

Store Cards Market Investigation Order Variation Order 2011

Background

1. In March 2006, the Competition Commission (CC) published a [report](#) of its investigation of the store cards market in the UK. The CC found that there was a detrimental effect on customers resulting from the adverse effect on competition and set out a remedy package intended to address the adverse effect on competition which it had found.
2. The CC decided to implement the remedy package through an enforcement order made under [section 161](#) of the Enterprise Act 2002 (the Act). The Store Cards Market Investigation Order came into force on 1 May 2007.
3. Under [section 162](#) of the Act, the Office of Fair Trading (OFT) has a duty to consider whether, by reason of any change of circumstances, an enforcement order made under sections [158](#), [160](#) or [161](#) of the Act is no longer appropriate and needs to be varied or revoked. The OFT advised the CC that the coming into force of the Consumer Credit Directive (CCD) constituted a change of circumstances by reason of which it may be appropriate to vary parts of the Store Cards Market Investigation Order.
4. The CCD has been transposed into UK law via a group of six Consumer Credit Act 1974 Regulations which came into force on 30 April 2010 and 26 August 2010 and which are required to be complied with in full from 1 February 2011.
5. The CC has decided to make an order varying the Store Cards Market Investigation Order to take account of the change of circumstances advised by the OFT.
6. On 6 January 2011 the CC in accordance with paragraph 2 of Schedule 10 to the Act as applied by section 165 of the Act gave notice of its intention to vary the Store Cards Market Investigation Order (the Notice).
7. The CC did not receive any representations following publication of the Notice.
8. The CC makes this order exercising its powers under section 161(4) of the Act for the purpose of varying the Store Cards Market Investigation Order.

The Order

The CC makes this order in exercise of the powers it has in [section 161](#) (4) of the Enterprise Act 2002, for the purpose of varying the Store Cards Market Investigation Order having received advice from the OFT that by reason of a change of circumstances variation or revocation is appropriate. The Store Cards Market Investigation Order was made to remedy, mitigate or prevent the adverse effect on competition and any detrimental effects on customers so far as they have resulted, or may be expected to result, from the adverse effect on competition specified in the report of the CC entitled *Store cards market investigation* (7 March 2006).

PART 1

1. Citation, Commencement and Purpose

- 1.1 This order may be cited as the 'Store Cards Market Investigation Order Variation Order 2011'.
- 1.2 This order shall come into force on 10 February 2011 which is the date this order is signed.
- 1.3 The purpose of this order is to vary the Store Cards Market Investigation Order.

2. Interpretation

- 2.1 In clause 2 of the Store Cards Market Investigation Order, the definition of '**current APR**' is varied as follows:
 - (a) insert 'or the Consumer Credit (Total Charge for Credit) Regulations 2010 (as applicable)' immediately following 'Consumer Credit (Total Charge for Credit) Regulations 1980'; and
 - (b) insert 'or the Schedule to the Consumer Credit (Advertisements) Regulations 2010 (as applicable)' immediately following 'Schedule 1 to the Consumer Credit (Advertisements) Regulations 2004'.

Signed by authority of the CC

Peter Freeman
Group Chairman
Competition Commission
10 February 2011

Explanatory Note

(This Note is not part of the order)

1. The purpose of the Store Cards Market Investigation Order Variation Order 2011 is to vary the Store Cards Market Investigation Order.
2. In October 2010 the OFT advised that the coming into force of the CCD¹ constituted a change of circumstances making variation of the Store Cards Market Investigation Order appropriate.
3. On 10 February 2011 the CC published a Notice setting out its reasons for deciding that by reason of a change of circumstances it was necessary to vary the Store Cards Market Investigation Order.
4. The variations to the Store Cards Market Investigation Order are set out in Article 2 of the Store Cards Market Investigation Order Variation Order 2011.
5. Changes made to the Explanatory Note accompanying the Store Cards Market Investigation Order are:
 - (a) In paragraph 1 of the Explanatory Note the following words have been inserted immediately after ‘...dated 7 March 2006.’:

‘The Order was varied on 10 February 2011 to include reference to the Consumer Credit (Total Charge for Credit) Regulations 2010. This Explanatory Note was also updated at the same time.’
 - (b) In paragraph 16 of the Explanatory Note the following words have been inserted immediately after the second sentence ending in ‘...each new store card customer.’:

‘This information requirement is separate from any pre-contractual information which is required by consumer credit regulations.’
6. [Section 167](#) of the Act places a duty on any person to whom this order applies to comply with it. Subject to the defences in the section, any person who suffers loss or damage due to a breach of this duty may bring an action.
7. [Section 167](#) of the Act also provides that the OFT and the CC can seek to enforce this order by civil proceedings for an injunction or for any other appropriate relief or remedy.
8. The OFT has a general duty to monitor the operation of a CC enforcement order under [section 162](#) of the Act. This includes the duty to consider, from time to time, whether an enforcement order should be varied or revoked in the light of a change of circumstances.
9. Nothing in this Explanatory Note is legally binding. In the event of a conflict between this Explanatory Note and the provisions of the Order, the Order shall prevail.

¹Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreement for consumers and repealing Council Directive 87/102/EEC.