

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

## Summary

1. The Competition and Markets Authority (CMA) has provisionally found that the anticipated acquisition by Experian plc of Credit Laser Holdings Limited (CLHL) (the Merger) may be expected to result in a substantial lessening of competition (SLC) within the following markets:
  - (a) the supply of credit comparison platforms for loans and credit cards in the UK; and
  - (b) the supply of credit checking tools in the UK.
2. These are our provisional findings. We now invite any parties to make representations to us on these provisional findings. Parties should refer to our notice of provisional findings for details on how to do this.

## Background

3. On 31 July 2018 the CMA referred the Merger for further investigation and report by a group of CMA panel members (the Inquiry Group) following a phase 1 review.<sup>1</sup>
4. The CMA must decide:
  - (a) whether arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation; and
  - (b) if so, whether the creation of that situation may be expected to result in an SLC within any market or markets in the UK for goods or services.

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<sup>1</sup> In exercise of its duty under section 33(1) of the Enterprise Act 2002.

5. This document, together with its appendices, sets out our provisional findings. We are required to come to, and report on, our final decision by 11 March 2019.<sup>2</sup>

## **The Parties**

6. Experian plc is the parent company of Experian Limited (Experian), the entity which is acquiring CLHL. CLHL is the holding company of Clear Score Technology Limited (ClearScore). Together Experian and ClearScore are the Parties. ClearScore, a financial technology firm, began operating in 2015.
7. Via their websites and mobile apps, both Parties offer people free personal credit scores. ClearScore freely provides additional information to help people to understand their creditworthiness, including a credit report. We refer in this report to products that provide credit scores, reports and related information as credit checking tools (CCTs). Moreover, once people have signed-up for their credit score with the Parties' CCTs, and at the customer's request, both Parties match them to personal credit products (eg credit cards or personal loans) from a range of third party providers. We refer to the product which matches users to credit products from third party providers as a credit comparison platform (CCP). Where a customer successfully applies for a credit product through their CCP, ClearScore or Experian receives a commission from the product provider.
8. In addition to its free personal credit scores, Experian also offers a paid-for service (CreditExpert). Customers of this paid-for service can access a detailed credit report and features such as a dedicated call centre for support, fraud alerts, support for victims of identity fraud, dark web monitoring and they receive more frequent credit scores.
9. Experian, via HD Decisions (a business line) or Runpath (a subsidiary), provides pre-qualification services to lenders and CCPs that enable CCPs to tailor their credit product recommendations to those products for which their customers are likely to be approved. This is important to the customer since the number of recent applications for credit can impact the view a lender will take of a consumer's creditworthiness, potentially making it more likely that they will be refused credit in the future. Accordingly, having an application for credit accepted without needing to make multiple applications is advantageous. Lenders find that customers who have applied after being

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<sup>2</sup> The Inquiry Group decided that the reference period should be extended by eight weeks, from 14 January 2019, under section 39(3) of the Act because there are special reasons why the report could not be prepared and published within that period.

screened through pre-qualification services are more likely to be successful if they complete a credit application.

10. Experian is also one of the three main credit reference bureaus in the UK.

## **Jurisdiction**

11. We have provisionally found that arrangements are in progress or in contemplation that, if carried into effect, will result in the creation of a relevant merger situation within the meaning of the Enterprise Act 2002 (the Act) and therefore we have jurisdiction to review it.

## **Counterfactual**

12. The Parties submitted that a number of ongoing events mean that the industry is changing and that these events have made or would make the industry more competitive. They particularly highlighted regulatory and technological developments including the introduction of Open Banking, the General Data Protection Regulation (GDPR), and the revised Payment Systems Directive (PSD2), as well as the increased use of application programming interfaces (APIs) generally in the personal finance industry. Through our investigation we also became aware of the entry and expansion of third parties, including Credit Karma's agreement to acquire Noddle which was announced on 5 November 2018.
13. We acknowledge that the wider financial services industry is dynamic and undergoing a considerable amount of change in terms of regulatory and technological developments and in terms of entry and expansion. However, we note that these developments are occurring independently of the Merger.
14. In addition, the impact on competition of these changes cannot be seen with a sufficient degree of confidence such that it would be appropriate to adopt an alternative counterfactual than the prevailing conditions of competition.
15. Accordingly, our provisional conclusion is that the prevailing conditions of competition in the absence of the Merger, in which the Parties continue to operate under separate independent ownership, is the most likely and appropriate counterfactual. We have considered the relevant developments as part of our competitive assessment.

## **Competition between the Parties**

16. The Parties engage in extensive marketing and product development to attract users. The Parties' product development efforts make their existing

products more user-friendly and informative, and from time to time they introduce new products.<sup>3</sup> These product development and marketing efforts allow the Parties to acquire and engage customers.

17. Both of the Parties use their free CCTs to attract and engage users to their CCPs, through which users compare personal credit products. The Parties are then remunerated by credit product providers when users take out credit via the Parties' CCPs. In addition, Experian earns revenue via its paid-for CCT, CreditExpert, which is available for a monthly subscription fee. CreditExpert includes a number of additional features which differentiates it from free CCTs, including call centre support. We consider that subscribers will only be willing to pay this fee, rather than using a free CCT, to the extent that they consider the additional features to justify the cost.
18. The Parties submitted that, although Experian's strategy for CreditExpert had been significantly affected by ClearScore's entry in 2015, over time since then users have selected which CCT product they want to use based on their personal financial circumstances at the time and the different features available in the products. Therefore, the Parties said that free and paid-for CCTs no longer compete closely.
19. However, we have undertaken an extensive review of the Parties' internal documents, including recent Board papers, strategy documents and company budget documents. From this exercise we provisionally conclude that the Parties compete closely in the provision of CCTs and CCPs. Both Parties closely monitor each other, pay attention to new products and improvements made by the other, consider the effects of advertising and marketing by the other and discuss their competitive responses. Experian's internal documents also continue to comment on the impact of free CCTs on CreditExpert. The Parties' monitoring activity is more closely focussed on each other and on one rival than any other CCT or CCP provider. This not only includes competition between the Parties in the provision of free CCTs, but also between ClearScore's free CCT and Experian's CreditExpert.
20. We also examined other evidence from the Parties and from third parties on the extent to which the Parties would face competitive constraints from third parties after the Merger. We undertook this analysis within a framework of competition in the provision of CCTs and in the provision of CCPs in loans and credit cards, as explained below.

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<sup>3</sup> For example, in July 2018 ClearScore announced 'OneScore', which will present a wider range of financial information alongside the credit score and report.

## Market definition

21. The purpose of market definition in a merger inquiry is to provide a framework for the analysis of the competitive effects of a merger.
22. CCPs connect users with lenders, matching users with financial products that are suitable for them. CCPs allow users to save time by removing the need to individually compare a large number of suppliers. Lenders use CCPs as a marketing channel through which they can offer credit products. Although lenders use a range of marketing channels, our provisional view is that, due to their relatively high cost-effectiveness, CCPs should be considered a distinct market from a lender's perspective. Although loans and credit cards are unlikely to be close demand-side substitutes for users, we have provisionally defined a single product market for CCPs for loans and credit cards. This is because the evidence we have obtained indicates that the competitive dynamics are sufficiently similar across the two product categories, and a CCP that only compares credit cards or loans can move quickly into comparing the other.
23. In relation to CCTs, the services offered are differentiated, ranging from the provision of a free basic credit score to a paid-for service comprising dedicated telephone support on an individual's credit report and personalised support for victims of fraud. Accordingly, we have considered the extent of competition between paid-for and free CCTs to assess whether separate markets exist for paid-for CCTs and free CCTs. Our provisional view is that paid-for and free CCTs continue to compete closely, despite the differentiation between them. Indeed, the evidence we have obtained indicates that paid-for CCTs (including Experian's paid for product 'Credit Expert') invest in additional features as a response to competition from free CCTs, such as ClearScore.
24. We have considered whether the supply of pre-qualification services should include the constraints from alternative technologies such as APIs, which allow direct links between lender and CCP without the need for an intermediary such as HD Decisions. We have provisionally concluded that the relevant product market is for pre-qualification services supplied by third parties, not including APIs. However, we have considered the constraints arising from APIs in our competitive assessment.
25. We found that suppliers for all markets relevant to this case operate nationally.
26. In light of the above, we have considered the Merger's effects with reference to the following markets:

- (a) The supply of CCPs for loans and credit cards in the UK;
- (b) The supply of CCTs in the UK;
- (c) The supply of pre-qualification services in the UK.

## **Competition in the supply of credit comparison platforms**

27. CCPs compete to attract both users and lenders, and we have considered whether the Merger might give rise to an SLC regarding either, or both, customer bases. In particular, we assessed whether the Merger may result in:
- (a) Lower quality or range of services provided by CCPs to users, for example the quality of the Parties' free CCTs; or
  - (b) Increased prices (commission rates) that lenders pay to CCPs for leads.
28. In relation to users, CCPs rely on a variety of methods to acquire users and the Parties use their free CCTs to do so. From the Parties' perspective, competition to attract users to their CCPs is inextricably linked to their free CCTs. The evidence (including the Parties' internal documents and third party views) indicates that free CCTs are, and are likely to continue to be, a particularly effective means of attracting users. This is underscored by the success of ClearScore as well as by the Parties' consumer research and the decisions of market participants to introduce a free CCT.
29. We considered the extent to which the Parties are currently close competitors in the supply of CCPs to users, such that an important mutual competitive constraint would be removed by the Merger. We noted the similarities in their product development, the Parties' marketing activities, the available evidence on new user acquisitions by free CCTs (where the Parties account for a significant proportion of new users) and that the Parties' internal documents, including documents prepared for senior management, show that they continue to consider each other to be particularly close competitors.
30. We noted that one rival is also currently a strong competitor, although the Parties' internal documents and the other evidence available to us indicates that there are some limitations to the competitive constraint the Parties currently face from it. However, other rivals do not appear to currently impose a strong competitive constraint on the Parties. We also do not consider that the Parties are materially constrained by lenders using other distribution channels for their credit products (including direct sales).

31. Overall, we consider that the evidence shows that the Parties are particularly close competitors with respect to the consumer-facing aspects of their CCPs, especially via their free CCTs.
32. The Parties have told us that they innovate and make improvements in product quality, user experience and range in response to competition from rivals. This evidence, and that on closeness of competition between the Parties, implies that, absent the Merger, the competitive constraint between the Parties would be expected to be an important driver of incremental improvements in the range and quality of their product offerings.
33. We have carefully considered the available evidence about entry and expansion taking place independently of the Merger, including the fact that Credit Karma, a leading provider of CCPs and CCTs in the US, announced on 5 November 2018 it had agreed to purchase Noddle from TransUnion. However, considering this evidence in the round, our provisional view is that this entry and expansion would not be sufficient to mitigate or prevent any SLC arising from the Merger.
34. We are concerned that, post-Merger, the significant rivalry between the Parties will be lost and the combined entity would be likely to face materially reduced competition because there are insufficient post-Merger competitive constraints to ensure that rivalry continues, which would result in a substantial reduction in the rate of product development and improvements in the user experience.
35. We provisionally consider that no countervailing factors would address our concerns. In particular, we do not consider that entry or expansion would be timely, likely and sufficient to prevent or mitigate our concerns in relation to the supply of CCPs for loans and credit cards.
36. In relation to lenders, CCPs need to compete to attract lenders to be listed on them. We received few strongly expressed lender concerns about the Merger. We note that the loss of lenders' choice between the Parties may be mitigated by there remaining a sufficient number of alternative CCP options, and also note their ability to use other channels, despite these being less cost-efficient, for the purposes of marketing. In our view, the direct competitive rivalry between the Parties is more focussed on the consumer side of the market, reflecting the similarity of their approaches in using free CCTs to attract users to their CCPs, and the potential for CCTs to deliver an ongoing engaged relationship with consumers.
37. However, given the merger-related competition concern identified on the user side of the platform, in the longer run this may have a negative impact on

lender side participants if it were to result in fewer consumers signing up to and being accessible to lenders via the Parties' CCPs.

38. Our provisional conclusion is therefore that the Merger may be expected to result in an SLC in relation to the supply of CCPs for loans and credit cards in the UK.

## **Competition in the supply of credit checking tools**

39. We have considered competition between free CCTs only, as well as between all CCTs, to assess the extent to which the Merger is likely to result in:

- (a) higher prices for CreditExpert than would be the case in the absence of the Merger, for example because, absent the Merger, ongoing competition from ClearScore's free CCT would lead Experian to offer lower prices for CreditExpert; and/or
- (b) reduced quality of the merged entity's CCTs (either paid-for or free), because any loss of competition between the Parties as a result of the Merger would reduce the Parties' incentives to introduce new product developments or other innovations to improve the quality of their CCTs.

40. Our provisional view is that the Parties' free CCTs are currently particularly close competitors. They have acquired significantly more users than other providers and our assessment of competition in the supply of CCPs (where the Parties compete to acquire users via their free CCTs) supports this provisional conclusion. Therefore, we are concerned that the Merger is likely to lead to a significant loss of rivalry between the Parties in the supply of free CCTs.

41. In our view, the evidence also shows that free CCTs (of which ClearScore is the leading provider) continue to have a significant effect on Experian's CreditExpert and that Experian continues to respond to this competition by improving its CreditExpert product. This continued effect and competitive response is clearly discussed in Experian's most recent internal documents, including its strategic documents. The evidence also indicates that this competitive interaction is likely to continue for the foreseeable future.

42. Although there are a number of other paid-for CCTs, including Equifax, CheckMyFile and Credit Angel, on balance our view is that the evidence shows that these other paid-for CCTs provide only a limited competitive constraint on CreditExpert.

43. Therefore, our provisional view is that the Merger would lead to Experian acquiring the closest competitive constraint to both its free and paid-for



products. ClearScore currently does not need to consider how improvements in its free CCT will affect Experian's paid-for CCT but the merged entity would do, and the evidence indicates that Experian has considered such effects in the past.

44. Consequently, we are concerned that the Merger is likely to substantially reduce the Parties' incentives to invest in improvements and product developments in their CCTs, thereby reducing the rate of innovation in this market. We are also concerned that the Merger is likely to lead to a substantial reduction in the Parties' incentives to reduce prices or improve the quality of Experian's paid-for products, in the absence of the rivalry arising from competition from ClearScore's free CCT.
45. We provisionally consider that no countervailing factors would address our concerns. In particular, we do not consider that entry or expansion would be timely, likely and sufficient to prevent or mitigate our concerns in relation to the supply of CCTs.
46. Accordingly, our provisional conclusion is therefore that the Merger may be expected to result in an SLC in relation to the supply of CCTs.

### **The supply of pre-qualification services**

47. Pre-qualification services are used by CCPs to match customers to the financial products they are most likely to qualify for without the need for a formal credit check. The majority of CCPs offer pre-qualification services on their platforms.
48. Such services can either be offered by Experian's HD Decisions or Runpath businesses (the primary service providers in the market) or, alternatively, financial providers can directly connect with a CCP through the use of APIs.
49. We have considered the extent to which Experian would, as a result of the Merger, have the ability and incentive to prevent or hinder its rivals' access to pre-qualification services, and whether this would be likely to have an adverse effect on downstream competition in the supply of CCPs.
50. We have provisionally found that Experian's downstream presence in the supply of CCPs is significantly increased by the addition of ClearScore. This potentially gives Experian a greater incentive to harm its rivals by withholding access to pre-qualification services.
51. However, we consider that lenders and CCPs could threaten to switch to using APIs to circumvent Experian's pre-qualification services, constraining the profitability of foreclosing rival CCPs' access to its service. In addition,

Experian's relationships with financial institutions in its wider business mean they could potentially retaliate, including in other areas (for example by withholding their credit products from Experian's CCP).

52. Accordingly, we have provisionally concluded that it is unlikely that the Merger would significantly increase Experian's incentives to foreclose rival CCPs' access to HD Decisions' pre-qualification services. As such we provisionally consider it unlikely that the Merger will give rise to an SLC in the supply of pre-qualification services to third parties in the UK.

### **Provisional conclusions**

53. As a result of our assessment, we have provisionally concluded that the anticipated acquisition by Experian of ClearScore:
- (a) will result in the creation of a relevant merger situation;
  - (b) may be expected to result in an SLC in the supply of CCPs for loans and credit cards in the UK;
  - (c) may be expected to result in an SLC in the supply of CCTs in the UK; and
  - (d) may not be expected to result in an SLC in the supply of pre-qualification services in the UK.