can 'reset' the CPA when the CPA limit is reached and a loan is refinanced (including rollovers) or for instalment loans,

subject to strict conditions to ensure consumers remain in control of their accounts. Part-payments are also banned without the express consent of the consumer. The FCA also imposed a risk warning for financial promotions of HCSTC.

6. The FCA has also been given a duty by Parliament to implement a price cap on payday lenders, to become effective on 2 January 2015. The Consultation Paper 14/10: 'Proposals for a price cap on high-cost short-term credit', limits interest to 0.8% per day with a maximum default fee of £15. The total cost of the loan (interest, fees and charges) cannot exceed 100% of the original loan principal.

### ***Changes to the payday lending market and the major lenders***

7. Since the beginning of the investigation there has been a reduction in supply of payday loans by the major lenders. This is reflected not only in falling revenues and loan volumes, but also in the number of firms which have exited the market, either through cessation of payday products or complete closure.
8. Despite this, there have also been new entrants during the period with Think Finance (Sunny) and Provident Financial (Satsuma) launching in 2013.
9. When this investigation began in mid-2013, we focused primarily on 11 lenders. Since then several lenders have undergone significant changes, some as a result of FCA reviews.
10. Product changes have also occurred, with some lenders moving away from single-payment one-month payday lending products entirely, while others introduced instalment and revolving credit products alongside single-payment loans.

### ***Ariste***

11. In June 2014, Ariste reported to the FCA upon three matters that raised serious concerns<sup>1</sup> as to whether customers had been treated fairly. In July 2014 the FCA issued a requirement to Ariste to conduct a consumer redress scheme overseen by a skilled person under section 166 of the Financial Services and Markets Act 2000 comprising: (a) an investigation to identify whether or not consumers had been affected by any breaches of contractual and/or regulatory obligations; and (b) a scheme for assessing the redress that

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<sup>1</sup> Concerns related to (a) a systems weakness and other matters that may have allowed unauthorised charges to be applied to Ariste customers' accounts; (b) potential misuse of banking information provided to affiliated websites to repay outstanding debts of existing customers in arrears; and (c) a number of issues in relation to the refinancing (ie rolling over) of customers' loans.

would be appropriate in any instances of breach of an applicable contractual and/or regulatory obligation.<sup>2,3</sup>

### *CashEuroNet*

12. In early 2013, CashEuroNet introduced FlexCredit, a revolving credit facility.

### *CFO Lending*

13. CFO ceased providing payday loans in May 2014.<sup>4</sup> In August 2014 the FCA appointed a skilled person to review its collection practices.

### *Cheque Centres*

14. Cheque Centres withdrew from payday lending in May 2014 following a review by the OFT/FCA. Instalment lending and pawnbroking were also temporarily suspended while changes were made to collection policies and staff retrained.<sup>5</sup>

### *Dollar Financial*

15. Dollar's parent company, DFC Global Corp (DFC), was sold to private-equity firm Lone Star in June 2014. Prior to this, DFC had been publicly traded and listed on NASDAQ.
16. In July 2014 Dollar announced a voluntary £0.7 million refund to customers after an FCA review found that Dollar had exceeded its own lending criteria in giving loans to certain customers. It also announced the appointment of a skilled person to review lending decisions.<sup>6</sup>

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<sup>2</sup> See [FCA Requirement Notice](#).

<sup>3</sup> On 6 October 2014 EZCORP, Inc, the parent company of Ariste (trading as Cash Genie), issued a [press release](#) announcing a plan to exit the online lending business in the UK. EZCORP stated that recent changes in the UK regulatory environment relating to HCSTC had created challenges for the Cash Genie business. These changes included (a) the transfer of regulatory authority from the OFT to the FCA in April 2014; (b) the enactment by the FCA of regulations that focused on the affordability of the credit extended (ie the customer's ability to repay), the use of CPA to collect repayments, and sustained use of short-term credit products; and (c) the publication in July 2014 of the FCA's proposal for rate caps on HCSTC products that were scheduled to become effective in January 2015. In light of these changes in the regulatory environment, and in the context of the refinement in company strategy, the company had decided to exit the Cash Genie business as soon as practicable.

<sup>4</sup> See [FCA Requirement Notice](#).

<sup>5</sup> See [FCA document](#).

<sup>6</sup> See [FCA press release](#).



## *H&T*

17. H&T withdrew from single-payment one-month payday lending products in June 2013 and withdrew its online payday lending product in January 2014. H&T's personal loan product, introduced in September 2013, offers up to £1,000 repayable over up to 24 months.

## *SRC*

18. SRC and its online lending operation WageDayAdvance share a compliance function. Following an FCA review in June 2014, a skilled person was voluntarily appointed to review compliance for both companies.<sup>7</sup>
19. In early 2014 WageDayAdvance introduced FlexAdvance, an instalment loan of between £80 and £750 payable over up to 18 months. SRC ceased offering its open-ended product in June 2014, and now offers a single period payday loan and the 'flexloan' instalment product which was launched in 2012.

## *The Cash Store*

20. In April 2014 the Cash Store's Canadian parent company, Cash Store Financial, entered administration.<sup>8</sup> The UK subsidiary followed in August 2014.<sup>9</sup>

## *Wonga*

21. Wonga has agreed to repay £2.6 million to customers following an OFT/FCA investigation into its debt collection practices. The investigation found that Wonga had sent letters to customers from non-existent law firms threatening legal action over uncollected loan amounts. A skilled person was appointed to oversee the process. In April 2014, Wonga also reported to the FCA that it had discovered system errors relating to the calculation of the amount owing on customer accounts where fees, balance adjustments or the timing used to calculate interest were not consistently applied.<sup>10,11</sup>
22. On 2 October 2014 the FCA announced that Wonga had entered into an agreement, known as a voluntary requirement (VREQ). The VREQ requires Wonga to undertake remedial redress for customers who were affected by inadequate affordability assessments. The FCA indicated that approximately

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<sup>7</sup> See [FCA Requirement Notice](#).

<sup>8</sup> See [CCAA information](#).

<sup>9</sup> See [Independent](#), 12.8.2014.

<sup>10</sup> [FCA press release](#).

<sup>11</sup> On 30 September 2014 [Wonga Group announced results for the year to December 2013](#) which included a charge of £18.8 million for remediation relating to historic debt collection and systems issues.

330,000 customers in excess of 30 days in arrears will have the balance of their loan written off and will owe Wonga nothing; and that approximately 45,000 customers between 0 and 29 days in arrears will be asked to repay their debt without interest and charges and will be given an option of paying off their debt over an extended period of four months.<sup>12</sup>

## 2014 financial performance

23. In order to compare the financial performance of the major lenders for the first half of 2013 and 2014, we issued a financial template for all lenders to complete. The following analysis includes the 11 original major lenders with the exception of Cheque Centres, CFO Lending, H&T and The Cash Store, as they have all exited the market. These lenders were small market participants and we do not consider that excluding these lenders affects our analysis.<sup>13</sup>

### *Rankings of major lenders by revenue and new lending*

24. Previously more than [X]% of the combined payday lending revenue of the major lenders has been served by three firms: Wonga, Dollar and CashEuroNet. From our analysis of 2014 revenue (Table 1) and new lending<sup>14</sup> (Table 2) this is still the case. However, there has been some movement in the relative shares of combined revenue of these lenders.

TABLE 1 Analysis of revenue

	%		
<i>Lender</i>	<i>H1 2013</i>	<i>H1 2014</i>	<i>% point movement</i>
Ariste	[X]	[X]	[X]
CashEuroNet	[X]	[X]	[X]
Dollar (online and high street)	[X]	[X]	[X]
Global Analytics	[X]	[X]	[X]
MYJAR	[X]	[X]	[X]
SRC	[X]	[X]	[X]
WageDayAdvance	[X]	[X]	[X]
Wonga	[X]	[X]	[X]
Total	100.0	100.0	

Source: CMA analysis of 2014 financial template.

Note: SRC and WageDayAdvance constitute a single major lender for the purposes of our analysis.

<sup>12</sup> FCA press release.

<sup>13</sup> See provisional findings, Table 2.5.

<sup>14</sup> New lending relates to loan principal and does not include rollovers.

TABLE 2 Analysis of new lending

Lender			%
	H1 2013	H1 2014	% point movement
Ariste	[X]	[X]	[X]
CashEuroNet	[X]	[X]	[X]
Dollar (online and high street)	[X]	[X]	[X]
Global Analytics	[X]	[X]	[X]
MYJAR	[X]	[X]	[X]
SRC	[X]	[X]	[X]
WageDayAdvance	[X]	[X]	[X]
Wonga	[X]	[X]	[X]
Total	100.0	100.0	

Source: CMA analysis of 2014 financial template.

Note: SRC and WageDayAdvance constitute a single lender for the purposes of our analysis.

25. Our analysis of revenue and new lending for the first half of 2014 against the equivalent period in 2013 indicates that: [X] to be the [X] major lender while [X] has [X] as the [X] largest major lender in both [X] and [X]. [X] has remained the [X] largest lender by revenue and the [X] largest by new lending. [X] was the [X] largest major lender by revenue and the [X] largest by new lending. There was no change in the positions of [X].
26. We also noted that while [X] are the only companies growing new lending, they are also [X] of the [X] major lenders [X]. As a proportion of the total revenue of major lenders, [X] now make up [X]% of total revenue compared with [X]% in 2013.<sup>15</sup>

### Trends in financial performance

#### Total revenue and new lending

27. Total revenue for the major lenders analysed fell 22% in H1 2014 from H1 2013, to £[X] million. The trend in monthly revenue is illustrated in Figure 1.

FIGURE 1

#### Total revenue, January to June 2013, 2014

[X]

Source: CMA analysis of the 2014 financial template.

28. The most significant fall in revenue was reported by [X], with revenue down £[X] million (a reduction of [X]%) between H1 2013 and H1 2014. [X]

<sup>15</sup> These percentages are based on revenue figures for [X].

revenue was also down [X] % year on year to £[X] million. [X] revenue was down [X] %. [X], increased revenue, by [X] %.

29. Figure 2 shows the trend in monthly new lending undertaken by the major lenders analysed in H1 2013 and H1 2014. Total new lending in 2014 was down £[X] million against 2013, a fall of 20% year on year.

FIGURE 2

**Total new lending (principal), January to June 2013, 2014**

[X]

Source: CMA analysis of the 2014 financial template.

30. The pattern of changes in new lending was slightly different from changes in revenue as [X] accounted for the largest monetary fall of £[X] million, a decrease of [X] % year on year. The largest fall in the rate of new lending was reported by [X], down [X] % from £[X] million to £[X] million.
31. [X]<sup>16</sup> increased lending during the period. [X] grew new lending by [X] % and [X] % respectively while [X] increased new lending by a rate of [X] %. [X] was the only lender to increase [X].<sup>17</sup>

*Net profit*

32. The combined net profit of the major lenders analysed fell during the period, by 1.4% year on year. Our analysis of total net profit as a percentage of total revenue (Figure 3) showed that firms made higher levels of profit from less revenue.

FIGURE 3

**Net profit as a proportion of revenue for the major lenders analysed, January to June 2013, 2014**

[X]

Source: CMA analysis of the 2014 financial template.

33. We noted that the monthly variation in the levels of net profit was greater in 2014 than in 2013.
34. Reductions in the provision for doubtful debt expense was a significant factor contributing to higher net profit percentages at several lenders. While we did

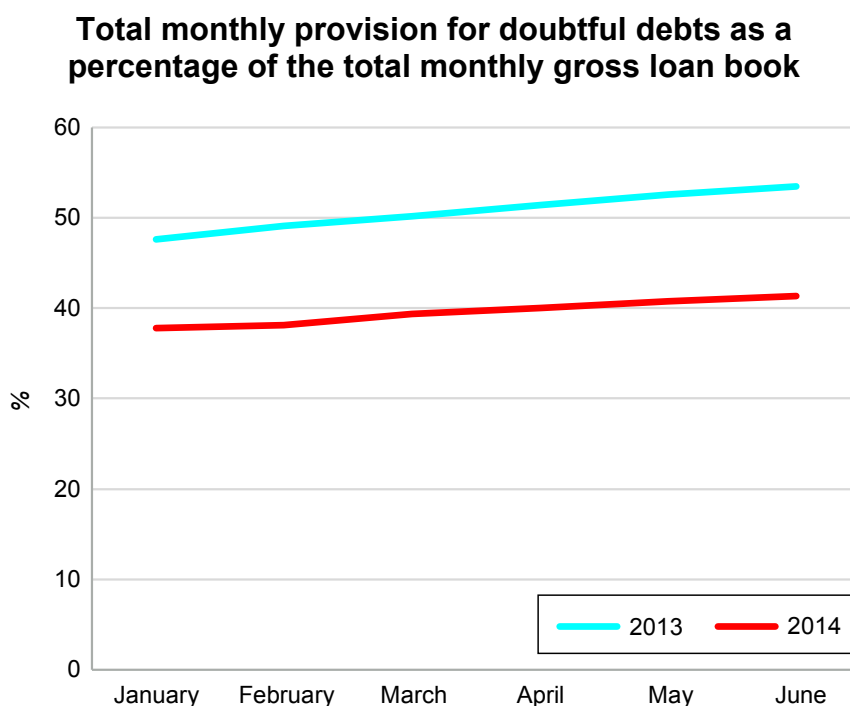
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<sup>16</sup> [X]  
<sup>17</sup> [X]

not receive information on the monthly expense itself, we were able to make conclusions from movements within the monthly balance sheet provision.<sup>18</sup>

35. Figure 4 shows the monthly movement in the provision for doubtful debts as a percentage of the monthly gross loan book, between 2013 and 2014. From this, the provision as a percentage of the gross loan book has decreased approximately 10% year on year. For some firms changes in the provision for doubtful debt had a significant effect on net profit. For example, [X] provision for doubtful debts increased £[X] million between January and June 2013, but fell £[X] million for the same period in 2014.

FIGURE 4



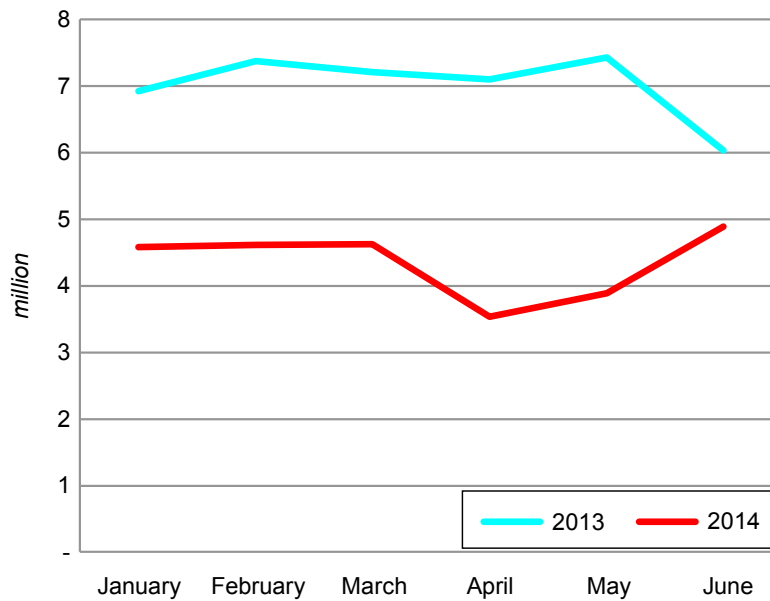
Source: CMA analysis of 2014 financial template.

36. During response hearings several lenders told us that there had been a noticeable decrease in demand. This was supported by our analysis of completed loan applications received, shown in Figure 5. Between 2013 and 2014 the total number of loan applications received decreased by 16 million (a reduction of 38% year on year).

<sup>18</sup> A fall in the provision for doubtful debts would indicate lower costs and higher net profit; a rise in the provision would increase costs and therefore lower net profits.

FIGURE 5

**Number of completed loan applications received monthly  
by major lenders for January to June 2013, 2014**

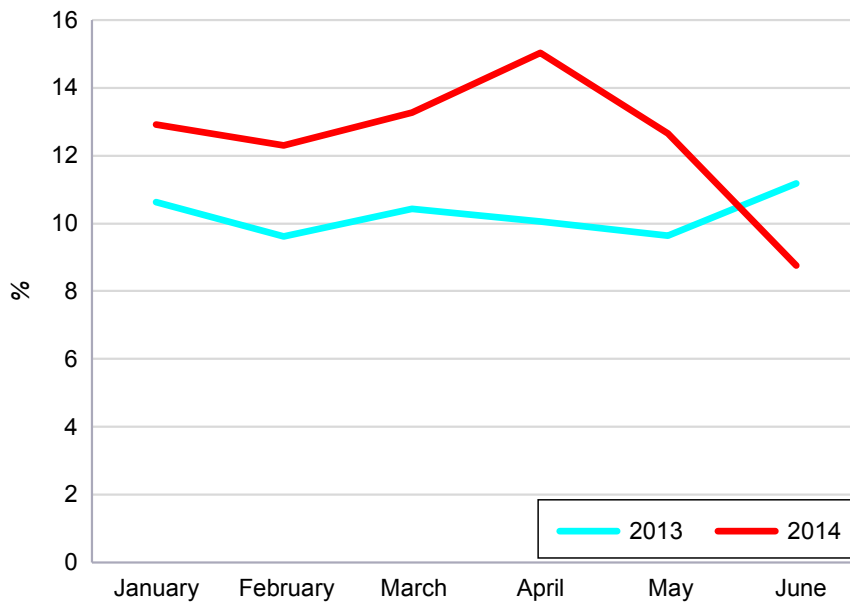


Source: CMA analysis of 2014 financial template.

37. The trend in applications was similar for both years until May, where 2014 experienced an upturn but the application rate in 2013 decreased. There was also a larger drop in applications in April 2014 than April 2013.
38. Figure 6 shows the total loan approval rate for the major lenders analysed for the period January to June for both 2013 and 2014. Although the total number of applications fell, the proportion of loans approved was much higher in the first five months of 2014 than 2013.

FIGURE 6

**Monthly loan approval rates for major lenders, January to June 2013, 2014**

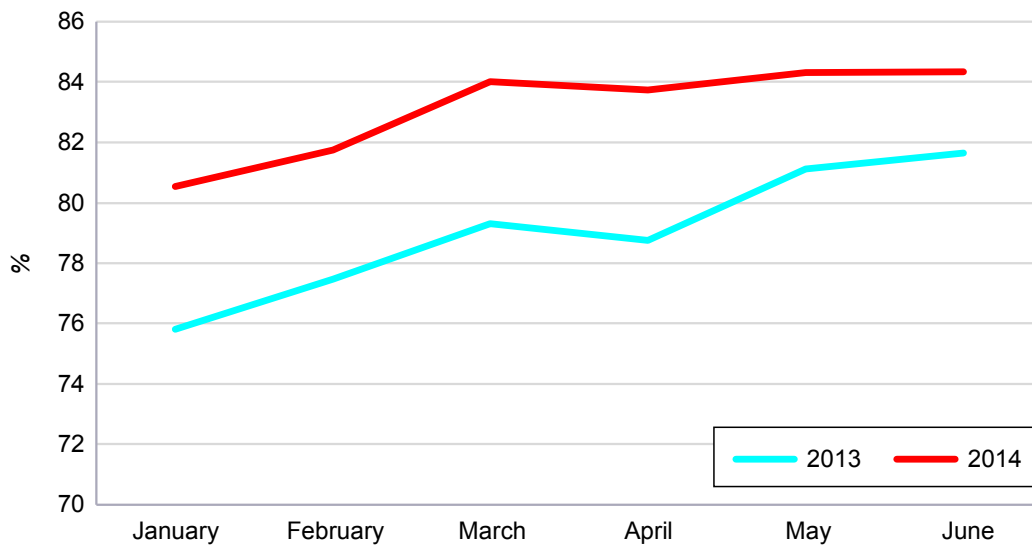


Source: CMA analysis of 2014 financial template.

39. The higher approval rates observed may be explained by the further analysis in Figure 7 which indicated higher levels of lending to returning customers in 2014. 83% of total loans approved in 2014 were to returning customers, compared with 79% in 2013.

FIGURE 7

**Number of returning customers as a percentage of total loans approved for all lenders**



Source: CMA analysis of 2014 financial template.

## CashEuroNet

40. CashEuroNet's results showed a [X] in revenue and a [X] in new lending 2014 against 2013. Net profit, [X] during the period due to CashEuroNet's product mix.
41. Figure 8 illustrates how CashEuroNet's product mix changed over the period. [X] introduced in early 2013, FlexCredit [X]. QuickQuid experienced [X], making net profit of £[X] in 2014. [X]

FIGURE 8

### Total CashEuroNet new lending by loan product, January to June 2013 and 2014

[X]

Source: CMA analysis of 2014 financial template.

42. Although CashEuroNet's total net profit for H1 2014 [X], application rates [X] with the number of returning customers at [X]%. Acceptance rates have [X], from an average of [X]% to [X]%. The provision for doubtful debts [X] in 2014, compared with a [X] in 2013.
43. [X]

## Dollar

44. Dollar's revenue and new lending have [X] from 2013. Figure 9 illustrates Dollar's total revenue from payday operations in 2013 and 2014, a total [X].

FIGURE 9

### Dollar's total revenue by month, January to June 2013 and 2014

[X]

Source: CMA analysis of 2014 financial template.

45. Figure 10 shows Dollar's new lending for all entities between January and June 2013 and 2014. This is [X] year-on-year.

FIGURE 10

### Dollar's total new lending by month, January to June 2013 and 2014

[X]

Source: CMA analysis of 2014 financial template.



46. Dollar comprises three entities: MEM Consumer Finance, Express Finance and Instant Cash Loans. MEM and ICL both reported revenue [REDACTED] of more than [REDACTED]% during the period, but revenue at Express Finance [REDACTED]%. New lending at Express Finance [REDACTED]%, with the net loan book valued at £[REDACTED] million in June 2014, compared with £[REDACTED] million in 2013.
47. Dollar also reported [REDACTED] and [REDACTED] for [REDACTED]. [REDACTED] of Dollar's entities made [REDACTED] for the six months ended 30 June 2014, with Dollar [REDACTED] a total [REDACTED] (2013: net profit £[REDACTED] million). Total loan applications were [REDACTED] by [REDACTED]% to [REDACTED] million.
48. However, for the same period Dollar's acceptance rate [REDACTED] an average of [REDACTED]% of total applications (2013: [REDACTED]%). The acceptance rates for MEM and Express averaged [REDACTED]% and [REDACTED]% respectively.<sup>19</sup>
49. Detailed analysis of Dollar's results showed that March to April 2014 was a significant turning point. For example, April revenue [REDACTED]% month on month, and May revenue [REDACTED]%. New lending followed a similar pattern, with April lending [REDACTED]% from March 2014, and the number of applications received [REDACTED] by almost [REDACTED].
50. The timing of these [REDACTED] coincided with the implementation of CONC, particularly affordability and creditworthiness checks. Dollar told us that its lending criteria were substantially changed in order to meet FCA requirements, which had resulted in lending to less risky customers. This had an impact on the online business as [REDACTED], and these customers were less likely to meet Dollar's new lending requirements. Therefore Dollar would not bid for them in the pingtree, [REDACTED] the number of applications it considered. [REDACTED] in the number of new loan applications supports this argument, with [REDACTED] online applications in April 2014 alone.
51. Dollar told us that it considered it had come under greater FCA scrutiny than the other major lenders and was therefore the first to make changes required by the FCA.

## Wonga

52. Our analysis of the first half of 2014 against the equivalent period in 2013 indicated that Wonga's revenue and new lending [REDACTED]%. Net profit was [REDACTED]% year on year at £[REDACTED] million compared with £[REDACTED] million in 2013. We noted that Wonga's reported level of monthly net profit was variable with year-on-year changes ranging from [REDACTED]% to a [REDACTED]. Total applications [REDACTED]% year on

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<sup>19</sup> [REDACTED]

year, however, Wonga's acceptance rate [X]% from [X]%. The [X] acceptance rate may be explained by the [X] proportion of returning customers, which reached [X]% in H1 2014, and [X]% in June 2014 compared with [X]% in H1 2013. We considered that the [X] level of repeat lending was likely to have been a contributor to the [X] in [X] than [X] in addition to the [X] in the provision for doubtful debt discussed in paragraph 34.

### ***Smaller lenders***

53. Global Analytics [X] net profit from £[X] million in 2013 to £[X] million in 2014 with revenue [X]% and customer applications [X]%. The proportion of returning customers, [X]% in 2014 from [X]% in 2013. Approval rates [X]%.
54. MYJAR [X].
55. SRC was [X] in 2014. However, this appeared to be due to [X], which [X] total net profit to £[X] million. Our analysis showed that WageDayAdvance [X], with [X] revenue ([X]% year on year) and new lending ([X]% year on year). Net profit, [X] to £[X] million from £[X] million, and the provision for doubtful debts as a percentage of the gross loan book [X] during the same period. The proportion of returning customers [X] to [X]% from [X]% and the acceptance rate [X] to [X]% from [X]%. WageDayAdvance introduced a new product during the period, [X].

### ***July 2014***

56. Following the introduction of limits on rollovers and CPA use from 1 July, the CMA also requested financial information for July 2014.
57. Revenue for all lenders in July 2014 was down 39% on July 2013, a similar rate of decline for the June-on-June period where combined revenue decreased 34%. Total net profit was, however, down significantly (a reduction of 44%) from July 2013. The performance in July was despite a decrease of £[X] million in the provision for doubtful debts during the month.
58. Figure 11 illustrates the fall in net profit for each lender between June and July 2013 and 2014. Most of this movement was attributable to [X]. July-on-July, [X] net profit fell £[X] million; [X] fell [X]% compared with [X]% in June.

## FIGURE 11

### Net profit for each lender, June and July 2013, 2014

[✂]

Source: CMA analysis of 2014 financial template.

59. The fall in new lending is not as large as that in revenue. In comparison with July 2014, new lending fell 37% year on year against July 2013; a comparison between June 2014 and June 2013 lending shows a fall of 34%. However, decreases in lending may have been made before July in preparation for the new FCA rules.

### Conclusion

60. The payday lending activities of the seven remaining major lenders still appear to be profitable in aggregate, but profit growth has ceased. Lending has slowed down, which may be explained by decreased demand, but also lenders tightening their credit policies. With falls in lending and revenue, cost control has become more apparent, as illustrated by the falls in the provision for doubtful debts expense observed. Increased lending to returning customers may also be part of cost control as returning customers are less risky and have lower information and acquisition costs than new customers.