

PAYDAY LENDING MARKET INVESTIGATION

Consultation on amendments to the price comparison website and the statement of borrowing remedies

Contents

	<i>Page</i>
Introduction	1
Price comparison website remedy	2
Summary of the cost of borrowing remedy	15
Appendix 1: Comparison of PCW remedy as currently proposed and as specified in our provisional decision on remedies	21
Appendix 2: FCA letter responding to our PCW remedy	27

Introduction

1. On 11 June 2014 we published a [Notice of provisional findings](#), a [summary of our provisional findings](#), a [Notice of possible remedies](#) and a [Notice of a request for a variation in our terms of reference](#). A [non-confidential version of our provisional findings](#) and the [accompanying appendices](#) were published on 13 June 2014.
2. During July, August and September 2014, we held 26 response hearings with parties including payday lenders, lead generators, other credit providers, the Financial Conduct Authority (FCA), credit reference agencies, price comparison websites (PCWs), internet search engines, trade associations, consumer bodies and debt and financial advice agencies. [Non-confidential versions of summaries of the response hearings](#) have been published on our website.
3. On 9 October 2014 we published our [provisional decision on remedies \(PDR\)](#), a [non-confidential addendum to our provisional findings](#) presenting additional evidence gathered on lead generators, and the [survey report](#) and [supporting appendices](#) produced by TNS BRMB.
4. We received 16 formal responses to the PDR and have published non-confidential versions of these responses on our [website](#). We have further contacted a number of additional parties to obtain responses on specific

aspects of individual remedies. These responses will form part of our evidence base in reaching our final decision on remedies.

5. This paper sets out a material change to our proposed PCW remedy that we are considering in the light of this consultation, specifically relating to the accreditation of PCWs by the FCA. We are also seeking additional views and evidence relating to one possible change to our proposed remedy that all lenders must provide customers with a summary of the cost of borrowing: the change relates to the period of time that the summary should cover.
6. We seek views on how any such amendment to these elements of our package of remedies would affect the effectiveness or proportionality of our proposed remedies package.
7. The Competition and Markets Authority (CMA) requests that the parties to this inquiry, and other interested persons, should provide any views in writing. Given the Christmas period we require responses by 5pm on Tuesday 13 January 2015 to paydaylending@cma.gsi.gov.uk or in writing to:

Matthew Weighill
Project Manager
Payday lending market investigation
Competition and Markets Authority
Victoria House
Southampton Row
London
WC1B 4AD

Price comparison website remedy

8. In our PDR we considered that the promotion of greater use of PCWs by customers and an improvement in the quality of the PCWs used by customers would 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. The remedy would also make it easier for new entrants with attractive products to enter the market. We further considered that a stronger competitive dynamic would be fostered by allowing multiple PCW operators to compete to innovate to service borrowers' needs. As a result of these factors we 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 was consistent with existing accreditation schemes operated in the energy and telecommunications sectors.

9. In order to achieve this objective, in our PDR we provisionally proposed issuing an Order such that lenders would be prohibited from providing payday loans unless details of their payday loan products were published on an accredited PCW. We stated that we provisionally intended to make a recommendation to the FCA that it establish and administer an accreditation scheme for PCWs for payday loans and a web portal containing hyperlinks to all accredited PCWs. We further provisionally decided that it would be for the FCA to determine the precise criteria for accreditation according to a number of high-level principles.
10. We have engaged with the FCA during the course of the investigation and have continued this since the publication of our PDR. Further to these discussions, the FCA formally set out its position on the proposed remedies discussed in our PDR on 18 December 2014 and this letter is attached as [Appendix 2](#) to this consultation paper. We assess the issues raised by the FCA and the issues that would result from adopting the FCA's proposals in the following subsection.

FCA comments

11. The FCA told us that it supported the objectives of our remedy and did not propose any change to our provisional decision to prohibit lenders from supplying payday loans to UK customers unless details of their payday loan products were published on at least one PCW which allowed borrowers to compare that lender's products with other products available in the market. However, while agreeing that the establishment of a voluntary accreditation scheme for payday loan PCWs would achieve our objectives, the FCA proposed another approach that it considered would be more effective.
12. The FCA said that, as part of its responsibility for the regulation of consumer credit, it is responsible for the authorisation of credit brokers. It was the FCA's expectation that PCWs that compared payday loans would legally be classified as credit brokers and would therefore need to be authorised and regulated by the FCA. Consequently the FCA said that raising the standards it sets for authorised payday loan PCWs would be the most effective way of achieving the outcome we are seeking rather than creating a parallel accreditation mechanism.
13. There are several consequential changes to the precise specification of the remedy as a result of moving from a voluntary accreditation scheme to a compulsory authorisation one. We discuss these later in this consultation document.

Our views on the revised proposal

14. The remedy package we set out in our PDR was structured to address the adverse effect on competition (AEC) that we had provisionally identified in the market. The purpose of the measures included within the package was to remedy certain aspects of the AEC and to improve outcomes for consumers. To ensure that our recommendation to the FCA with respect to PCWs would be effective and proportionate we have had detailed discussions with the FCA as to how we could best ensure that these outcomes are achieved within the statutory framework for the regulation of consumer credit and credit broking.
15. In our PDR we stated that there were significant benefits in the FCA acting as the accrediting authority given that the FCA's role as sectoral regulator would mean that it was better placed for continuing engagement with the market and to ensure that the accreditation criteria complemented the regulatory framework. We continue to take the view that the FCA would be the appropriate body to implement the improved standards required by our remedy.
16. Given the FCA's response to our PDR (as discussed above) we assessed the use of the FCA authorisation regime. We saw several benefits from a single authority operating a single regulatory framework and thus avoiding two regulatory regimes operating in parallel for PCWs in this sector.
17. The FCA's proposal that our remedy should be implemented through its authorisation regime (by raising the required standards for PCWs in this sector) would mean that the requirements of the remedy would apply to all PCWs operating in the market and that they were all operating on the same regulatory basis. This differs from the voluntary accreditation scheme set out in our PDR whereby PCWs would choose whether or not to be accredited. We considered that there would be benefits in improving the overall standard of PCWs in the payday lending market and that this could also avoid potential confusion to borrowers through two tiers of PCWs operating in the market.
18. We considered the proportionality of the FCA's proposed revision to our remedy and whether the proposed mandatory elements would affect those PCWs operating in the market which would not have chosen to seek accreditation. In our discussions with PCWs we did not identify any PCW operators who said that they would seek to offer payday lending price comparison services without seeking accreditation. We therefore concluded that this change in the status of the standards applied to PCWs would not materially increase the costs incurred by PCWs of complying with this remedy, and for most PCWs might decrease them.

19. We are therefore seeking views on the effectiveness and proportionality of this measure being included within the FCA's authorisation regime.
20. We consider that all of the outcomes which we had been seeking to achieve through the original specification of this remedy remain within the revised remedy as set out below in Figure 1.

Revised PCW remedy

21. We set out in Figure 1 a summary of the remedy which we are now proposing as a result of our continuing discussions with the FCA. The summary is presented in the same form as Figure 3.1 in our PDR.
22. In the paragraphs following this figure we discuss the main changes between this remedy and the one that we set out in Figure 3.1 of our PDR.

FIGURE 1

Summary of revised PCW remedy proposal

The CMA will issue an Order to the effect that:

- Online lenders¹ will be prohibited from supplying payday loans to customers in the UK unless details of their payday loan products are published on at least one payday loan PCW which is an FCA-authorized person following the FCA's implementation of additional standards. Where an online lender can demonstrate that it has been unreasonably excluded from all authorised payday loan PCWs, this prohibition will not apply.
- Where no authorised payday loan PCW exists within 12 months after the FCA's additional standards have come in to effect, online lenders will be given a further period of 6 months to commission a payday loan PCW and apply for authorisation. The prohibition will apply once this PCW has been authorised.
- Online lenders will be required to supply their selected FCA-authorized payday loan PCW(s) with relevant information on their payday loan products.
- Online lenders will be required to display a hyperlink prominently on their own websites to at least one FCA-authorized payday loan PCW on which its own

¹ As explained in paragraphs 33–35 and for the reasons given there, we are proposing to exclude high street lenders from the scope of this Order.

loans appear and/or to a web portal containing hyperlinks to all FCA-authorized payday loan PCWs in the event that such a web portal has been created.

In support of this Order, the CMA:

- Considers that creation of a web portal containing hyperlinks to all FCA-authorized payday loan PCWs would enhance the effectiveness of this remedy by helping customers to find an authorized PCW. We therefore recommend that the FCA, working with relevant partners as appropriate, consider how best such a web portal could be implemented and which body would be most appropriate to host the portal.
- Recommends that the FCA consider how to ensure that authorized payday loan PCWs do not unreasonably exclude any FCA-authorized payday loan providers or their payday loan products.

To address identified shortcomings of existing payday loan PCWs, the CMA further recommends that the FCA reviews its requirements for payday loan PCWs and uses its regulatory tools to raise the standards which apply to payday loan PCWs. Given the evidence the CMA has collected, and the AEC it has provisionally found, the CMA recommends that, in taking forward this recommendation, the FCA seeks to achieve the following outcomes for consumers (under each outcome we have provided some specific examples). However, it would be for the FCA to determine the standards it requires for payday loan PCWs.

Competitive neutrality

We recommend that the FCA seeks to ensure that authorized payday loan PCWs enable customers to view loans ranked on the basis of objective criteria and the default ranking should be the price of the loan. To this end, we recommend that the FCA considers how to ensure that authorized payday loan PCWs:

- Present loan product information/results of the customer's searches in ascending order of price unless the borrower requests a different presentation. On the basis of the evidence we have collected, we recommend ranking by the total amount payable.
- 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. Similarly, we recommend that, in the event of different products having the same price, any secondary ranking should be on the basis of objective factors that are of benefit to

customers and not be linked to the commercial interests of the PCW or of any lender.

- Clearly differentiate any advertising on their website from the ranking of loan products so that customers are not drawn away from the objective ranking of products by banner advertisements.

Customer relevance

We recommend that the FCA seeks to ensure that authorised payday loan PCWs enable customers to identify the loans that best meet their search criteria. To this end, we recommend that authorised PCWs:

- Provide a search function and return results that reflect the key features of the loan the customer is seeking. We consider that such functionality could include, for example, the ability to specify a desired loan amount, term (or repayment date) and repayment structure (eg the number of instalments).
- Are as transparent as possible about all features of the loan, including the consequences of late or non-payment. We consider that customers would particularly benefit if they were presented with information about late fees and charges as well as the effect of early repayment on the price of the loan.

Openness

We recommend that the FCA seeks to ensure that authorised payday loan PCWs include only loan products in their payday loan comparison tables and do not include brokers or other intermediaries in their payday loan comparison tables.

We also recommend that the FCA seeks to ensure that authorised payday loan PCWs disclose to customers the number of lenders the PCW covers.

Compliance

The effectiveness of this remedy will be enhanced if customers have confidence that they are transacting with a reputable provider and to this end we recommend that the FCA considers how to ensure that authorised payday loan PCWs comply with all relevant laws and regulations.

Consideration of the main changes in implementation of the remedy

23. We have set out in [Appendix 1](#) to this consultation paper a comparison table showing in summary form the differences between our initial remedy proposal (as shown in Figure 3.1 of our PDR) and the revised remedy proposal.

24. The revised remedy retains the main feature of the original remedy: that there remains an obligation on lenders to show their products on at least one PCW that satisfies the necessary criteria. These criteria will now be embedded within the FCA's authorisation standards rather than as part of a separate accreditation scheme.
25. We continue to propose that the loan product details that lenders will be required to publish on at least one authorised PCW should allow the PCW, as a minimum, to rank each loan product according to the total amount payable. The details should include the total price of the product, the duration, repayment structure, late fees and early repayment rules involved in each product.²
26. The proposed remedy outlined above in Figure 1 has greater emphasis on and sets out more clearly the consumer outcomes that we wish to achieve. The FCA has confirmed its desire to achieve these outcomes. However, the FCA will retain its discretion as to how best to realise these outcomes and this will be subject to its statutory consultation requirements. We consider that the substantial benefits that we expect to arise from our PCW remedy will continue to arise from this revised remedy proposal.

Implementation through FCA Consumer Credit authorisation standards

27. The FCA currently authorises all credit brokers. We understand that PCWs that introduce borrowers to lenders by allowing users of the PCW to link through to the lenders' websites³ are classified by the FCA as credit brokers and would require authorisation. Many PCWs already have interim permission, have applied for or received authorisation as credit brokers⁴ and are bound by the FCA's existing authorisation standards.⁵
28. There is an efficiency argument against adding a further regulatory scheme to the existing framework in which the FCA already assesses many aspects of the PCWs' operations as part of its authorisation role. An accreditation scheme would have risked creating a second regulatory system (either

² We note that the PCW is also required to show the APR for each product, but this should not form the basis of the ranking.

³ The FCA has told us that as PCWs would be effecting an introduction between a potential borrower and a lender they are already likely to require the FCA's permission as credit brokers. We would expect most, if not all, PCWs to fall within that category for the reason that this mechanism, however implemented, is the standard method of generating revenue for PCWs.

⁴ Either directly or as part of authorisation for another financial service such as insurance broking.

⁵ However, such interim permission or authorisation may have been received for non-payday lending consumer credit.

administered by the FCA or by another body) which may have given rise to possible conflicts:

- (a) If the FCA ran the scheme then this could have led to different tiers of 'FCA-approved' PCWs such that customers might have been confused about the relative merits of an FCA-authorized PCW compared with an FCA-accredited PCW.
 - (b) If the accreditation scheme were run by the CMA, the same risk could have arisen. There is also the risk that the CMA and FCA could set different standards for the industry, creating uncertainty for the PCW operators and payday loan companies.
29. Although we noted that many of these risks could have been mitigated through careful implementation, in either case there may have been some additional costs in dealing with two different schemes.
30. We consider that there is a further benefit from including the additional standards proposed by our remedy within the FCA's authorisation regime – this would embed the standards within the statutory regime and enable the FCA to use its full range of regulatory and enforcement tools to achieve the outcomes of our remedy proposal.
31. The effect of this remedy being implemented through inclusion within the FCA's authorisation regime is that the additional standards would become part of a mandatory system. In our initial framing of the remedy we specified that PCWs would have the option of applying for the accreditation scheme and acknowledged that some PCWs might have chosen not to join the scheme. Under its proposed authorisation regime, the FCA told us it was likely that all PCWs would be required to apply for authorisation. The system will be clearer and all PCWs will be at or above the standards set by the FCA, but PCWs will have less choice and some who may have chosen not to be accredited will under the revised remedy, be required to incur the additional regulatory cost of the enhanced authorisation regime. However, since it is likely that all PCWs present in the market would be required to be authorised in any event, it is likely that the cost of the remedy would be lower than if the accreditation option as specified in our PDR were implemented.
32. We noted that if the required specification of PCWs were incorporated into the FCA's rules on consumer credit broking, some elements of the remedy as specified in our PDR would need to be amended to work more effectively within this framework or to address concerns expressed about their operation. We also took into account responses to our PDR and additional evidence from PCWs and other parties. We discuss the key elements of the remedy as

specified in our PDR that we consider may need amending in the following subsections.

Online lenders only

33. We contacted a number of PCW operators to establish if they had experience of providing comparison services for products not available online (eg high street lenders). These PCWs told us that they had little experience of providing comparison services for products which were not available online. Many of these PCWs also raised concerns about the difficulties associated with listing high street lenders on their website.⁶
34. In view of these concerns, we considered that high street lenders might encounter difficulties in agreeing commercial terms with PCWs. This, in turn, might disincentivise PCWs from comparing payday loan products if they perceived that they would be obliged to reach agreement with high street lenders and they believed that this was unlikely to be viable. We therefore decided that lenders who only offer loans on the high street should not be obliged to have the details of their loans published on an authorised PCW but may nonetheless seek to be listed.
35. In arriving at this decision we noted that 83% of payday loan customers had taken out a loan online.⁷ To the extent that they provide competitive offers, high street lenders may therefore have incentives to be listed on an authorised PCW. Our customer research also indicated that, among customers who used only high street lenders and who have shopped around in the past, the majority relied on online sources to compare lenders.⁸ This suggests that, even if they are not listed on a PCW, high street lenders would face competitive pressure as a result of customers using good-quality PCWs to shop around and to compare prices offered by other lenders, including online providers.

⁶ One PCW (Gocompare) told us it would be difficult for the PCW to maintain an audit trail for those customers who selected a high street provider and consequently to realise income for those customers. It added that with high street lenders a PCW would lose sight of any quality control or insight into the customer experience once the customer has left the PCW's website. It said that these concerns would ultimately reduce the likelihood of a PCW seeking accreditation. Another PCW (money.co.uk) told us that in order to provide a helpful comparison of high street lenders it would need to know the customers' location. However, customers were generally unwilling to provide any type of personal information. In addition, it said that it would require an accurate and consistently updated postcode database which would be expensive to purchase and maintain. A third PCW said that the PCW model in personal finance usually is more viable when based on commission payment when a customer took out a product, rather than payment for click-through leads. This model requires tracking customers throughout their sale journey and this would be difficult with high street lenders who have no online presence. One PCW was unconcerned. It said that listing high street lenders provided an additional challenge but it did not anticipate that this would, of itself, decrease its likelihood seeking accreditation.

⁷ See [Payday Lending Survey Report 31 January 2014](#), p42.

⁸ 61% of these customers reported to have visited lenders' website and 22% used PCWs. [TNS BRMB survey report](#), p101.

Advertising

36. In paragraph 3.63 of our PDR we noted that our customer research showed 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. 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.
37. In our PDR (paragraph 3.67) we set out a requirement that there should no advertising of payday loans on the PCW page. The purpose of this exclusion was to ensure that customers of the PCW should not confuse a loan ranked at the top of the table on objective criteria with a paid-for advertisement for a payday loan that may not best meet their search criteria. This key element has been retained in our adjusted remedy.
38. However, the FCA has expressed concerns that it would find it difficult to include requirements on PCWs banning payday loan banner advertisements from their payday loan comparison pages within its authorisation standards. The FCA told us that its existing rules required that advertisements and other financial promotions be fair, clear and not misleading and that it considered that the objectives of our remedy would be addressed under its authorisation standards.
39. We consider that there is a benefit to including our proposed remedy within the FCA's authorisation standards, and that the FCA shares our objective of not allowing advertising to remove the value of the objective ranking of loan products on a PCW. We are therefore proposing an amended recommendation to the FCA: that the FCA ensures that any advertisements on an authorised PCW are clearly differentiated from the objectively ranked table of payday loan products.
40. The FCA's Consumer Credit Sourcebook (CONC) requires that financial promotions should be clear, fair and not misleading⁹. The FCA said that this should be sufficient to ensure that any advertising separate and additional to the ranking of loan products does not cause confusion to borrowers. Guidance within CONC states that if a communication or a financial promotion compares a product or service with one or more other products, the firm

⁹ CONC 3.3.1.

should ensure that the comparison is meaningful and presented in a fair and balanced way.¹⁰ Furthermore credit brokers must indicate the extent of their powers and should make clear to borrowers the nature of the service they provide.¹¹ Therefore, PCWs acting as credit brokers should ensure that where they are stating they are providing price comparison services this is in fact the case.

Exclusion of lenders

41. In our PDR we recommended to the FCA that the accreditation scheme should require PCWs not to unreasonably exclude any lenders from their site. The purpose was to ensure that lenders should not be excluded from the market as a result of our Order through being unable to achieve a PCW listing. Under an authorisation regime we considered how best this aim could be achieved.
42. In our revised remedy proposal we have retained the recommendation to the FCA to explore how this could best be achieved within the authorisation regime. We have included a carve-out from our Order to allow lenders who are unreasonably excluded by all authorised payday loan PCWs to continue to provide payday loans if they are able to demonstrate to the CMA that they have been unreasonably excluded.
43. We are also recommending to the FCA that it considers further how to ensure that PCWs do not unreasonably exclude a lender.
44. In our view the combined effect of these two provisions should continue to achieve our aim in the PDR of allowing new entrants to enter the market without concerns of being unreasonably excluded from all PCWs¹² and provide a strong discouragement to PCWs from excluding any lender.

Total amount payable

45. The purpose of our remedy is to encourage the creation of a marketplace for payday loan PCWs that offer customers a comparison service enabling customers to determine which loan best meets their search criteria. To this

¹⁰ CONC 3.3.8.

¹¹ CONC 3.7.

¹² In paragraph 3.14 of the PDR we noted that if a greater proportion of payday loan customers used 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.

end we initially proposed that the best method of comparing the price of a loan was the total cost of credit (TCC).

46. Following further discussions, the FCA told us that the total amount payable (being the TCC and the loan amount) would be a more appropriate measure to use within its authorisation regime. We consider that the total amount payable by the customer would be an equally appropriate figure to present to the customer and by which to rank products. The ranking of lenders would be the same as if the products were ranked by TCC, but the amount shown to the customer would be the full amount that the customer would need to repay.
47. We are satisfied that the total amount repayable would be an appropriate measure. We therefore recommend that this should be the default measure by which products should be ranked.

Secondary sort criteria

48. In our PDR we stated that any ranking on price comparison tables should not be affected by any commercial relationship the operator may have with lenders included on the PCW's panel. We had previously identified that should the total amount payable for two identically specified loans¹³ be the same, a PCW would necessarily need to utilise some form of additional sort criteria (which we refer to as a secondary sort criteria). In revising the remedy we consider it appropriate to clarify our expectation that such competitive neutrality extends beyond the initial sorting by the total amount payable or any other factor that a borrower subsequently chooses to sort or filter a comparison table, and that the secondary sort criteria should also be independent of any commercial relationship the PCW operator may have with lenders included on its panel.

Fallback Position

49. In our PDR we discussed how best to address the risk that no PCWs applied for accreditation and hence that the remedy was ineffective in increasing the availability of good-quality PCWs.
50. We considered this to be an unlikely prospect – several PCWs have told us that they are either operating in the market or interested in entering in the near future and would be encouraged by the creation of such an accreditation scheme.

¹³ That is, with respect to the borrower's search criteria.

51. In our PDR (paragraph 3.45) we proposed that in the unlikely event that no PCWs applied, lenders would nevertheless be required to be on a PCW and would therefore need to create or commission an accredited PCW. We set out a time period to allow lenders to do so (the 'Fallback Position').¹⁴
52. As we are now proposing that the standards should be part of an authorisation regime and in order to give a market-based solution sufficient time to materialise, we are proposing to alter slightly the 'Fallback Position' so that online lenders would be required to create or commission an authorised PCW in the event that no authorised payday loan PCW exists within 12 months after the FCA's additional standards have come into effect. Online lenders would then be given a further period of 6 months to create or commission a payday loan PCW and apply for authorisation. The prohibition on lenders operating without being present on an authorised PCW would apply once this PCW had been authorised.

Stating the number of lenders compared

53. In our discussions with the FCA, the FCA suggested that a PCW should state how many lenders were included in the PCW's panel. This was not originally an aspect of our remedy as set out in our PDR but in our view it would assist borrowers in understanding the number of lenders (and products) being compared. Furthermore the ability to identify which PCW has the largest panel of lenders allows borrowers to choose a PCW with comprehensive coverage of lenders and may encourage PCWs to seek to present as close to a 'whole of market' comparison as possible to compete for borrowers. In turn we considered that this could reduce the likelihood that lenders would be unable to find a PCW that is willing to include that lender's products (subject to agreeing commercial terms).

Consideration of changes to the costs and benefits of this remedy

54. The FCA has told us that for consumer credit PCWs to operate legally, it is likely that all the PCWs would need to be authorised as credit brokers by the FCA: we therefore expect that all payday loan PCWs would be required to go through the authorisation process. As such, we note that there would be efficiencies achievable from incorporating the remedy into the authorisation

¹⁴ In footnote 72 of our PDR we noted that '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).'

process and that this would be likely to lead to firms not incurring additional costs on top of the costs of the authorisation process.

55. To the extent that there were any firms that would not have sought accreditation (but would have needed to be authorised) there would be a slightly increased burden in the event that the FCA raises the standards for all authorised PCWs.
56. Those firms that do not need to be authorised and would not have sought accreditation would continue to remain outside the authorisation process and there would be no additional cost for them. However, we note in footnote 3 that we would expect most, if not all, PCWs to be classified as credit brokers and therefore to require authorisation.
57. Our view is that this change in the method of implementing the remedy would not materially increase the costs incurred by PCWs of complying with the remedy, and for most PCWs might decrease them. However, we would welcome views on whether there are additional or reduced costs or benefits as a result of this proposed change to our remedy.

Conclusion on PCW remedy

58. Overall our view is that the remedy as revised following discussions with the FCA would deliver the outcomes we are seeking to achieve, would effectively contribute to addressing the AEC we have found and would be a less costly and more flexible remedy than our original proposal.

Summary of the cost of borrowing remedy

59. In our PDR we identified the benefits of 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. We stated that 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. We stated that 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.
60. To achieve this we specified an obligation on lenders to provide borrowers with a summary of the cost of their borrowing that presented:

- (a) 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; and
 - (b) 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.
61. We received a number of responses to the PDR that provided evidence on the design and implementation of various aspects of the remedy. One party, Dollar,¹⁵ made specific comments on the 12-month period that would be included in the summary (see paragraph 60(b)). We did not receive any other substantive comments on the specification of this period and we are seeking to establish whether the issues that Dollar has identified in producing such a summary are common to other lenders, or whether any change in the specification of the remedy would cause other lenders to incur additional costs. We are also keen to understand whether parties have any views on the impact on the utility of the summary if the specification of the 12-month period were amended.

Responses to our PDR

62. Dollar raised a number of issues relating to the design and implementation of the remedy which we are considering as part of our assessment of the evidence and submissions made by parties. There are two principal issues that Dollar raised with respect to the 12-month period of the summary where we are seeking additional responses. These are:¹⁶
- (a) First, relating to the cost of implementing the remedy. Dollar told us that, to ensure that the summary was accurate, a static version of the summary would need to be created at the point at which the final repayment was made. This static summary would then need to be stored for 12 months. As a result Dollar told us that it would potentially incur significant additional costs in establishing a data warehouse facility and ongoing storage and thus the remedy was disproportionate.
 - (b) Secondly, commenting on the relative utility of the summary under different specifications of the 12-month period. Dollar told us that providing information to a borrower relating to the 12 months immediately

¹⁵ [DFC Global Corp response to PDR](#), paragraph 7.5(ii).

¹⁶ *ibid*, paragraph 7.5(ii).

preceding the point at which the summary is reviewed would ensure an up-to-date snapshot of a borrower's position at the time the summary is reviewed.¹⁷

63. We are concerned that our remedies should be no more onerous than needed to achieve their aim.¹⁸ For this reason we are keen to understand whether amending the specification of the 12-month period would make a material impact on the costs of all lenders implementing the remedy. We also need to ensure that our remedies are effective in remedying the AEC we have provisionally found and for this reason we are keen to understand whether changing the specification of the 12-month period would materially affect the utility of the summary to borrowers.

Possible impact on utility of summary to borrowers

64. We assessed possible impacts on the utility of the summary to borrowers in addition to the points raised by Dollar with respect to the specification of the 12-month period. Broadly, these relate to:
- (a) the ability of a borrower to aggregate the cost of their borrowing over a 12-month period; and
 - (b) the timeliness and relevance of the information contained in a summary, in particular if a borrower did not access the summary for a prolonged period.
65. We discuss each in turn in the following subsections.

Aggregation of borrowing costs

66. Where a borrower has borrowed from multiple lenders, requiring the summary to relate to the 12-month period prior to the customer accessing the summary would allow a borrower to more readily aggregate summaries to understand the costs of their borrowing over a single 12-month period.¹⁹ Under the remedy as presented in the PDR, a borrower reviewing a summary from multiple lenders would not be able to easily identify their cost of borrowing over 12 months as the summary provided by each lender would relate to a different 12-month period (unless multiple loans were settled on the same date).

¹⁷ In turn, this would have a lower cost of implementation for Dollar.

¹⁸ [Guidelines for market investigations: Their role, procedure, assessment and remedies](#) (CC3), as adopted by the CMA, paragraph 344 (b)–(c).

¹⁹ As summaries from multiple lenders could be requested.

67. We considered that there would be benefits to borrowers in understanding this aggregated cost. However, for those borrowers who have used loans from multiple lenders over the 12-month period, we took the view that this would not be a simple exercise. It would, for example, require a borrower to identify all the lenders which had issued loans to that individual in that 12-month period and request summaries at the same point. Regardless of the relative ease with which this could be undertaken, given our provisional findings around the perceived sense of urgency in which borrowers may take out loans, it is not certain that such an exercise would be undertaken.

Timeliness and relevance

68. The difference in content of the summary under the two specifications of the 12-month period (and thus potentially the timeliness and relevance of the information) will be determined by the length of time between the settlement of the loan (and thus the summary being first made available) and a borrower accessing the summary.
69. We noted that the two specifications would provide significantly different information for those borrowers who accessed the summary an extended period after their loan was settled. In our PDR, the 12-month period would enable a borrower to understand the cost of their borrowing in the 12 months prior to settling their last loan (and they may have settled their last loan up to 12 months before reviewing the statement). However, this information could perhaps be less relevant to the borrower's present circumstances, to the extent that some loan events could have occurred up to 24 months earlier. However, borrowers would be certain of the period that the summary covered in relation to their most recent loan.
70. In contrast, Dollar's proposed change to the definition of the 12-month period (that the 12-month period would be the 12 months preceding accessing the summary) would mean that for the same borrower, relatively little loan information would be available since there would be limited overlap between the 12-month period and the period prior to settlement of the most recent loan. There would therefore be a trade-off for such borrowers between relevance and the extent of information. However, in both specifications, if borrowers had reviewed the summary at the point of notification (when the loan was fully repaid), there would be no loss of information.
71. Such issues around timeliness and relevance are presented diagrammatically in Figure 2. Given that we have provisionally found that the average user of payday loans takes out six loans per year (albeit the average user borrows from 1.9 lenders), we considered that relatively few borrowers would be seeking a new loan 12 months after a previous loan from the same lender.

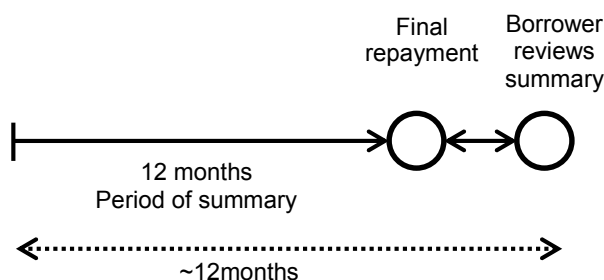
Given that no other parties have commented on this point we have decided to seek views on this issue.

FIGURE 2

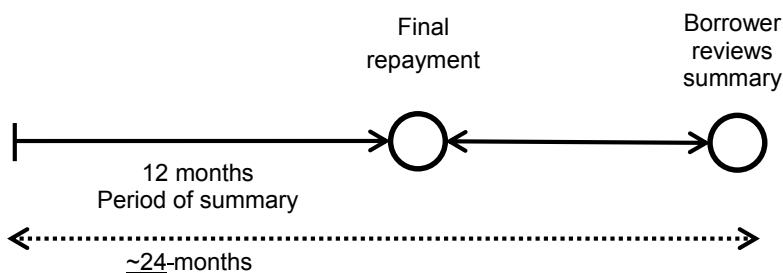
Diagram showing relative timeliness of a summary of the costs of borrowing

Remedy as specified in our PDR

Scenario (i) Borrower reviews statement shortly after final repayment

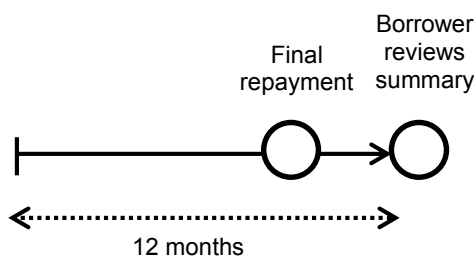


Scenario (ii) Borrower reviews statement 12 months after final repayment

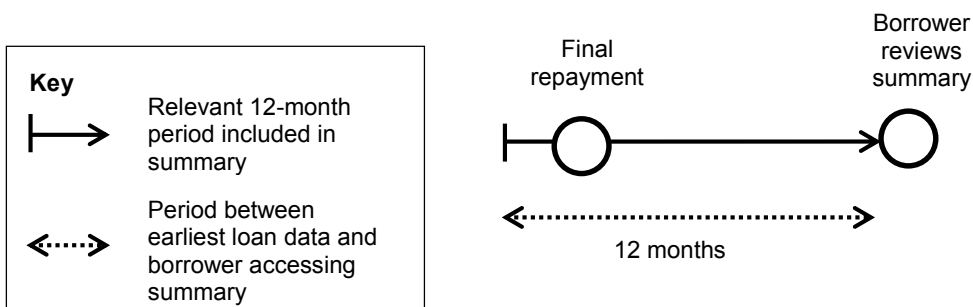


Remedy with amended definition of 12-month period

Scenario (i) Borrower reviews statement shortly after final repayment



Scenario (ii) Borrower reviews statement 12 months after final repayment



Source: CMA.

Request for views

72. We request views from all interested parties on:
- (a) whether changing the definition of the 12-month period would aid or impair borrowers in understanding the cost of their borrowing over (i) the medium term, and (ii) in aggregate across multiple lenders, encouraging them to shop around; and
 - (b) whether there are any other factors which are relevant in considering which definition should be adopted.
73. We specifically request views from lenders on:
- (a) whether there are any significant costs or technological issues that make generating and storing the information for a 12-month summary under our original specification more difficult than Dollar's amended 12-month period (as set out in paragraph 70); and
 - (b) whether amending the definition of the period of borrowing history to be included in the summary would impact on the expected costs of implementing the remedy.

Appendix 1: Comparison of PCW remedy as currently proposed and as specified in our provisional decision on remedies

<i>Proposed PCW remedy</i>	<i>Original PCW remedy as specified in our PDR, Figure 3.1</i>
The CMA will issue an Order to the effect that:	The CMA provisionally intends to issue an Order to the effect that:
<ul style="list-style-type: none"> Online lenders²⁰ will be prohibited from supplying payday loans to customers in the UK unless details of their payday loan products are published on at least one payday loan PCW which is an FCA-authorized person following the FCA’s implementation of additional standards. Where an online lender can demonstrate that it has been unreasonably excluded from all authorised payday loan PCWs, this prohibition will not apply. 	<ul style="list-style-type: none"> 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.
<ul style="list-style-type: none"> Online lenders will be required to supply their selected FCA-authorized payday loan PCW(s) with relevant information on their payday loan products. 	<ul style="list-style-type: none"> 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.

²⁰ As explained in paragraphs 33–35 and for the reasons given there, we are proposing to exclude high street lenders from the scope of this Order.

<i>Proposed PCW remedy</i>	<i>Original PCW remedy as specified in our PDR, Figure 3.1</i>
<ul style="list-style-type: none"> Online lenders will be required to display a hyperlink prominently on their own websites to at least one FCA-authorized payday loan PCW on which its own loans appear and/or to a web portal containing hyperlinks to all FCA-authorized payday loan PCWs in the event that such a web portal has been created. 	<ul style="list-style-type: none"> 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.
<ul style="list-style-type: none"> Where no authorised payday loan PCW exists within 12 months after the FCA’s additional standards have come in to effect, online lenders will be given a further period of 6 months to commission a payday loan PCW and apply for authorisation. The prohibition will apply once this PCW has been authorised. 	<ul style="list-style-type: none"> Not listed in Figure 3.1, however our PDR (footnote 72) states: 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.
<p>In support of this Order, the CMA:</p> <ul style="list-style-type: none"> Considers that creation of a web portal containing hyperlinks to all FCA-authorized payday loan PCWs would enhance the effectiveness of this remedy by helping customers to find an authorised PCW. We therefore recommend that the FCA, working with relevant partners as appropriate, consider how best 	<p>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:</p> <ul style="list-style-type: none"> an accreditation scheme for PCWs for payday loans

<i>Proposed PCW remedy</i>	<i>Original PCW remedy as specified in our PDR, Figure 3.1</i>
<p>such a web portal could be implemented and which body would be most appropriate to host the portal.</p> <ul style="list-style-type: none"> • Recommends that the FCA consider how to ensure that authorised payday loan PCWs do not unreasonably exclude any FCA-authorized payday loan providers or their payday loan products. <p>To address identified shortcomings of existing payday loan PCWs, the CMA further recommends that the FCA reviews its requirements for payday loan PCWs and uses its regulatory tools to raise the standards which apply to payday loan PCWs. Given the evidence the CMA has collected, and the AEC it has provisionally found, the CMA recommends that, in taking forward this recommendation, the FCA seeks to achieve the following outcomes for consumers (under each outcome we have provided some specific examples). However, it would be for the FCA to determine the standards it requires for payday loan PCWs.</p>	<ul style="list-style-type: none"> • a web portal containing hyperlinks to all accredited PCWs <p>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):</p>
<p>Competitive neutrality</p> <p>We recommend that the FCA seeks to ensure that authorised payday loan PCWs enable customers to view loans ranked on the basis of objective criteria and the default ranking should be</p>	<p>Competitive neutrality</p> <p>An accredited website should:</p>

<i>Proposed PCW remedy</i>	<i>Original PCW remedy as specified in our PDR, Figure 3.1</i>
<p>the price of the loan. To this end, we recommend that the FCA considers how to ensure that authorised payday loan PCWs:</p> <ul style="list-style-type: none"> • Present loan product information/results of the customer’s searches in ascending order of price unless the borrower requests a different presentation. On the basis of the evidence we have collected, we recommend ranking by the total amount payable. • 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. Similarly, we recommend that, in the event of different products having the same price, any secondary ranking should be on the basis of objective factors that are of benefit to customers and not be linked to the commercial interests of the PCW or of any lender. • Clearly differentiate any advertising on their website from the ranking of loan products so that customers are not drawn away from the objective ranking of products by banner advertisements. 	<ul style="list-style-type: none"> • 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.

<i>Proposed PCW remedy</i>	<i>Original PCW remedy as specified in our PDR, Figure 3.1</i>
<p>Customer relevance</p> <p>We recommend that the FCA seeks to ensure that authorised payday loan PCWs enable customers to identify the loans that best meet their search criteria. To this end, we recommend that authorised PCWs:</p> <ul style="list-style-type: none"> • Provide a search function and return results that reflect the key features of the loan the customer is seeking. We consider that such functionality could include, for example, the ability to specify a desired loan amount, term (or repayment date) and repayment structure (eg the number of instalments). • Are as transparent as possible about all features of the loan, including the consequences of late or non-payment. We consider that customers would particularly benefit if they were presented with information about late fees and charges as well as the effect of early repayment on the price of the loan. 	<p>Customer relevance</p> <p>An accredited website should:</p> <ul style="list-style-type: none"> • 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.
<p>Openness</p> <p>We recommend that the FCA seeks to ensure that authorised payday loan PCWs include only loan products in their payday</p>	<p>Openness</p> <p>An accredited website should:</p>

<i>Proposed PCW remedy</i>	<i>Original PCW remedy as specified in our PDR, Figure 3.1</i>
<p>loan comparison tables and do not include brokers or other intermediaries in their payday loan comparison tables.</p> <p>We also recommend that the FCA seeks to ensure that authorised payday loan PCWs disclose to customers the number of lenders the PCW covers.</p>	<ul style="list-style-type: none"> • 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.
<p>Compliance</p> <p>The effectiveness of this remedy will be enhanced if customers have confidence that they are transacting with a reputable provider and to this end we recommend that the FCA considers how to ensure that authorised payday loan PCWs comply with all relevant laws and regulations.</p>	<p>Compliance</p> <p>An accredited website should:</p> <ul style="list-style-type: none"> • Follow all relevant laws and regulations with respect of consumer credit. • Only deal with authorised lenders and exclude credit brokers and other intermediaries.

Appendix 2: FCA letter responding to our PCW remedy



Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London
E14 5HS

Tel: +44 (0)20 7066 1000
Fax: +44 (0)20 7066 1099
www.fca.org.uk

Simon Polito
Chairman
Payday Lending Investigation Group
Competition and Markets Authority
Victoria House
Southampton Row
London WC1B 4AD

18 December 2014

Dear Simon

Payday market investigation PCW remedy

I am writing regarding the provisional decision on remedies of the Payday Lending Market Investigation, in which you found strong evidence on the adverse effects on competition in the payday lending market. I am aware that your work has taken place against the backdrop of substantial change in this market, and our own work in relation to high-cost short term credit including the price cap, and I appreciate the constructive engagement that has taken place between our organisations. We look forward to continuing to work with the CMA to consider and respond to its final recommendations.

As part of the provisional decision you proposed a remedy creating an Order on payday lenders to publish their product information on at least one accredited price comparison website (PCW). In support of that Order you also proposed a recommendation that the FCA establishes and administers an accreditation scheme for payday lending PCWs. Following careful consideration of the proposed remedy, I wanted to suggest some changes to the recommendation which I believe will improve its operation and effectiveness.

The objectives

As you know, the FCA supports the objectives of the remedy. Reducing difficulties for consumers in shopping around, and increasing transparency of fees and charges, are both consistent with our objectives of promoting competition and securing an appropriate degree of protection for consumers.

Implementing the objectives

We recognise that the establishment of a voluntary accreditation scheme for payday PCWs is one way to pursue the stated objectives. However, as payday lending PCWs would be effecting an introduction between a potential borrower and a lender they are already likely to require

our permission as credit brokers.¹ Creating a voluntary accreditation scheme of this type would therefore create a two-tiered regulatory system. All authorised PCWs would be held to certain standards while those PCWs which opted for accreditation would need to comply with additional higher standards.

There are existing principles, conduct rules and guidance that apply to authorised credit brokers. Therefore our view is that getting the standards right for all authorised payday loan PCWs would be a more effective way of achieving the desired outcome. Therefore, we suggest that we review our existing rules and guidance which apply to payday PCWs and consider how best to establish appropriate standards for all PCWs operating in this sector, for example by adding to the existing rules and guidance. **To that end, I am writing to ask the Payday Lending Market Investigation Group to consider revising its proposed remedy to recommend that the FCA uses the tools at its disposal to improve the standards of all authorised PCWs, rather than proposing an accreditation scheme.**

The advantage of a regulatory approach would be that it would enable us to set the standards for PCWs operating in this sector, supervise effectively against these standards, and where appropriate use our full range of enforcement powers to take action against firms which are not complying. We would of course keep the standards under review as the market develops.

In developing proposals to raise the standards for payday PCWs we must comply with the requirements of FSMA to consult and carry out a cost-benefit analysis and act in accordance with our regulatory principles, which include proportionality.

We would also like to raise some additional points of detail for you to consider when setting out your final remedy:

- We are concerned in this context that we might find it difficult to include requirements on PCWs banning payday loan banner advertisements from their payday loan comparison pages. In addition, our existing rules require that advertisements and other financial promotions be fair, clear and not misleading. We therefore think this should address your concern that consumers' attention should not be drawn away from the product rankings by banner advertisements.
- We would be supportive of the Order containing protections for payday lenders who may be unreasonably excluded from all PCWs. Including a protection such as this, supplementing that already afforded under competition law, could be particularly beneficial for new entrants by reducing the risk of exclusionary behaviour by incumbents.
- We consider that ranking credit products by reference to the total amount payable is the more appropriate measure and should provide the same ranking as for total cost of credit.

¹ Credit broking is a regulated activity under article 36A of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544) (RAO).

Finally, I want to take this opportunity to re-iterate that we remain supportive of the objectives of the remedy and we are fully committed to working together to promote effective competition and secure appropriate protection for consumers.

Yours sincerely,

Mary Starks

Director of Competition