Anticipated acquisition by Experian Limited of Credit Laser Holdings Limited (ClearScore)

Decision on relevant merger situation and substantial lessening of competition

ME/6743/18

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SUMMARY

1. Experian Limited (**Experian**) has agreed to acquire Credit Laser Holdings Limited (**CLHL**) (the **Merger**). Experian and CLHL are together referred to as the **Parties**.

2. The Competition and Markets Authority (**CMA**) believes that it is or may be the case that each of Experian and CLHL is an enterprise; that these enterprises will cease to be distinct as a result of the Merger; and that the

share of supply test is met. Accordingly, arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.

3. Experian and CLHL's ClearScore business (**ClearScore**) overlap in the supply of credit checking tools in the UK. Consumers use credit checking tools to assess their creditworthiness, such as their credit score and credit report. The Parties both offer free credit checking tools to attract users to their credit comparison platforms (**CCPs**). CCPs allow consumers to compare a variety of credit products, and generate leads for lenders who sell credit products to some of these consumers. CCPs are remunerated for these leads by lenders.

4. Experian also operates the most popular paid-for credit checking tool in the UK, CreditExpert. This tool includes additional features to help people improve their creditworthiness, monitor their credit score, and prevent identity fraud.

5. Experian also supplies pre-qualification services to CCPs and lenders through its subsidiaries HD Decisions and Runpath. Pre-qualification services allow CCPs and lenders to identify those financial products for which a consumer could qualify.

6. The CMA has assessed the impact of the Merger in the following frames of reference:

   (a) the supply of CCPs for (separately) loans, credit cards and mortgages in the UK;

   (b) the supply of credit checking tools (paid-for and free) in the UK; and

   (c) the supply of pre-qualification services to CCPs in the UK.

7. The CMA has found that ClearScore and Experian operate the most popular free credit checking tools in the UK, as a result of which their CCPs compete closely. The Parties have a moderately high share of supply for CCPs for loans and credit cards in the UK. Other providers, most of which do not offer credit checking tools, are differentiated from the Parties and impose a limited constraint on the Parties.

8. The CMA has found that ClearScore, as one of the most full-featured free credit checking tools in the UK, includes features which bring it into direct competition with Experian's paid-for credit checking tool, CreditExpert. The Parties' internal documents indicate that, absent the Merger, ClearScore and

CreditExpert may have become even closer competitors in the future, as ClearScore innovates and develops new features.

9. With regard to pre-qualification services to CCPs, the CMA believes that, post-Merger, Experian will have an increased incentive to foreclose the supply of these services to CCPs as it will capture a greater proportion of any diverted sales through ClearScore. This could harm competition in the supply of CCPs in the UK.

10. The CMA therefore believes that the Merger gives rise to a realistic prospect of a substantial lessening of competition (**SLC**) as a result of:

    (a) horizontal unilateral effects in the supply of CCPs for credit cards and loans in the UK;

    (b) horizontal unilateral effects in the supply of credit checking tools in the UK; and

    (c) vertical effects in the supply of pre-qualification services in the UK.

11. The CMA is therefore considering whether to accept undertakings under section 73 of the Enterprise Act 2002 (**the Act**). The Parties have until 27 July 2018 to offer an undertaking to the CMA that might be accepted by the CMA. If no such undertaking is offered, then the CMA will refer the Merger pursuant to sections 33(1) and 34ZA(2) of the Act.

ASSESSMENT

Parties

12. The ultimate parent company of Experian is Experian plc, a global information services business listed on the London Stock Exchange. It has its corporate headquarters in Ireland and has operational headquarters in the UK, USA, and Brazil. In the UK, Experian plc offers a wide range of products, including credit reference bureau (**CRB**) data, to consumers and businesses. Experian plc's UK turnover in the financial year (**FY**) ending 31 March 2018 was £588.5m.

13. CLHL is the holding company of Clear Score Technology Limited, which operates the ClearScore business. ClearScore is a financial technology firm which supplies free credit reports and credit comparison services in the UK. CLHL's UK turnover in the FY ending 31 December 2017 was £[✂].

Transaction

14. Under the proposed transaction, Experian would purchase the whole of the issued share capital of CLHL for a consideration of £275 million.

15. The Parties informed the CMA that the Merger is not subject to review by any competition authority outside the UK.

Procedure

16. The Merger was considered at a Case Review Meeting.[1]

Jurisdiction

17. Each of Experian and CLHL is an enterprise. As a result of the Merger, these enterprises will cease to be distinct.

18. The Parties overlap in the supply of CCPs for credit cards in the UK, with a combined share of supply of [25-40]% by revenue (increment [5-10]%).[2] The CMA therefore believes that the share of supply test in section 23 of the Act is met.

19. The CMA accordingly believes that it is or may be the case that arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.

20. The initial period for consideration of the Merger under section 34ZA(3) of the Act started on 25 May 2018. The statutory 40 working day deadline for a decision is therefore 23 July 2018.

Counterfactual

21. The CMA assesses a merger's impact relative to the situation that would prevail absent the merger (ie the counterfactual). For anticipated mergers, the CMA generally adopts the prevailing conditions of competition as the counterfactual against which to assess the impact of the merger. However, the CMA will assess the merger against an alternative counterfactual where, based on the evidence available to it, it believes that, absent the merger, the

[1] See *Mergers: Guidance on the CMA's jurisdiction and procedure* (CMA2), January 2014, from paragraph 7.34.
[2] See Table 1, below.

prospect of these conditions continuing is not realistic, or there is a realistic prospect of a counterfactual that is more competitive than these conditions.[3]

22. The Parties submitted that the appropriate counterfactual should not be the prevailing conditions of competition, but should reflect the evolving and dynamic nature of the market. This includes recent and on-going developments which are causing the marketplace to become increasingly competitive.

23. As set out in the Background section below, while the supply of credit checking and CCPs is undergoing some upheaval – particularly due to changes driven by the General Data Protection Regulation (**GDPR**), the second Payment Services Directive (**PSD2**), and the Open Banking initiative – the outcome for consumers is uncertain at this stage and any impact is likely to be felt only in the medium to long term.

24. For these reasons, and on a cautious basis, the CMA has taken the prevailing conditions of competition as the relevant counterfactual. The CMA has considered the dynamic nature of the industry in its competitive assessment.

Background

The two-sided nature of CCPs

25. CCPs match together financial lenders and consumers. They give consumers access to a list of credit products they might wish to buy and give lenders access to a pool of consumers looking for credit products. To be successful, a CCP must attract sufficient consumers and lenders.

26. CCPs are therefore two-sided. On one side, they compete to attract consumers to the platform (eg through the offer of a free credit checking tool). On the other side, they compete to attract lenders. The value of a CCP for lenders depends on the number and nature (eg risk profile) of consumers present on the platform. Consumers, on the other hand, are more likely to use a CCP that offers a wide range of lenders and low quotes, and which provides valued related services, such as a free credit check, or a valued promotion.

27. CCPs are accordingly characterised by indirect network effects. Indirect network effects can create feedback loops because an increase in the number of consumers using a CCP might increase the number of lenders using it,

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[3] *Merger Assessment Guidelines* (OFT1254/CC2), September 2010, from paragraph 4.3.5. The *Merger Assessment Guidelines* have been adopted by the CMA (see *Mergers: Guidance on the CMA's jurisdiction and procedure* (CMA2), January 2014, Annex D).

which might make it more attractive to consumers. Although these network effects might establish barriers to entry and entrench an incumbent CCP's market position, they also, in principle, may reduce the market power of a CCP by reducing its incentive to increase prices (or deteriorate its products).

28. Homing behaviour can have an impact on indirect network effects in two-sided markets. If borrowers or lenders use only a single CCP, and there are strong indirect network effects, then small changes in the relative attractiveness of a CCP could lead to large movements of borrowers and lenders between CCPs, magnifying indirect network effects and potentially creating a winner-takes-all scenario. If borrowers and lenders multi-home, however, this effect is lessened.

29. In the present case, the CMA has found a high degree of multi-homing on the lender side of the market. There is also some evidence of multi-homing on the consumer side, consistent with the CMA's findings in its digital comparison tools market study.[4]

The history of credit checking tools and CCPs

30. Historically, credit checking tools and credit comparison services were supplied separately in the UK. Credit checking tools were traditionally supplied by the CRBs, which charged an annual or monthly subscription fee.[5] Credit comparison services were typically supplied free of charge by financial lenders and comparison sites. Most comparison sites earn revenue from charging financial product suppliers commission for generating leads.

31. In recent years, however, free credit checking tools have disrupted the market:

    (a) In 2011, Noddle (owned by Callcredit) launched in the UK, offering free credit reports to consumers but charging for extra services which helped users improve their credit scores.

    (b) In July 2015, ClearScore launched in the UK, offering consumers free credit scores and credit reports. ClearScore has since grown quickly, innovating to make its service user-friendly, and now serves over 6 million people per year in the UK.

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[4] Digital Comparison Tools Market Study (paragraph 3.14). Digital comparison tools are digital intermediary services used by consumers to compare and potentially to switch or purchase products or services from a range of businesses.

[5] Consumers also had access to their statutory credit report for £2, under the Consumer Credit Act 1974.

(c) In 2016, Experian launched a free credit checking tool in the UK, which was initially branded as CreditMatcher, offering consumers a free credit score (but not a free credit report).

32. Like other CCPs, suppliers of free checking tools do not charge consumers for using their tools or matching them to credit products. Rather, CCPs use credit checking to attract consumers who then use their credit comparison service, for which the CCP is remunerated via lead generation. By attracting customers through a credit checking tool, CCPs can increase both the number and suitability of leads generated, which increases their per-lead payment from lenders.

33. Free credit checking tools provide a range of useful information to consumers, typically a credit score and a credit report together with information on how the credit score is calculated, and sometimes advice to help consumers improve their creditworthiness. People can use their credit report to prevent identity fraud.[6]

34. Some companies, such as Experian (through CreditExpert), offer paid-for checking tools. Like free credit tools, paid-for checking tools allow consumers to access their credit report and credit score, but typically offer additional features, such as guidance on how to improve a credit score and real-time credit alerts.

35. The quantity of credit information, the ways in which information is presented, and the extent of additional features vary between providers. Many customers continue to subscribe to paid-for credit checking tools as they perceive these services to offer more information and features than free credit checking tools.

36. In recent years, credit checking tools have become increasingly popular due to increased engagement by consumers with their credit history and the availability of free tools.

37. Consumers can now also receive a statutory credit report for free from any CRB under the GDPR (see paragraph 41). This statutory report contains broadly the same information as the credit reports available through credit checking tools. However, a free statutory credit report does not provide context to help consumers understand their creditworthiness (such as a credit score), or the additional features provided by some free credit checking tools (such as ClearScore) or paid-for credit checking tools (such as CreditExpert).

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[6] https://www.actionfraud.police.uk/ID

38. In recent years, CCPs have started to make use of pre-qualification or eligibility checking. Pre-qualification or eligibility checking make it possible to judge the likelihood that a person will qualify (or be eligible) for a particular credit product before that person applies for it. CCPs and lenders can then show borrowers only those credit products for which they are likely to qualify. CCPs can also display to prospective borrowers the probability that they will qualify for a product. This reduces the chance that consumers waste time, or harm their credit score, by applying for products for which they are not qualified. These features are now considered a critical part of a CCP's offering to both consumers and lenders. Experian's subsidiaries HD Decisions and Runpath are currently the only major suppliers of pre-qualification services in the UK.

39. There has been substantial merger activity in this sector in recent years, for example:

(a) MoneySuperMarket (**MSM**) acquired Money Saving Expert (**MSE**) in 2012 (together, **MSM Group**).

(b) Zoopla Property Group (**ZPG**) acquired uSwitch in 2015 and Money.co.uk in 2017.

(c) Experian acquired HD Decisions in 2015 and Runpath in 2017, and it acquired a 25% stake in London & Country Mortgages in 2018.

(d) TransUnion acquired Callcredit in 2018.

40. This sector has also seen some exit. For example, in 2017, following ClearScore's entry and growth, Callcredit's Credit Compass credit checking tool exited the market.

Recent regulatory developments

GDPR

41. The GDPR entered into force on 25 May 2018. The GDPR aims to harmonise privacy laws across the EU, and is intended to empower citizens by giving them greater control of their personal data. Under the GDPR, consumers can request their credit report from a CRB for free. (CRBs previously charged £2 for statutory credit reports.)

PSD2

42. The revised EU Directive on payment services in the internal market (PSD2) allows third parties to access bank account data and to provide payment-

related and account information services requested by the customer (the “third-party access rule”). PSD2 enables such third parties to collect data on individuals from different financial sources and display it in innovative ways. With the consumer’s consent, these companies can share this data with other companies (eg financial product providers or price comparison sites), to develop new products and routes to market. PSD2 entered into force on 13 January 2018.

43. PSD2 is expected to create a level playing field for new entrants, offering more opportunities for competition and innovative payment services. Prior to PSD2, there were barriers which prevented third-party providers from offering their solutions on a large scale and in different countries of the EU. As banks will now need to make customer data available in a secure manner, this may lead to new entrants and changes in the competitive landscape. However, the timescale, scale and nature of any entry or impact in the UK is uncertain.

Open Banking

44. The CMA published its final report following its market investigation into retail banking in August 2016. The report set out a remedies package aimed at improving competition, including the Open Banking initiative.

45. The Open Banking initiative requires the 9 largest current account providers (banks) in the UK to make available to authorised third parties standardised product and reference data. This information sharing is facilitated by the development and adoption of an open application programming interface (**API**) standard. Open Banking aims to enable customers to share their financial data safely and securely with other banks and third parties (eg the Parties), giving them greater management over their financial data and improving their ability to access services offered by competitors to their existing current account provider.

46. The Open Banking initiative has the potential to improve competition in consumer finance in a range of ways, including by facilitating entry. However, in relation to its effect on the Parties and the markets in which they operate, the timescale, scale and nature of its impact is uncertain.

Frame of reference

47. Market definition provides a framework for assessing the competitive effects of a merger. It involves an element of judgement. The boundaries of the market do not determine the outcome of the analysis of the competitive effects of the merger, as it is recognised that there can be constraints on merging parties from outside the relevant market, segmentation within the

relevant market, or other ways in which some constraints are more important than others. The CMA will take these factors into account in its competitive assessment.[7]

Product scope

Supply of CCPs

48. The Parties submitted that they overlap in financial product lead generation, and that the CMA should assess all financial product lead generators and all marketing and sales channels for the promotion of financial products together as part of the same frame of reference. The Parties submitted that financial product providers use many channels to acquire customers, trading off the costs and risks of each.

49. As described above, CCPs are two-sided products. In assessing the frame of reference for a two-sided product, it is necessary to consider interactions between the two sides. This may be done within a single frame of reference covering both sides of the market or within two separate frames of reference, one for each side.[8] In the present case, the CMA adopted as its starting point a single frame of reference, but notes that this is not the only possible approach.

50. The CMA began with the product in which the Parties overlap, which is the supply of CCPs through credit checking tools. It then assessed whether the appropriate frame of reference should:

    (a) include CCPs that do not have a credit checking tool;

    (b) include online and offline advertising and direct sale of consumer credit products; and/or

    (c) be further segmented into the individual consumer credit products (ie loans, credit cards, and mortgages) to reflect the narrowest plausible candidate frames of references.

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[7] *Merger Assessment Guidelines*, paragraph 5.2.2.

[8] See discussion in Just Eat/Hungryhouse, paragraph 4.11. This identifies that, where a platform is 'matching' or facilitating transactions, a single market definition is appropriate. See also OECD, Market definition in multi-sided markets, 15 November 2017, which makes the same point. In the present case, however, the Parties' credit checking platforms are not purely matching or facilitating transactions.

CCPs with and without credit checking tools

51. The CMA assessed whether it is appropriate to extend the candidate frame of reference to include CCPs without credit checking tools.

52. On the lender side, the Parties submitted that financial product providers advertise and distribute both on CCPs that offer credit checking tools and on CCPs that do not. The Parties said that 85% of the [✂] credit card providers listed on their websites are listed on at least one CCP without a credit checking tool; 81% are listed on two CCPs without a credit checking tool; and 67% are listed on at least three CCPs without a credit checking tool.[9]

53. Several lenders confirmed that they use both types of CCP (ie with and without credit checking tools) to generate leads. However, some lenders told the CMA that credit leads from CCPs with credit checking tools tend to be from customers which are riskier (ie more likely to default), and that this impacts the products that lenders seek to offer to customers of these CCPs. Some lenders, however, noted that leads from CCPs with credit checking tools can be particularly attractive as the type of customers they attract are more engaged. Overall, the evidence implies some differentiation between CCPs according to whether they offer a credit checking tool or not.

54. On the consumer side, the Parties submitted that consumers frequently multi-home between CCPs with and without credit checking tools. A survey provided by the Parties indicated that customers of credit checking tools may use a mix of checking and comparison tool websites to find appropriate financial products. In particular, of those who knew their credit score and had purchased a credit card, mortgage or loan in the 12 months preceding the survey, [✂]% made their purchase through a CCP, with around half of these using a 'credit rating website' and the other half using a 'comparison website' to make the purchase.[10] A study by ClearScore found that [✂]% of credit checking website users had at some point used a price comparison website (**PCW**) when researching credit products.[11]

55. However, several third parties told the CMA that the user experience and features of a CCP with a credit checking tool gives these CCPs a significant advantage over other CCPs. This is consistent with evidence from the Parties' internal documents. For example, the due diligence report for the Merger states that ClearScore and Experian '*have improved in conversion effectiveness between 2016 and 2017 at the expense of MSM conversion…*

[9] Final Merger Notice (FMN), para. 13.14.
[10] CMA calculations based on the survey data provided in Request for Information (RFI) 2, Annex 25.
[11] FMN, Para. 13.21.

This supports the hypothesis that the credit checkers are taking market share from [price comparison websites] at the purchasing stage.'[12]

56. Given this mixed evidence, the CMA has included CCPs that do not offer credit checking tools within the same frame of reference as CCPs which do offer credit checking tools, but has considered the differentiation between these services in its competitive assessment.

CCPs and other marketing channels

57. The Parties submitted that the frame of reference in which the Parties compete should include marketing channels for financial products other than CCPs.

58. However, the CMA found that the Parties' internal documents rarely referred to these other marketing channels and, when they did, these channels were not identified as competing closely with the Parties' offerings.

59. Lenders confirmed that they do use a variety of marketing channels for their products and that they keep the effectiveness and return on investment of the different channels under review. However, they provided limited evidence to indicate that they would switch away from a particular channel in response to a small price rise in that channel. Lenders suggested that they might switch away if there was a more cost-effective option, but were not able to suggest the level of price rise that would lead to switching and said that they might instead just raise prices for customers using that channel. Lenders also said that different channels tend to attract different kinds of customer.

60. For borrowers, although a CCP and another form of marketing (eg a newspaper advert or a maildrop) might both inform about the same credit product, the user experience and the consumer engagement with the product is very different. In its *Google Shopping* decision, for example, the European Commission (**EC**) found limited substitutability between comparison shopping services and offline shopping comparison tools, pointing to different levels of information provided and a different user experience.[13] This suggests that borrowers who access financial products through CCPs would be unlikely to switch to accessing those products through alternative channels in the event of a small price rise (or equivalent degradation in service) on CCPs.

[12] FMN, Annex 10.1, slide 39.
[13] Case AT.39740 – Google Shopping, paragraphs 247-250.

61. On the basis of the above evidence, the CMA believes it is inappropriate to widen the frame of reference to other marketing channels but has considered these constraints in its competitive assessment.

CCPs for loans, credit cards and mortgages

62. The Parties submitted that they compete in a market for financial product lead generation as a whole, without segmentation by type of financial product.

63. However, one third party told the CMA that CCPs compete by product, and not as a whole across all financial products. Several third parties said that the sales channel for mortgages, in particular, is very different to those for loans and credit cards, with few consumers purchasing mortgages online.

64. The CMA found that this evidence was consistent with the Parties' internal documents. For example, in one document Experian notes that breaking into mortgages is difficult because consumers value the reassurance of face-to-face advice.[14] Another internal document presents an experienced credit card provider's view that '*there are inherent differences between consumer financial products which change the likelihood of the online channels for them*.'[15] This document noted in particular that '*credit cards have always been well suited to digital and there has been much more movement of loans…in this channel…secured assets like mortgages…are harder products to go to the digital channel however*.' Similarly, the due diligence report for the Merger notes that consumers are more likely to purchase credit cards online than loans.[16]

65. For borrowers, the CMA notes that consumers using a CCP are typically searching for a specific type of financial product, and that other financial products are not at that point demand-side substitutes.[17]

66. On the basis of this evidence, the CMA believes it is appropriate to assess the effects of the Merger in separate frames of reference for each type of financial credit product, ie loans, credit cards and mortgages.

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[14] RFI 1, Annex 6, slide 5.
[15] RFI 2, Annex 26b.
[16] FMN, Annex 10.1, slide 14.
[17] This is consistent with the EC's finding in Google Shopping, paragraphs 193-195, that comparison shopping services do not compete with other specialised search services.

Supply of credit checking tools

67. The Parties submitted that free credit checking services should not be considered as a separate frame of reference but as a feature of their CCPs.

68. The Parties submitted that paid-for credit checking tools differ substantially from free credit checking tools, as paid-for credit checking tools offer additional features to consumers and use a different revenue generation model.

69. However, the Parties' internal documents indicate that free credit checking tools constrain paid-for credit checking tools. For example, in one document, Experian notes that strong competitor activity from providers of free credit checking tools had '[✂].'[18]

70. The CMA has found that there are few clear-cut differences between the features which paid-for and free credit checking tools offer. For example, ClearScore offers access to a customer's full credit report, like Experian's paid-for product and unlike Experian's free product.[19] Several third parties told the CMA that Experian's free product had fewer features than other free credit checking tools, and that ClearScore's free product includes features similar to some paid-for credit checking tools. The CMA also notes ClearScore's history of constant innovation to develop the services it offers in its free product, increasing the constraint over time on Experian's paid-for product (see paragraph 142).

71. The CMA does not believe that the use of different revenue generation models implies that paid-for and free credit checking tools do not constrain each other and should not be considered within the same frame of reference.

72. Based on this evidence, the CMA believes it appropriate to assess the effects of the Merger in a frame of reference for free and paid-for credit checking tools together.

Supply of pre-qualification services to CCPs for credit products

73. Suppliers of pre-qualification services, such as Experian's HD Decisions and Runpath, integrate data from lenders and CCPs to allow CCPs to engage in pre-qualification or eligibility checking (as described in paragraph 38).

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[18] FMN, Annex 12.1, slide 92.
[19] Access to the statutory credit report in a less convenient format is available separately for free from Experian.

74. The Parties submitted that the CMA should consider a frame of reference for pre-qualification services that includes both third-party supply and self-supply.

75. Lenders that responded to the CMA's questionnaire had mixed views on the possibility of replacing HD Decisions with their own direct API solution to provide pre-qualification services (ie self-supply). Some said that they had already done so, but others said that this would be difficult or impossible to do. Lenders described a range of barriers to replacing HD Decisions with self-supply, including the substantial investment required, the technological complexity of the task, the increased cost of handling additional data queries and the need to integrate an API with each CCP individually.

76. Given that not all lenders would be able to self-supply in a timely fashion, the CMA does not consider it plausible that CCPs (which would need to individually integrate the APIs of each lender using their platforms to replace a supplier of pre-qualification services) could switch sufficiently quickly to direct APIs in response to a small price rise in pre-qualification services.

77. Based on this evidence, the CMA has excluded self-supply from the frame of reference for pre-qualification services.

Geographic scope

78. The Parties submitted that the relevant geographic market for all relevant products is UK-wide, as suppliers operate nationally.

79. This was confirmed by evidence from third parties, which found no variation in suppliers across the UK. No third party suggested that a narrower geographic frame of reference would be appropriate.

80. For these reasons, the CMA believes that the geographic frame of reference for all relevant products is UK-wide.

Conclusion on frame of reference

81. For the reasons set out above, the CMA has assessed the impact of the Merger in the following frames of reference:

- the supply of CCPs for (separately) loans, credit cards and mortgages in the UK;
- the supply of credit checking tools (paid-for and free) in the UK; and
- the supply of pre-qualification services to CCPs in the UK.

Competitive assessment

Theories of harm

82. The CMA assessed whether it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC in relation to horizontal unilateral effects in:

    (a) the supply of CCPs for (separately) loans, credit cards and mortgages in the UK; and

    (b) the supply of credit checking tools (paid-for and free) in the UK.

83. The CMA also assessed whether it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC in relation to vertical effects in the supply of pre-qualification services to CCPs in the UK.

Horizontal unilateral effects in the supply of CCPs for (separately) loans, credit cards and mortgages in the UK

84. Horizontal unilateral effects may arise when one firm merges with a competitor that previously provided a competitive constraint, allowing the merged firm profitably to raise prices or to degrade quality on its own and without needing to coordinate with its rivals.[20]

85. In the two-sided market of CCPs, a reduction in competition could lead to several effects, including:

    (a) an increase in the price that lenders pay to CCPs for leads;

    (b) a reduction in the quality of the services provided by CCPs to consumers (ie credit checking tools and credit comparison services); and/or

    (c) lower levels of innovation, for example regarding new product features.

86. To assess the likelihood of the Merger resulting in horizontal unilateral effects, the CMA considered:

    (a) shares of supply in the relevant frames of reference, taking account of differentiation where relevant;

    (b) the closeness of competition between the Parties; and

[20] *Merger Assessment Guidelines*, from paragraph 5.4.1.

(c) competitive constraints from alternative suppliers.

Shares of supply

87. The CMA estimates that, in 2017, the Parties' combined share of revenue for all CCPs from credit cards was [25-40]%, with an increment of [5-10]%, as shown in Table 1. For loans, the Parties' combined share of revenue for all CCPs was [15-30]%, with an increment of [5-10]%. By contrast, the CMA estimates that, in 2017, the Parties' combined share of supply of revenue for all CCPs from mortgages was well below 10%, with the main suppliers being the MSM Group (ie MSM and MSE) and money.co.uk. The CMA believes these shares of supply by revenue to be representative of shares on the lenders' side of the market.

Table 1: Shares of supply of CCPs for credit cards and loans, by revenue, 2017

CCP	Credit cards (%)	Loans (%)
Experian	[5-10]	[5-10]
ClearScore	[20-30]	[10-20]
MSM#	[30-40]	[20-30]
MSE#	[20-30]	[10-20]
TotallyMoney	[5-10]	[0-5]
uSwitch*	[5-10]	[5-10]
Money.co.uk*	[0-5]	[10-20]
Noddle	[0-5]	[0-5]
Comparethemarket	[0-5]	[0-5]
Others	[0-5]	[10-20]†
TOTAL	100	100

MSM Group
* ZPG
†Knowyourmoney and GoCompare.
Source: CMA estimate, based on questionnaire responses.

88. The CMA considers the Parties' combined shares of supply in credit cards and loans to be moderately high, in a market led by MSM Group.

89. However, as discussed above, there is considerable differentiation between CCPs that offer credit checking tools and those that do not, which suggests that the Parties' shares set out in Table 1 will underestimate the constraint the Parties impose on each other. Considering only CCPs with credit checking tools, the Parties have a combined share of supply of [40-55]% for credit cards and [50-65]% for loans, based on revenue. The CMA considers these combined shares of supply to be high, raising prima facie competition concerns. The only significant competitor with a credit checking tool is MSE, with a share of [30-40]% for credit cards and [30-40]% for loans.

90. As another way of estimating CCPs’ shares of supply, focusing on the user side, the CMA has considered the number of users making credit eligibility checks with HD Decisions on different CCPs in January 2018, as set out in Table 2.[21] The CMA recognises that this data does not include users who do not carry out eligibility checks, and therefore measures the Parties against a narrower group of competitors. However, the CMA believes that CCPs which offer eligibility checking are likely to compete more closely with the Parties, as they are less differentiated. The data shows that the Parties’ estimated combined share of users seeking credit cards and loans in January 2018 was [40-50]%,[22] with an increment of [10-20]%. The CMA considers this combined share of supply to be high, raising prima facie competition concerns.

Table 2: Number of users making eligibility checks through HD Decisions, January 2018

[✂]

Source: Experian.

Closeness of competition

91. The Parties submitted that they have differentiated propositions and are not each other’s closest competitor. They submitted that ClearScore’s service is closer to those of Noddle, MSE, TotallyMoney and Giffgaff than to Experian’s, in particular because Experian does not offer a full credit report, credit score history or information about the credit score’s influencers as part of its free credit checking tool. The Parties also submitted that consumers perceive the Parties’ brands differently.

92. The CMA has considered the closeness of competition between the Parties both on the consumer side and the lender side, as set out below. The evidence below relates to all three categories of product (credit cards, loans and mortgages), unless stated otherwise.

Closeness of competition for consumers

93. As described in paragraphs 53-55, the CMA received evidence from third parties that CCPs with free credit checking tools compete more closely with each other than with CCPs without free credit checking tools. For this reason,

[21] As discussed below (see paragraphs 171-172), HD Decisions is the main source of eligibility checks in the UK. The CMA therefore believes that this estimate is a reasonably close approximation of the shares of supply for the whole market. The available data has not allowed the CMA to confirm separate shares for each product. Given that the weight of CCP activity is in credit cards and loans, this data is likely to primarily reflect eligibility checking for credit cards and loans.
[22] Allowing for the fact that some Experian users also use ClearScore and vice versa, the Parties’ combined share of eligibility users is [40-50]%.

some of the evidence set out below relates not only to the closeness of competition between the Parties for consumers of CCPs, but also to the closeness of competition between the Parties for consumers of credit checking services (see paragraph 82(*b*)).

94. The CMA found that the Parties' internal documents also provide extensive evidence that the Parties are each other's closest competitor. The internal documents present a consistent picture of the development of the market, showing how Experian was the incumbent market leader in paid-for credit checking with its CreditExpert product; ClearScore was then a disruptor, entering the market in 2015 with a very successful free credit checking tool; to which Experian then responded in launching its free product in September 2016.[23] For example, Experian's internal documents in 2017 stated that Experian '*remains the No. 1 brand with total awareness of* [✂]*% but nearest competitor ClearScore is gaining quickly from* [✂]*% to* [✂]*% awareness in 18 months;*'[24] and its more recent internal documents list ClearScore first among its competitors. These recent documents again compare ClearScore's brand awareness to Experian's and note that ClearScore's brand awareness is continuing to increase.[25]

95. Experian's internal documents show that it closely tracks its performance against ClearScore.[26] In October 2016, an Experian report looking at the impact of the launch of its free credit checking tool on ClearScore's traffic and sign-up volumes noted that '[*p]ost CreditMatcher campaign launch ClearScore traffic and sign up volumes have been impacted negatively*.'[27] When discussing the success of its free credit checking tool, Experian noted that it had '*responded strongly to competitors…our results are reflected in our impact against ClearScore*.'[28]

96. Similarly, ClearScore's documents consistently focus on measuring its performance against Experian.[29] ClearScore carefully monitors the marketing spend of Experian, with one document noting that '*Experian are spending* £[✂] *per week on marketing, more than* [✂] *our spend, and this has affected [customer] acquisition*.'[30] Another ClearScore document describes Experian and ClearScore as the '*market leaders*', and notes that roughly [✂] ClearScore users have used Experian, which is considerably more than for

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[23] FMN, Annex 8.3, slide 2.
[24] FMN, Annex 12.3, slide 11
[25] FMN, Annex 8.5, slide 3
[26] See, for example, FMN, Annex 12.14, Slide 4.
[27] FMN, Annex 12.7, slide 5
[28] FMN, Annex 12.3, slide 15.
[29] See, for example, FMN, Annex 13.37, and FMN, Annex 13.31, Slide 52.
[30] FMN, Annex 13.6, Slide 10.

other credit checking tools.[31] This indicates that the Parties are each other's closest alternative for credit checking.

97. The CMA believes that, taken together, the Parties' internal documents indicate that they perceive each other as their closest competitor for consumers. This suggests that the Parties consider there to be significant differentiation between their offering, which includes a free credit check, and the offering of those CCPs which do not offer free credit checking.

98. Many third parties told the CMA that the Parties compete closely to attract consumers to their platforms and to generate leads for lenders. Several third parties confirmed that the offer of a free credit checking tool differentiated the Parties' proposition from CCPs without credit checking tools.

99. Several third parties raised concerns that the Merger would reduce consumer choice, given the similarity of the Parties' CCPs.

Closeness of competition for lenders

100. A range of factors are important in determining the value to a lender of a CCP's leads. However, the Parties' internal documents and evidence from third parties indicate that leads from the Parties are particularly attractive to some lenders.

101. In expert interviews conducted as part of Experian's due diligence process, a lender suggested that, with CCPs with credit checking tools, lenders are '*dealing with keener customers which translates to customers who are more willing to be engaged*.'[32] The same lender noted that these were '*powerful tools because they get the really serious customers*.'[33] Similarly, an interviewee noted that '*the likes of ClearScore and CreditMatcher match your profile to the product…this produces high conversion rates and that's really what the lender wants*.'[34] Another interviewee said that '*the credit score lead generators provide a warm contact to the lender…we call that a deep link and it has to be the evolution for PCWs*.'[35] This evidence suggests that leads from CCPs with credit checking tools can be particularly attractive (at least to some lenders) as the type of customers they attract are more engaged than is generally the case through PCWs.

[31] FMN Annex 13.37, slides 19 and 34.
[32] Response to RFI 2, Annex 26a.
[33] Response to RFI 2, Annex 26a.
[34] Response to RFI 2, Annex 26c.
[35] Response to RFI 2, Annex 26g.

102. Some lenders told the CMA that they were concerned about the increased negotiating power of the combined entity and the potential for higher lead prices following the Merger. The Parties submitted that they had no scope to raise commission fees because: (i) financial product providers use many different routes to market; (ii) the Parties have low shares of supply compared with other CCPs; and (iii) there is no unique set of customers which could only be reached via the Parties.

103. However, the CMA found that credit card providers for which the Parties were a relatively important source of leads tended [✂].

104. This evidence suggests that the Parties attract the same kind of customers (those seeking a credit checking tool) and offer a similar journey for these customers to the lenders' products, thereby offering lenders a very similar proposition. It suggests that many lenders perceive the Parties to be close competitors.

Conclusion on closeness of competition

105. Based on the above evidence, the CMA believes that the Parties are each other's closest competitor in the supply of CCPs for (separately) loans, credit cards and mortgages in the UK.

Alternative suppliers

106. Unilateral effects are more likely where customers have little choice of alternative suppliers. The CMA therefore assessed whether there are alternative suppliers which would provide a competitive constraint on the combined entity in the supply of CCPs for loans, credit cards and mortgages in the UK.

107. The Parties submitted that, in the supply of leads to lenders for credit cards and loans, they will continue to face competition from a wide range of suppliers, including CCPs, other online advertising and sales channels and offline channels.

108. The CMA assessed the constraint from alternatives by taking into consideration third-party views and evidence from internal documents.

MSM Group

109. MSM Group is the largest CCP provider in the UK, with a share of supply in 2017 of [50-70]% for credit cards and [30-50]% for loans.[36] Its share of eligibility checks by users was [✄]%, lower than the combined share of the Parties.

110. MSM Group has two differentiated brands: MSM is a PCW, which is the market leader for financial products; MSE offers financial advice, including a free credit checking tool as part of its Credit Club, and generates leads as a CCP. MSE is therefore the closer alternative to the Parties' CCP offerings. However, the CMA notes that MSE's credit checking tool provides a credit score from Experian, which may reduce its effectiveness as a competitor.

111. The Parties' internal documents suggest that MSM Group is an important competitor for lead generation. For example, in one document Experian notes that '*MSE is highly considered and maintaining a clear gap ahead of competition*.'[37] A ClearScore document notes that '[✄].'[38]

112. Third parties also told the CMA that MSM Group is the market leader in the supply of CCPs. However, one lender told the CMA that there was a clear difference (eg in risk profile) between the type of customer it gained via MSM Group and the type of customer it gained through ClearScore. This was consistent with data supplied by the Parties that showed that users of the MSM Group had, [✄] credit scores than users of ClearScore and Experian.[39]

113. Based on the above evidence, the CMA believes MSM Group to be a significant competitor to the Parties in the supply of CCPs for credit cards, loans and mortgages in the UK. However, the CMA notes that credit checking is much less important to MSM Group's business model, which differentiates its offerings to those of the Parties.

Noddle

114. Noddle offers a free credit checking tool, and had a share of supply (by revenue) in 2017 as a CCP for credit cards of [0-5]%, with a similar share of supply as a CCP for loans.[40]

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[36] Its share of revenue for mortgages in 2017 was [60-70]%.
[37] Response to RFI 1, Annex 9.
[38] FMN, Annex 13.50, slide 8.
[39] Additional submission, 18 May 2018, Annex 21.
[40] Noddle has a very low share of supply as a CCP for mortgages.

115. Noddle offers a similar proposition to consumers as the Parties, but is significantly smaller. Some third parties told the CMA that Noddle's credit checking tool is lower quality than those of the Parties, which differentiates its offering as a CCP from the Parties. Despite being an early entrant in the supply of free credit checking tools, Noddle's share has not grown significantly, in contrast to ClearScore.

116. The Parties' documents contain several references to Noddle. One Experian document notes '*continued fierce competition from ClearScore, Noddle and MSE*.'[41] Another Experian document states '*our consumer services business in the UK continues to face stiff competition from alternative freemium (Noddle/Clearscore)/lead generation business models*.'[42] However, the evidence from the Parties' internal documents also indicates that the Parties compete more closely with each other than they do with Noddle. For example, in a ClearScore survey, [✂]% of its users had checked their credit report with Experian while fewer than [✂]% had used Noddle.[43]

117. Based on the above evidence, the CMA believes Noddle to be a weak competitor to the Parties in the supply of CCPs for credit cards, loans and mortgages in the UK.

Other CCPs with free credit checking tools

118. The Parties face competition from some other CCPs which have recently introduced credit checking tools, such as TotallyMoney and GiffGaff. However, as set out in Tables 1 and 2 above, these suppliers currently have a very low share of supply. Moreover, several third parties told the CMA that growing a new credit checking tool from a low share would be difficult, expensive and uncertain. This is consistent with Noddle's failure to grow its share over several years. The Parties' internal documents also suggest that, where existing credit checking tools have acquired scale, later entrants are likely to find it more difficult to grow.[44]

119. The CMA found that, although the Parties' internal documents indicate that the provision of a simple credit score and credit report is becoming commoditised, they also emphasise that their own products have many

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[41] FMN, Annex 12.3, slide 11.
[42] FMN, Annex 12.16, slide 8.
[43] FMN, Annex 13.84, slide 8.
[44] For example, FMN, Annex 10.1, slide 40, and Annex 13.50, slide 17.

advantages over their competitors. In particular, Experian has a highly-trusted brand, and ClearScore has a market-leading user interface.[45]

120. The CMA therefore believes that the strength of the constraint on the Parties from these other suppliers of CCPs with free credit checking tools is weak.

CCPs without free credit checking tools

121. Many CCPs do not offer free credit checking tools (eg most PCWs). However, evidence from the Parties' internal documents indicates that CCPs without free credit checking are losing share as suppliers of CCPs for credit cards and loans. For example, the due diligence report for the Merger quotes the former director of a CCP as saying that the '*major PCWs [ie CCPs without credit checking] are not strategically positioned to be able to maintain their share with the incoming innovations*.'[46] Third parties also told the CMA that CCPs with credit checking tools are gaining market share at the expense of CCPs without them.

122. On the basis of this evidence, the CMA believes that the constraint on the Parties from CCPs without free credit checking tools is weak, for both loans and credit cards.

123. By contrast, CCPs without credit checking tools have relatively high shares (especially compared to the Parties) in the supply of CCPs for mortgages. There is also some evidence from ClearScore that [✂].[47] This suggests that CCPs without free credit checking tools are a much more significant constraint on the Parties for mortgages.

Constraints from outside the frame of reference

124. The Parties submitted that lenders use a range of different channels (such as newspaper advertising) to acquire consumer leads and that this will limit the Parties' ability to increase the prices they charge to lenders.

125. As set out in paragraph 59, lenders told the CMA that they use a variety of channels, but their responses provided little evidence to indicate that they would switch between channels in response to a price rise.

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[45] This is consistent with the Parties' public branding. ClearScore's website states that it provides consumers with '*your credit score laid out beautifully*'; '*a clear view of up to 6 years of your financial details […] explained completely*'.
[46] FMN, Annex 10.1, slide 51.
[47] FMN, Annex 13.16, slide 39.

126. On the basis of this evidence, the CMA believes that the constraint on the Parties from outside the frame of reference is weak, for both loans and credit cards.

127. The CMA notes that evidence from third parties and the Parties' internal documents suggests that constraints from outside the frame of reference for the supply of CCPs for mortgages are significantly stronger, given the reluctance of consumers to purchase mortgages online.

Conclusion on alternative suppliers

128. For the reasons set out above, the CMA believes that the Parties face significant competition in the supply of CCPs from MSM Group, but weak competition from any other competitor. For loans and credit cards, the CMA believes that the collective constraint on the Parties is limited, due to the differentiated offering or weak market position of each competitor.

129. For mortgages, the CMA believes that the Parties face strong competition from several competitors, both within and outside of the frame of reference.

Conclusion on horizontal unilateral effects in the supply of CCPs for (separately) loans, credits cards and mortgages

130. The CMA believes that the Parties are each other's closest competitor in the supply of CCPs for each of loans and credit cards. They operate the most popular free credit checking tools in the UK, differentiating their CCP offering from competitors. While the Parties face some competition, the collective constraint on the Parties is limited.

131. For the reasons set out above, the CMA believes that the Merger raises significant competition concerns as a result of horizontal unilateral effects in the supply of CCPs for (separately) loans and credit cards in the UK.

132. Given the small scale of the Parties' activities in the supply of CCPs for mortgages in the UK, and the extent of competition both within and outside the frame of reference, the CMA believes that the Merger does not give rise to a realistic prospect of an SLC in the supply of CCPs for mortgages in the UK.

Horizontal unilateral effects in the supply of credit checking tools in the UK

133. This theory of harm relates to concerns that the Merger could result in a loss of competition in the supply of credit checking tools, leading to: increased prices for paid credit checking tools; lower quality credit checking tools (eg

through reduced services); and/or less innovation in the development of credit checking tools.

134. This theory of harm focuses on the interaction between ClearScore's free credit checking tool and Experian's paid-for credit checking tool. The CMA assessed whether the merged firm would have a reduced incentive to develop ClearScore's free credit checking tool in ways which might bring it into closer competition with Experian's paid-for credit checking tool. The merged firm would have an incentive to do this if its increased profits from additional sales of CreditExpert (or reduced lost sales) exceeded the lost profits from providing fewer leads through ClearScore.[48]

135. To assess the likelihood of the Merger resulting in horizontal unilateral effects, the CMA considered:

(a) shares of supply of credit checking tools;

(b) the closeness of competition between the Parties (both at present and in the future);

(c) constraints on ClearScore from its revenue generating model; and

(d) competitive constraints from alternative suppliers.

Shares of supply

136. Given the different revenue generating models employed by suppliers of credit checking, the CMA found that it is not straightforward to estimate shares of supply across all credit checking tools. The CMA sought to estimate shares of paid-for credit checking based on revenue; and sought to estimate shares of free credit checking based on the number of users.[49] The results are set out in Table 3.

Table 3: Shares of supply for paid-for and free credit checking tools, 2017

Credit checking provider	Paid credit checking	Free credit checking
	% of revenue	% of annual users
Experian	[70-80]	[20-30]
ClearScore		[50-60]
Equifax	[10-20]	
Noddle	[0-5]	[10-20]

[48] In this analysis, the CMA has assumed that ClearScore will not in the future monetise its free credit checking tool other than through lead generation. If it were to do so, the loss of competition between the Parties for credit checking tools could be felt in other ways.
[49] Data on the usage of free credit checking tools was not available. The CMA therefore used data on the number of users. The number of users will reflect usage if average usage per site is similar.

Checkmyfile	[5-10]	
MSE#		[5-10]
TotallyMoney		[0-5]
Credit Angel	[0-5]	
UK Credit Ratings	[0-5]	
Giffgaff		[0-5]
TOTAL	100	100

MSM Group
Source: CMA estimate, based on questionnaire responses.

137. As shown in Table 3, the Parties' combined share of both paid-for and free credit checking is above 70%. Accordingly, the CMA believes that the Parties have a very high share of supply of credit checking tools overall, raising prima facie competition concerns.

Closeness of competition

138. The Parties submitted that ClearScore's free credit checking tool and Experian's paid-for credit checking tool are differentiated because CreditExpert offers a substantially different set of features to those available on ClearScore. The Parties said that they are therefore not close competitors in the supply of credit checking tools.

139. The CMA assessed competition between the Parties' current products, as well as competition between their products in the future, considering how, absent the Merger, they might have continued to be developed.

Closeness of competition currently

140. Experian's paid-for credit checking product offers several features that are not offered as part of its free credit checking product, including:

(a) the full credit report;

(b) call centre support, which provides customers with guidance on how to improve their credit score;

(c) web monitoring to prevent identity fraud; and

(d) push alerts to update consumers about changes in their credit report.

141. ClearScore's free credit checking product does offer customers access to their full credit report, although it does not include a call centre, web monitoring or push alerts. ClearScore also offers customers help to understand and improve their credit score, including through an automated chat bot and coaching plans.

142. As set out in paragraph 69, the Parties' internal documents provide substantial evidence of competition between free credit checking tools and paid-for credit checking tools. In particular, these documents indicate that ClearScore and Experian's CreditExpert compete closely. For example:

(a) The commercial due diligence report highlights ClearScore's added features (such as specific coaching, timeline and loaning tools tailored to the account holder, including a chat agent), stating that they are superior to those of Experian's free credit checking tool.[50] The report concludes that ClearScore's free product '*has additional features that are close to CE [CreditExpert] today*.'[51]

(b) The due diligence report also states that CreditExpert's userbase '*peaked at just below 1m in early 2016, before starting a steady decline as [ClearScore], and latterly [Experian's] CreditMatcher, were launched*.'[52]

(c) In Experian's FY19-23 strategic plan, in a table of '*value pools'*, ClearScore (alongside MSE and Noddle) are listed as the '*key competitors*' in credit monitoring.[53] On the next slide, under the credit monitoring heading, Experian sets out its plan to '[✂].'

(d) In an overview of the credit score, credit report and credit monitoring marketplace, Experian includes both ClearScore and CreditExpert in an estimate of the market size.[54]

143. Evidence from third parties indicated that they consider ClearScore to be a particularly high quality free credit checking tool.

144. One third party raised the concern that Experian would use its strength in free credit checking tools post-Merger to protect its strong position in paid-for credit checking tools.

145. Based on this evidence, the CMA believes that ClearScore's free credit checking tool competes closely with Experian's paid-for credit checking tool, in particular through the advanced features it offers to users.

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[50] FMN, Annex 10.1, slide 42.
[51] FMN, Annex 10.1, slide 63.
[52] FMN, Annex 10.1, slide 63.
[53] FMN, Annex 12.1, slide 89.
[54] FMN, Annex 12.13.

Closeness of competition in the future

146. The Parties' internal documents indicate that, absent the Merger, both would have continued to develop their products' features. For example, Experian's FY19-23 strategic plan refers to [✂], while ClearScore's 2018 marketing planning document refers to ClearScore [✂].[55] ClearScore's October 2017 board minutes record to '[✂].'[56] Similarly, Experian's internal documents consider the possibility of offering [✂].[57]

147. The Parties submitted that it would [✂]. The evidence showed that CreditExpert's call centre (which provides consumers with guidance on how to improve their credit score) is its most expensive feature.

148. The CMA believes that, while it may [✂], ClearScore may be able to provide other services which add value to its proposition to the consumer, increasing its competitive constraint on Experian's paid-for service. For example, ClearScore has already developed a chatbot to provide guidance to consumers on their credit report, and its internal documents refer to further '*key initiatives*', such as [✂].[58]

149. The Parties submitted, with reference to a survey, that ClearScore's customers [✂]. The CMA's concern, however, is not that the Merger would have prevented ClearScore from reinventing itself as a paid competitor to CreditExpert, but rather that post-Merger ClearScore will improve its free product less quickly. Indeed, ClearScore's internal documents, consistent with its history since launch, indicate that, absent the Merger, ClearScore would have [✂].

150. The CMA noted that the credit monitoring market in the US, in which CreditKarma provides a range of additional features to its credit checking tool for free, suggests that it is possible for free credit checking tools to offer advanced features.

151. On the basis of this evidence, the CMA believes that, absent the Merger, the Parties would both have continued to develop their products in a variety of ways to help consumers better understand and improve their creditworthiness. In particular, given ClearScore's successful track record of innovation and its clear intention in its internal documents to continue to innovate to provide services which consumers want around their credit

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[55] FMN, Annex 12.1, slide 98, and Annex 13.46, slide 9.
[56] FMN, Annex 13.29.
[57] For example, in FMN, Annex 12.1, slide 109.
[58] FMN, Annex 13.46, slide 9.

checking tool, the CMA believes that, absent the Merger, ClearScore in the future may have competed even more closely with Experian's CreditExpert.

152. The CMA is concerned that, as a consequence of the Merger, the merged firm would be disincentivised from investing in ClearScore because this would bring it into closer competition with CreditExpert. Instead, the merged firm could be incentivised to delay, divert or halt the innovation of ClearScore so that it competes less closely with CreditExpert. In addition, the CMA is concerned that, as a consequence of weakened competition between free credit checking tools, the merged firm might delay, divert or halt the innovation of Experian's existing free credit checking tool. Over time, the merged firm might migrate customers of Experian's free tool to ClearScore, leaving Experian's CreditExpert as the market leading paid-for credit checking tool and ClearScore as the market leading free credit checking tool, with sufficient differentiation between these services to limit the incentive for CreditExpert customers to migrate to ClearScore. The merged firm may also have reduced incentives to migrate features from CreditExpert to Experian's free credit checking tool (such as a full credit report).

153. The CMA has found evidence in the Parties' internal documents suggesting that they may pursue such a strategy post-Merger. For example, an Experian briefing paper in relation to the Merger describes its plan to adopt a '[✂].'[59] As shown in Figure 1, the commercial due diligence paper identifies the Merger as an opportunity to [✂]. This strategy is consistent with the challenges identified in Experian's FY19-23 strategic plan, which states the need to maintain sufficient distance between its free and paid products.

Figure 1: Experian internal document[60]

[✂]

Constraints on ClearScore from its revenue generating model

154. The Parties submitted that it was not possible to assess the supply of free credit checking tools separately from the supply of financial product leads. They said that free credit checking tools will always have an incentive to improve their products to compete effectively with CCPs (including those without credit checking tools) and other financial product marketing channels.

155. The CMA recognises that, given ClearScore generates revenue only from leads to credit providers, it is constrained to some extent by other lead

[59] FMN, Annex 10.10, page 1.
[60] FMN, Annex 10.1, slide 62. 'Neptune' is a reference to ClearScore.

generators, including other CCPs. However, with the exception of MSM Group, the CMA has found this constraint to be weak (see paragraph 128). If the Parties face competition in the supply of CCPs, the Parties would have an incentive to improve the terms on which they supply free credit checking tools (or at least one of their free credit checking tools) to attract consumers. To the extent that failing to innovate ClearScore to bring it into greater competition with Experian's CreditExpert would worsen ClearScore's ability to compete with CCPs, the merged firm will be less incentivised to do so.

156. However, after the Merger, the merged company will face conflicting incentives. The Parties' internal documents clearly state that, as a result of the entry and growth of ClearScore, Experian has experienced a significant decline in its subscribers to CreditExpert.[61] After the Merger, while the merged entity will continue to have an incentive to improve ClearScore to gain consumers and lenders from other CCPs, it will also have an incentive to minimise the further loss of paid subscribers from CreditExpert. The CMA notes that, in 2017, Experian generated around £[✂] from paid subscribers to CreditExpert,[62] which is far more than ClearScore's revenue from lead generation.

157. The revenue Experian's CreditExpert earns from paid subscribers is also much greater than the CCP revenue Experian earns via its free credit checking tool, which was around £[✂] in 2017.[63] Experian's documents note that, while '[✂].'[64]

158. On the basis of this evidence, the CMA believes that the constraint on ClearScore from its revenue generating model may be insufficient to remove the incentive for the merged entity to reposition ClearScore away from CreditExpert by reducing or redirecting its innovation.

Alternative suppliers

159. Unilateral effects are more likely where customers have little choice of alternative supplier. The CMA therefore assessed whether there are alternative suppliers which would provide a competitive constraint on the combined entity in the supply of credit checking tools in the UK.

160. The Parties submitted that there are several other providers of paid-for credit checking tools, including Credit Angel, Check My File, Equifax, UK Credit

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[61] For example, FMN Annex 10.1, slide 63.
[62] FMN, Annex 8.8, Slide 35.
[63] Response to RFI 1, Annex 19.
[64] FMN, Annex 8.3, page 2.

Ratings, Credit Report and My Credit Monitor. The Parties said that, in the presence of all these competitors, Experian's paid-for credit checking service faces substantial and ongoing direct competition.

161. Third parties identified the following paid-for credit checking tools: Equifax, CheckMyFile, Credit Angel, UK CreditRatings, My Credit Monitor and CreditReportsMatter. The CMA found that these competitors all provide a credit score and credit report, although the range of additional features (such as credit alerts, dispute resolution and customer service advisors) varies between providers. Third parties said that the Parties also face competition from free credit checking tools, including Noddle (and, to a lesser extent MSM, and several smaller competitors).

162. The CMA found that, while some features of the Parties' products are common across these rival suppliers, and appear relatively easy to provide (such as a basic score), presenting credit information clearly and helpfully to consumers (which the Parties emphasised was ClearScore's competitive differentiator) and developing additional features appear to be more difficult. Third parties indicated that smaller competitors have insufficient scale to compete properly with Experian's CreditExpert, particularly as consumers value a reputed brand.

163. The CMA found that this evidence from third parties was consistent with the Parties' internal documents. For example, Experian's FY19-23 strategic plan states that '[✄].'[65] The CMA found that only a few competing credit checking tools, such as Noddle and Equifax, have any significant presence, with the remaining competitors being very small.

164. As described in paragraph 118, the CMA believes that expanding as a provider of credit checking tools to a size which would provide a material competitive constraint on the Parties is difficult. The CMA has not found evidence to suggest that a rival credit checking provider will grow to compete with Experian's paid-for credit checking tool in the foreseeable future.

165. For the reasons set out above, the CMA believes that the Parties face weak competition from alternative suppliers of credit checking tools in the UK. In particular, the competitive constraints on Experian's paid-for credit checking tool from rivals is limited.

[65] FMN, Annex 12.1, slide 94.

Conclusion on horizontal unilateral effects in the supply of credit checking tools in the UK

166. The CMA believes that the Parties are each other's closest competitor in the supply of credit checking tools in the UK. In particular, the CMA has found that ClearScore's many additional features bring it into direct competition with Experian's paid-for CreditExpert. The Parties' internal documents indicate that, absent the Merger, ClearScore and CreditExpert may have become even closer competitors in the future, as ClearScore would have continued to innovate and develop new features. The evidence indicates that, as a result of the Merger, the Parties would have a reduced incentive to innovate and develop these new features for ClearScore. In addition, the CMA notes that, as a consequence of weakened competition between free credit checking tools, the merged firm might have the incentive to reduce the quality of Experian's free credit checking service. The CMA has found that, while the Parties face some competition, the collective constraint on the Parties in the supply of credit checking tools is limited.

167. For the reasons set out above, the CMA believes that the Merger raises significant competition concerns as a result of horizontal unilateral effects in the supply of credit checking tools in the UK.

Vertical effects in the supply of pre-qualification services to CCPs

168. Vertical effects may arise when a merger involves firms at different levels of the supply chain. Vertical mergers may be competitively benign or efficiency-enhancing, but in certain circumstances can weaken rivalry, for example when they result in foreclosure of the merged firm's competitors at either level of the supply chain. The CMA only regards such foreclosure to be anticompetitive where it results in an SLC in the foreclosed market(s), not merely where it disadvantages one or more competitors.[66]

169. In the present case, the CMA has assessed whether the merged firm would restrict the supply of pre-qualification services to rival suppliers of CCPs, making it harder for CCPs to compete with the Parties due to higher costs.

170. The Parties submitted that Experian would not have the ability or incentive to foreclose CCPs because:

[66] In relation to this ToH 'foreclosure' means either exit of a rival or to substantially competitively weaken a rival.

(a) any attempt at foreclosure would be met by accelerated direct entry of APIs, resulting in permanently reduced sales for HD Decisions and Runpath;

(b) it would make no commercial sense for Experian to jeopardise its key credit provider relationships, which are of critical value to Experian;

(c) there is the potential for entry and expansion in the development of pre-qualification services by third parties, including CRBs;

(d) Experian has existing long-term contracts with customers of pre-qualification services;

(e) Experian has consistently taken the view that it is a much more profitable strategy to sell pre-qualification services as widely as possible across the market; and

(f) there is no change to the concentration of the pre-qualification services market brought about by the Merger.

Ability

171. Experian supplies pre-qualification services to CCPs and lenders through its subsidiaries HD Decisions (which it acquired in 2015) and Runpath (which it acquired in 2017). The Parties and third parties told the CMA that almost all major CCPs use Experian's pre-qualification services.

172. Several lenders told the CMA that Experian's HD Decisions is the only appropriate supplier of pre-qualification services and that there were no alternative suppliers available. Some lenders also named Experian's Runpath as a supplier. These responses were consistent with the Parties' internal documents, where Experian notes that it is in a [✂].[67]

173. Third parties told the CMA that having a pre-qualification service is important and some respondents stated that they would be at a significant competitive disadvantage if they were unable to purchase pre-qualification services from HD Decisions. This is reflected in an internal document from ClearScore which notes that '[✂].'[68]

174. The CMA found that the cost of using HD Decisions can be significant for a CCP. ClearScore's management accounts indicate that, in 2017, the use of

[67] FMN, Annex 12.1, slide 44.
[68] FMN, Annex 13.1, slide 32.

HD Decisions (and a fraud tool) constituted around [✄]% of its total operating costs.[69]

175. Third parties told the CMA that the merged entity could foreclose rival CCPs in three ways:

(a) Price: post-Merger, the merged entity could increase the price of its pre-qualification services, raising rivals' costs;

(b) Quality/innovation: the merged entity could reduce the quality of its pre-qualification product supplied to competitors, for example by making it slower compared with the product supplied internally to the merged entity's CCPs; and/or

(c) Quality of data: the merged entity could agree different terms with lenders, resulting in comprehensive and accurate pre-qualification results only being provided internally to the merged entity's CCPs.[70] Given that Experian has relationships with the same lenders for the collection of their data as a CRB, it may be well placed to achieve this.

176. The Parties submitted that long-term contracts will protect their existing customers from any change in the Parties incentives post-Merger. However, the CMA believes that these contracts may not be sufficient to protect the Parties' competitors from every way in which the Parties could worsen their terms of supply for pre-qualification services, and they provide no protection for rival CCPs as contracts expire or for new CCPs.

177. On the basis of this evidence, the CMA believes that the merged entity would have the ability to withhold or increase the price of an important input from competitors, namely the pre-qualification services offered by HD Decisions and Runpath.

Incentive

178. The profitability of an input foreclosure strategy depends on the size of the profit gained on the downstream market (from increased sales diverted from rivals) compared with the lost profit on the upstream market (from a reduction of input sales).

[69] CMA calculation based on ClearScore's management accounts, FMN, Annex 24.

[70] The quality of the pre-qualification service CCPs receive depends on whether lenders are prepared to pay an additional fee to Experian to access the most accurate results (CCPs cannot compel Experian to provide them with a particular standard of response – it depends on the lender being willing to provide that response to them via Experian, and there is a cost of doing so for the lender).

179. Given that the Merger does not change the level of concentration in the supply of pre-qualification services to CCPs, the CMA considered whether the Merger results in a change in the merged entity's incentives to foreclose its rivals, taking into account:

(a) the increment in the Parties' share of supply of CCPs for credit cards and loans arising from the Merger;

(b) Experian's previous commercial strategy; and

(c) the constraints from self-supply through APIs, and from potential entry and expansion.

Increment in the Parties' share of supply of CCPs for credit cards and loans arising from the Merger

180. The incentive to foreclose would be increased post-Merger as the merged entity will capture leads diverted as a result of its foreclosure strategy through ClearScore as well as CreditMatcher.

181. The increased incentive is reflected in the incremental share of supply arising from the Merger, which (based on revenue) is around [20-30]% for CCPs for credit cards and around [10-20]% for CCPs for loans.

Experian's commercial strategy

182. The Parties submitted that Experian's previous commercial activities and behaviour are evidence that it would not have the incentive to foreclose competing CCPs. The Parties also submitted that the merged firm would not have the incentive to foreclose competitors because this would jeopardise its relationships with key credit providers, which it supplies with other products, such as credit file data.

183. However, the CMA noted that:

(a) Experian's pre-Merger commercial strategy is not necessarily indicative of its post-Merger commercial strategy, particularly if the Merger gives rise to a significant change in its incentives.

(b) Experian already has some incentive to foreclose rivals and this might already have led it to degrade the pre-qualification service which it

provides to some CCPs. This is substantiated by ClearScore's internal documents, which state that [✂].[71]

(c) Given Experian's strength in other markets (eg as the UK's largest CRB), Experian's customers may not be able credibly to threaten to switch away from it for these other products.

(d) The points raised by the Parties would only protect some competitors from foreclosure.

Self-supply through APIs

184. As described in paragraph 75, some third parties told the CMA that self-supply of pre-qualification services through APIs is an alternative to the supply of these services from Experian. The CMA found that the Parties' internal documents provide some support for this. For example, Experian notes in one document that '[✂].'[72]

185. However, most lenders which responded to the CMA's questionnaire said that API integration is a complement to HD Decisions, rather than a replacement. As described in paragraph 75, third parties told the CMA that there are a range of technological, financial, and commercial barriers to replacing HD Decisions with their own APIs.

186. The Parties' internal documents also suggest that only the more technically capable customers of HD Decisions could replace it with direct API integration.[73]

Entry and expansion

187. A few third parties told the CMA that they believed that it would be possible to replicate HD Decisions' functionality. However, these third parties also said that this would be costly and time consuming, and that making commercial agreements with lending institutions to access their lending criteria would be difficult. This was consistent with the views of lenders who told the CMA that they prefer to keep their lending criteria a commercial secret where possible.

188. A few lenders named alternative potential suppliers of pre-qualification services, such as Equiniti. However, given that most customers had not heard of this provider, and could not identify any alternative providers to HD

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[71] FMN, Annex 13.62.
[72] Response to RFI 1, Annex 23, slide 7.
[73] FMN, Annex 8.9, slide 7.

Decisions and Runpath, the CMA does not believe that alternative suppliers of pre-qualification services constrain the Parties.

Conclusion on incentive

189. Based on the evidence set out above, the CMA believes that the Parties may have the incentive, post-Merger, to foreclose some of its competing suppliers of CCPs. The CMA believes that the Merger increases Experian's incentive to foreclose the supply of pre-qualification services to CCPs as it will capture a greater proportion of any diverted sales through ClearScore.

Effect

190. The CMA believes that pre-qualification services are an important input into CCP services (see paragraph 38 above) and, therefore, any foreclosure of pre-qualification services by the merged entity would be likely to have a significant detrimental effect on competition in the supply of CCPs for credit cards and loans.

Conclusion on input foreclosure in the supply of pre-qualification services to CCPs

191. For the reasons set out above, the CMA has found that the merged entity may have the ability and incentive to foreclose its competitors by restricting the supply of pre-qualification services to CCPs. This may have a significant detrimental effect on competition in the supply of CCPs for credit cards and loans.

192. The CMA therefore believes that the Merger raises significant competition concerns as a result of vertical effects in the supply of pre-qualification services to CCPs.

Barriers to entry and expansion

193. Entry, or the expansion of existing firms, can mitigate the initial effect of an acquisition on competition, and in some cases may mean that there is no SLC. In assessing whether entry or expansion might prevent an SLC, the CMA considers whether such entry or expansion would be timely, likely and sufficient.[74] In terms of timeliness, the CMA will look for entry to have a significant impact on competition within two years.[75]

[74] Merger Assessment Guidelines, paragraph 5.8.3
[75].Merger Assessment Guidelines, paragraph 5.8.11

194. The Parties submitted that barriers to entry and expansion are low, in particular given the context of material technological and regulatory change.

195. As noted in the Background section, the CMA recognises that some regulatory and technical developments aimed at facilitating entry are happening. The CMA has discussed the prospect for entry in the relevant frames of reference in paragraph 118, paragraphs 161-164 and paragraphs 184-186 above. As set out in those sections, the evidence received by the CMA from third parties does not indicate that entry or expansion will be timely, likely or sufficient to prevent the realistic prospect of an SLC arising.

Third party views

196. The CMA contacted customers and competitors of the Parties. Several customers and competitors raised concerns about the Merger, in particular regarding the Parties' strength in credit checking tools and their consequential strength as CCPs for credit cards and loans, and regarding Experian's position in pre-qualification services. Other third parties did not raise concerns about the Merger.

197. Third-party comments have been taken into account where appropriate in the competitive assessment above.

Decision

198. For the reasons set out above, the CMA believes that the Merger gives rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in the supply of CCPs for (separately) loans and credit cards in the UK; as a result of horizontal unilateral effects in relation to the supply of credit checking tools in the UK; and as a result of vertical effects in relation to the supply of pre-qualification services to CCPs.

199. Consequently, the CMA believes that it is or may be the case that (i) arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation; and (ii) the creation of that situation may be expected to result in an SLC within a market or markets in the UK.

200. The CMA therefore believes that it is under a duty to refer under section 33(1) of the Act. However, the duty to refer is not exercised whilst the CMA is considering whether to accept undertakings under section 73 of the Act

instead of making such a reference.[76] The Parties have until 27 July 2018 to offer an undertaking to the CMA.[77] The CMA will refer the Merger for a phase 2 investigation[78] if the Parties do not offer an undertaking by this date; if the Parties indicate before this date that they do not wish to offer an undertaking; or if the CMA decides[79] by 3 August 2018 that there are no reasonable grounds for believing that it might accept the undertaking offered by the Parties, or a modified version of it.

Mike Walker
Chief Economic Adviser
Competition and Markets Authority
20 July 2018

[76] Section 33(3)(b) of the Act.
[77] Section 73(2) of the Act.
[78] Sections 33(1) and 34ZA(2) of the Act.
[79] Section 73A(2) of the Act.