



Competition and Markets Authority – Payday lending market investigation – provisional decision on remedies

Response from the Consumer Finance Association

Introduction

The Consumer Finance Association (CFA) is the principal trade association representing short-term (or ‘payday’) lending businesses operating in the UK. The CFA is pleased to have the opportunity to respond to the Competition and Markets Authority (CMA) provisional decision on remedies as part of the payday lending market investigation.

Price comparison website (PCW)

The CFA agrees that all lenders should be required to provide information to at least one PCW. The CFA believes that a PCW showing just payday loans will be of only limited value, particularly when these products become subject to a price control. We suggest that the CMA should go even further with this remedy and encourage the FCA to look at requiring all consumer credit lenders to participate on accredited price comparison websites.

The CFA’s response below is based on the assumption that lenders will be required to provide information to a PCW and display a link to one or more accredited PCWs. The model needs to be as simple as possible so that it is workable on a practical level. To ensure consistency this would mean that the PCW could only provide basic information, with customers receiving more detailed information from the lender as their application is progressed.

The CFA is pleased that the CMA is proposing that accredited commercial websites will be operating PCWs for short-term credit and that all lenders will be required to provide information to at least one PCW. This will ensure that lenders operate on a more level playing field. The proposal does raise a question, however, with regards to how the process of accreditation will sit alongside existing FCA regulation of PCWs.

The CMA should be aware of the possibility that the requirement for lenders to provide information to at least one PCW could create an uncompetitive situation, with lenders being unable to negotiate favourable commercial terms with PCWs.

Additional thought is also needed about how high street lenders can operate alongside a PCW. Potential customers searching for a loan via an online PCW are unlikely to subsequently go to a high street lender in order to get a loan. A retail lender might be required to pay a specific price for a click through from a PCW when the net result is likely to be that a customer visits the lender’s website but is unable to transact with the lender. This is quite different from an online lender that is more likely to write some business as a result of the click-through. As a result an online lender might be happy to negotiate a specific click through rate with a PCW as there is an increased chance that the customer may apply for a loan. However for a retail lender the costs would be excessive as the

customer is unable to transact online. The PCW may have little incentive to be flexible and lower their price for retail lenders, resulting in the PCW becoming inaccessible for retail lenders, at a reasonable price.

The CFA is concerned that, in the unlikely event that no commercial PCW is accredited, lenders will be expected to commission and fund a PCW, in a similar way to lenderscompared.org which covers the home-collected credit sector. The short-term credit and home-collected credit sectors are very different. There are currently many more lenders in the former, some of which operate on a very small localised basis. It is not clear how a large number of lenders, that vary dramatically in both size and approach, could be brought together effectively to commission and fund a PCW to their mutual advantage. Any PCW commissioned and funded by lenders would need to be regulated in its own right by the FCA, it is not clear how this could work in practice.

The CFA would like to add to comments made by various lenders and price comparison websites in regards to Google penalties for searches related to, but not containing, 'payday lending'. Google is a private company and, in ordinary circumstances, should be free to set business rules to its own liking. Google is, however, not an ordinary company in light of its ubiquity in the market for organic and paid search in the UK. The current adwords restrictions are likely to interfere with attempts to propagate payday loan rate comparison sites as made clear in the MoneySuperMarket response to the CMA. Given Google's domination of the search market, this impediment may be substantial. The CFA recommends that the CMA explores options to align Google policies with current UK market realities (in a tightly controlled FCA regime) and with UK public policy in regards to optimising PCW 'searchability'.

Improving the disclosure of late fees and other additional charges

The CFA agrees that the disclosure of late fees and any other additional charges should be improved. Taken together with the FCA proposals for a cap on the total cost of credit, this should ensure that all consumers are clear about the potential costs of a loan. As with any disclosure of information, however, the CMA and FCA will need to take care to ensure that the information is presented in a way which is easy for consumers to understand and beneficial to their borrowing decision.

Helping borrowers shop around without unduly affecting their access to credit

The issue of helping customers shop around without unduly affecting their access to credit applies to the whole of the consumer credit market, rather than just the small proportion of the market that short-term credit represents.

Uncertainty about whether credit will be offered and concern about the potential impact on an individual's credit record applies regardless of the credit product. Any extension of the use of quotation searches needs to apply across the market. The current approach varies by lender according to the type of product offered and the lender's commercial arrangements with CRAs. Some lenders have more negotiating power than other lenders. A requirement to undertake quotation searches would have an impact on those commercial arrangements and is therefore likely to affect competition in the CRA market. Both the CMA and FCA need to take account of this in any further work on this issue.

In any event, a quotation search can only give an indication of whether credit might be offered and potentially the cost of credit, based on universal terms and conditions. As a customer proceeds through the application more information can be provided specific to that individual's circumstances.

Encouraging development of real-time data sharing

Lenders have worked closely with credit reference agencies (CRAs) to develop solutions to provide real-time data sharing and 90% of the market by volume is already committed to sharing data on a real time basis. However, increased data sharing will have only limited benefit for consumers if it does not extend to the entire consumer credit industry.

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

The risk of providing more information to consumers is that they may feel bombarded with information and simply choose to ignore it. These proposals need to be considered carefully, particularly in light of experience in other parts of the consumer credit market. The annual statement for credit card users was introduced in 2011. Full evaluation of the effectiveness of this approach for credit card customers is needed before imposing further requirements on other markets.

The CMA proposal that customers receive a statement of costs and charges after every loan is sensible in principle. This information is already generally available to online customers via online customer account facilities. However the proposal that every statement also includes information from the last 12 months is more difficult to justify. Customers should be given the opportunity to opt out of receiving what is in effect a rolling 12 month statement, particularly if their relationship with the lender is for a matter of weeks.

Similarly, the CMA proposal that customers have to confirm that they have read the statement before taking out another loan will be disproportionate, singles out the small part of the market represented by payday loans for special treatment and is likely to be purely a tick-box exercise with little benefit to consumers. It would be entirely disproportionate for lenders to be required to prove that customers had actually read the statement. A degree of customer responsibility must be maintained.

Further consideration needs to be given as to whether the proposed remedies around statements are proportionate and helpful to consumers. If similar proposals were required of credit card providers, for example, consumers would receive a rolling annual statement and be required to confirm they had read the information before they could use the credit card for their next purchase. It is difficult to see the value of this.

The CMA also needs to consider what the position might be if a lender acquires another lender business or its loan book. The practicalities of harmonising systems could mean that a lender is unable to provide information on loans taken out with a lender prior to a takeover or loan book sale.

As with the PCW proposal, further consideration is needed as to how the proposal for summary statements would apply to high street lenders. Many customers who use high street lenders do not have internet access or are unhappy entering or accessing personal information online, and often give those reasons for using high street lenders, so it would not be appropriate to provide the information online.

The design of summary and periodic statements needs to take account of the issues raised above and the final proposal needs to be proportionate to a low value credit product with low margins. Transitional arrangements may also be needed to give lenders time to develop workable and practical solutions.

Increasing transparency regarding the role of lead generators

The CFA supports the CMA proposals regarding increased transparency around the role of lead generators. It is not only consumers who get confused about whether they are dealing directly with a lender or a lead generator or broker but also commentators, debt advice charities and the media.

Conclusion

The CMA's provisional decision on remedies raises a number of questions as to how some of the proposed remedies could work in practice. In particular the CMA should consider further how the remedies, particularly price comparison websites and summaries of charges, could be implemented in a way which is workable for retail lenders as well as online lenders.

On the proposal for summaries of charges, the CFA believes more work is needed to determine whether, or in what format, the information could be helpful for consumers. Evaluation of similar initiatives, such as annual credit card statements, is also needed to assess what consumers find useful.

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