

# Anticipated acquisition by Experian plc of Credit Laser Holdings Limited

Provisional findings report

Notified: 28 November 2018

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The Competition and Markets Authority has excluded from this published version of the provisional findings report information that the inquiry group considers should be excluded having regard to the three considerations set out in section 244 of the Enterprise Act 2002 (specified information: considerations relevant to disclosure). The omissions are indicated by [≫]. Some numbers have been replaced by a range. These are shown in square brackets. Non-sensitive wording is also indicated in square brackets.

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- A: Terms of reference and conduct of the inquiry
  B: Analysis of the Parties' internal documents
  C: Parties' econometric analysis
  D: How Experian calculates credit scores
  Glossary

# **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.
- 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

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

<sup>&</sup>lt;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.

- 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 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.

<sup>&</sup>lt;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.

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.

#### 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.

# **Provisional findings**

## 1. The reference

- 1.1 On 31 July 2018, the Competition and Markets Authority (CMA), in exercise of its duty under section 33(1) of the Enterprise Act 2002 (the Act), referred the anticipated acquisition by Experian plc (Experian) of Credit Laser Holdings Limited (CLHL) (the Merger) for further investigation and report by a group of CMA panel members (the Group).
- 1.2 In exercise of its duty under section 36(1) of the Act, 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 a substantial lessening of competition within any market or markets in the United Kingdom for goods or services.
- 1.3 In answering these two questions we will apply a 'balance of probabilities' threshold to our analysis. That is, we will decide whether it is more likely than not that an SLC has resulted, or may be expected to result, from the Merger.<sup>4</sup>
- 1.4 Our terms of reference, along with information on the conduct of the inquiry, are set out in Appendix A.
- 1.5 This document, together with its appendices, constitutes our provisional findings. Further information, including a non-commercially-sensitive version of the Parties' response to the phase 1 decision, can be found on our webpage.<sup>5</sup>

# 2. The Parties

# **Experian**

2.1 Experian plc is a global information services business specialising in information relating to personal finance and credit markets. It is listed on the

<sup>&</sup>lt;sup>4</sup> Merger Assessment Guidelines, paragraph 2.12. The Merger Assessment Guidelines have been adopted by the CMA board.

<sup>&</sup>lt;sup>5</sup> Experian/ClearScore

London Stock Exchange, headquartered in Dublin, Ireland with operations in 39 countries including the UK. Its UK subsidiary is Experian Limited.

- 2.2 [%]
- 2.3 [%]

#### Experian's B2C activities

- 2.4 Experian's consumer-facing activities in the UK include:
  - (a) A paid-for credit checking and maintenance service via its 'CreditExpert' service. CreditExpert offers people access to their credit report and credit score, as well as additional features including dedicated telephone support on an individual's credit report, guidance to individual customers as to how best they can improve their credit score, fraud alerts, and personalised support for victims of fraud. This service is monetised through monthly payments from subscribers. CreditExpert customers are also signed-up to the Experian free account.
  - (b) A free credit checking service (introduced in June 2016 and initially branded as 'CreditMatcher' but now referred to as the free Experian account) that generates leads for financial products such as personal loans, credit cards, mortgages and insurance, receiving a commission for successful applications from financial product providers. In order to generate revenue from financial product lead generation, Experian engages in financial product matching for users. Specifically, Experian offers people credit scores for free as a means to attract consumers to its service, and then uses information provided by the consumer to match them to a list of financial products for which they are likely to be eligible, as a means to originate leads.
- 2.5 [%]
- 2.6 Experian's CreditExpert service provides the bulk of its B2C revenues. Other B2C revenue streams are from the provision of 'Affinity' services. Affinity services involve the supply of a range of credit services (such as credit scores and credit reports to third parties, such as banks and credit card providers, so that they can offer credit scores and reports to their own customers. Experian's Affinity customers include Lloyds Banking Group, Barclays Bank, [%], and MSE).
- 2.7 [%]

#### Experian's UK B2B activities

2.8 In the UK Experian is probably best known as a Credit Reference Bureau (CRB). 6 As a CRB it collates and analyses financial data and other information about individuals and businesses and supplies it to, for example, credit providers such as banks to assist them with lending decisions to individuals. In addition, Experian operates in three B2B areas: Credit Services; Decision Analytics; and Marketing. Of particular relevance to our investigation, are the two businesses that sit within Credit Services, HD Decisions and Runpath, which both provide pre-qualification services. Prequalification services are used by providers of financial product lead generation to tailor the list of matched credit products that they offer to people using the platform according to the prospects of them being eligible for the product, as well as in some cases, the lenders' own lending criteria. Prequalification services, by combining information about the individual with the credit file data sourced from a CRB and the credit policies of individual credit providers, provide a mechanism through which people are matched to credit products for which they are likely to qualify.

#### HD Decisions and Runpath

- 2.9 HD Decisions was founded in 2008, launching eligibility checking with Confused.com and Barclaycard in 2009. MoneySupermarket Group plc (MSM) took a 25% stake in the business in 2010. HD Decisions launched its first pre-qualification loan product in 2011. In April 2014 it was acquired by Experian. In June 2014 it launched its first mortgage solution product with the [≫]. HD Decisions has three revenue streams:
  - (a) Pre-qualification services<sup>7</sup> for credit cards and loans to price comparison websites and credit comparison platforms (eg [≫]), [≫]), worth [≫] per year;
  - (b) Pre-qualification services for credit cards and loans to lenders (eg [≫]), worth approximately [≫] per year; and
  - (c) Mortgage pre-qualification services to lenders (eg [≫]) worth approximately [≫] per year.<sup>8</sup>
- 2.10 Runpath commenced operations in January 2016 supplying services to GoCompare. Experian acquired a minority stake in Runpath in June 2016,

<sup>&</sup>lt;sup>6</sup> Sometimes called a credit reference agency. The other main CRBs in the UK are Equifax and Call Credit.

<sup>&</sup>lt;sup>7</sup> Marketed as SmartSearch

<sup>8 [%]</sup> 

acquiring the remainder of the business in October 2017. Runpath provides a range of technical price comparison services to financial platforms covering fourteen different segments (including insurance, telecoms and credit cards). This includes a small role in pre-qualification services to price comparison websites. Its customers include GoCompare and giffgaff. Runpath had revenues of  $\mathfrak{L}[\gg]$  in 2018.

#### **ClearScore**

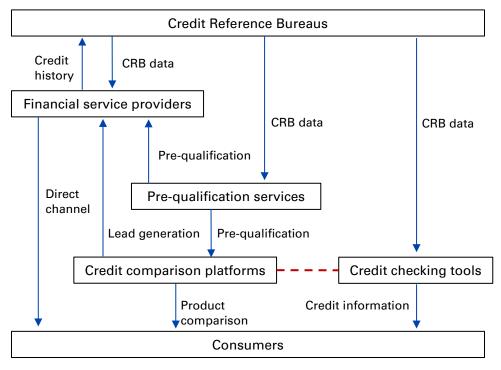
- 2.11 CLHL is the holding company of Clear Score Technology Limited (ClearScore) which operates the UK ClearScore business. The main shareholders in CLHL [≫]. Besides the UK, ClearScore operates in South Africa and India.
- 2.12 ClearScore offers people free credit scores and reports and matches them with personal financial products (including credit cards, loans, mortgages, automotive loans, and insurance products) via its website and mobile app. ClearScore earns commission from the providers of the financial products. In its credit scores and credit reports, ClearScore uses credit file data from Equifax as well as from HD Decisions ([%]).
- 2.13 ClearScore was founded in September 2014 and began operating in July 2015 by matching credit score users with credit cards. This was followed in September 2015 with the introduction of personalised loan offers. By May 2016 ClearScore had [≫] users. Late in 2016 it launched into its third product, automotive loans. In June 2017 ClearScore launched the first of its overseas operations in South Africa. In 2018 it launched the second overseas operation in India.
- 2.14 ClearScore currently has approximately [≫] users in the UK. In the year ended 31 December 2017 ClearScore reported revenue of £27.5 million and an operating profit of £117,372.
- 3. Credit reference bureaus, credit checking tools and credit comparison platforms and pre-qualification services
- 3.1 The Parties collectively provide credit reference bureau, credit checking tools, credit comparison platform, and pre-qualification services. These services form part of the wider industry for the supply of personal credit products to consumers, including loans and credit cards.

- 3.2 This section provides background to these services and discusses the values they offer to customers and lenders. It is structured as follows:
  - (a) Industry structure: we describe the activities of credit reference bureaus, credit checking tools, credit comparison platforms, and pre-qualification services and show they relate to each other.
  - (b) Regulated activities: we describe the activities that are regulated, and who the regulators are.
  - (c) Industry developments: we set out recent developments in the provision of credit checking and credit comparison services, including a number of recent regulatory changes.

## **Industry structure**

- 3.3 Figure 1 shows a simplified overview of the various commercial activities within the industry, and illustrates a number of commercial relationship between the various service providers:
  - (a) Credit Reference Bureaus (CRBs)
  - (b) Providers of credit checking services. We refer to the means of providing credit checking services as the provision of a credit checking tool (CCT).
  - (c) Providers of credit comparison services. We refer to such providers as credit comparison platforms (CCPs).
  - (d) Pre-qualification service providers

Figure 1: Industry structure



Source: CMA

#### Credit reference bureaus

- 3.4 CRBs collect the credit history information of individuals and businesses from lenders, such as banks and other providers of credit products, which is then combined with other information obtained from public sources to form a set of CRB data. Information from the CRB data about a particular individual is referred to as their 'credit file'.
- 3.5 CRBs supply information held in credit files to providers of credit products that wish to check the creditworthiness of individuals or businesses, such as banks, other credit providers as well as CCT providers who provide it to their subscribers as part of the provision of credit checking services to allow individuals to check their credit score and history. Additionally, CRBs provide credit files to pre-qualification service providers to enable them to provide pre-qualification service to CCPs.

<sup>&</sup>lt;sup>9</sup> The information includes public records data (eg electoral rolls), statutory information, identity information, credit transactions and payment histories for individual consumers. Further, banks and other credit providers provide data to CRBs relating to their customers' history of applying for and repaying amounts due from credit products.

- 3.6 The three main CRBs in the UK are Experian (see paragraph 2.1-2.10 for description), Equifax and TransUnion (formerly Callcredit).<sup>10</sup>
- 3.7 Equifax Inc is a global CRB listed on the New York Stock exchange. In the UK it provides credit data and services to businesses and credit monitoring and fraud-prevention services directly to consumers. In 2017 Equifax Inc had a turnover of \$3.4 billion and the UK trading company, Equifax Limited, had revenue of £122 million in 2017.
- 3.8 TransUnion<sup>11</sup> is the second largest CRB in the UK (after Experian), with a revenue of £201 million in 2017. Callcredit was acquired by TransUnion for £1 billion in June 2018. TransUnion is a global CRB listed on the New York Stock exchange. TransUnion's total revenue in 2017 was \$1.9 billion.

#### Data sharing agreements

- 3.9 Lenders and other contributors share credit information through CRBs under a set of rules called the Principles of Reciprocity (PoR). The PoR ensures that contributors to the shared data receive the same credit performance level data (eg contributors of negative credit information, such as defaults history, would only receive the same type of information), and that the shared data can only be used for "the prevention of over-commitment, bad debt, fraud and money laundering and to support debt recovering and debtor tracing". 13
- 3.10 The PoR are administered and developed by the Steering Committee on Reciprocity (SCOR), a cross industry forum including credit industry trade associations, CRBs and others.<sup>14</sup>
- 3.11 There are further principles that CRBs follow when filing information about arrears, arrangements and defaults with CRBs. 15 These principles have been drawn up by the industry in collaboration with the Information Commissioner's Office (ICO) to ensure that default records are consistent and accurate while respecting the privacy rights of individuals.

<sup>&</sup>lt;sup>10</sup> Around 25 firms have been granted permission by the Financial Conduct Authority to provide credit references – some are small CRBs providing complementary information (such as rent payments) to the large CRBs and others may not be active

<sup>11</sup> https://www.callcredit.co.uk/

<sup>&</sup>lt;sup>12</sup> Principles of Reciprocity, SCOR

<sup>&</sup>lt;sup>13</sup> What are the Principles of Reciprocity?, SCOR

<sup>&</sup>lt;sup>14</sup> Steering Committee on Reciprocity

<sup>&</sup>lt;sup>15</sup> Principles for the Reporting of Arrears, Arrangements and Defaults at Credit Reference Agencies

#### Credit checking tools (CCTs)

- 3.12 CCTs provide individual people with their credit information. In the most basic form this comprises the provision of information in the person's credit file through providing a credit score or credit report from one or more of the CRBs, but it can also include other services such as credit repair and fraud monitoring. CCT providers help people understand their credit history and perceived creditworthiness. CCT providers may also help people challenge errors in their credit file and provide other related services. CCTs principally do this by providing them access to their credit file by means of a credit report from, or credit score calculated by, one or more of the CRBs. There is no strict definition of which services are needed to comprise a CCT and in this inquiry we have not found it necessary to use a strict definition.
- 3.13 Credit scores and reports are acquired by the CCT provider from one of the CRBs. The scores themselves are proprietary to the relevant CRB and each CRB operates a score on a different scale. Experian's score is up to 999, TransUnion's is up to 710, and Equifax's is up to 700. How Experian calculates its credit scores is set out in Appendix D.
- 3.14 CCTs are provided as either (i) a paid-for service or (ii) for free, where the offer is monetised by other means (such as through the provision of credit comparison services). Prior to 2011, people were only able to access their credit report through a paid-for CCT service. Experian was the clear market leader with its CreditExpert product. In the period since 2011 a number of free CCTs have launched. Noddle was the first launched in 2011. In July 2015 ClearScore launched its free CCT with a promise of it being 'free forever'. In 2016 MSE launched Credit Club using Experian's credit score. Then later in 2016 Experian launched its own free CCT, CreditMatcher (now called the Experian free product). CCTs are now also provided to their customers by some banks and credit card operators.
- 3.15 The evidence available to us indicates that around 40-50% of UK adults engage with their credit score. According to a Mintel study, 39% of UK adults have signed up for a free credit report but only 7% pay for a credit report. A further Mintel study found that around half of UK adults check their credit score (47%) with 16% checking it regularly and around 30% checking their score at least once a year. B

<sup>&</sup>lt;sup>16</sup> We note that having different providers of credit scores providing those scores on a different scale might cause some confusion among users of credit scores.

<sup>&</sup>lt;sup>17</sup> Mintel, Unsecured personal loans, January 2018

<sup>&</sup>lt;sup>18</sup> Mintel, Consumers and credit risk, February 2017. The figure of 30% of people checking their score at least once a year includes the 16% who check their score regularly.

- 3.16 CCTs may provide other services, including: online/telephone guidance about improving creditworthiness; coaching via chatbot, and push alert identity theft monitoring. Not all services are available to all customers on all websites.
- 3.17 Table 3.1 sets out which CCTs are supplied by which CRBs, split between free and paid-for credit checking services. The table includes a fourth CRB, Crediva<sup>19</sup> which also provides one CCT with credit file data. It is significantly smaller than the three main UK CRBs listed in the table.

Table 3.1: CRB supply of credit file data to credit checking service providers



#### Free CCTs

- 3.18 Free CCTs can be categorised into two types:
  - (a) CCTs that generate revenue through lead generation. Experian's free product and ClearScore are in this category.
  - (b) Financial product providers that provide a CCT as an add-on service to existing or potential customers of their own financial products. For example, CapitalOne (a credit card provider) offers its free CCT, CreditWise, through its website; Barclaycard (another credit card provider) offers a free CCT to its existing customers.
- 3.19 The range of services provided by the main free CCTs differ in terms of the amount of information and support provided to customers. For example, some CCTs (such as Experian's free product) only provide a credit score; whereas others (such as ClearScore, Noddle and TotallyMoney) provide a credit report and other related credit checking information, such as a score history showing the development of the customer's credit score over time.
- 3.20 Additionally, free CCT providers can have different levels of access to the underlying credit-file data provided by a CRB. Some providers are only able to provide a user with access to their current credit score. Other providers have access to additional data and these providers are able to use this additional

<sup>&</sup>lt;sup>19</sup> Part of LexisNexis Risks Solutions

data to provide additional services to customers (such as a credit report or their score history). These providers can use this additional data to develop a differentiated proposition to potential customers.

- 3.21 In addition to Experian and ClearScore, the main third party providers of free CCTs are:
  - (a) MoneySavingExpert (MSE): MSE is part of MSM.<sup>20</sup> The MSM group is a listed company, currently in the FTSE 250. It had revenue in 2017 at £330 million and 13 million active users. MSE was founded in 2003 by Martin Lewis as a consumer finance website and was bought by MSM in 2012.<sup>21</sup> MSE launched Credit Club<sup>22</sup>, a free CCT with a CCP, in September 2016 providing: a free Experian Credit Score; an Affordability Score mimicking the test lenders carry out on consumers to see if they can afford a product through income, debt exposure and estimated expenditure; Credit Hit Rate, shows the consumer their chance of being approved for the market's top credit card and loan products (without leaving a mark on their file); and credit profile strengths and weaknesses with tips for improvements. [≫].<sup>23</sup>
  - (b) Noddle: Noddle is owned by TransUnion and provides a 'free for life' CCT with a CCP.<sup>24</sup> In November 2018, TransUnion announced the sale of Noddle to Credit Karma, a US-based firm. <sup>25</sup> Until 2017, Noddle offered some paid-for premium features on its CCT, such as tailored help and guidance on how people can improve their credit score and fraud detection. The Alerts and Web Watch products provide fraud detection not Noddle Improve. These premium services have now been withdrawn for new customers. Noddle currently has 4 million subscribers in the UK.<sup>26</sup>
  - (c) TotallyMoney: TotallyMoney<sup>27</sup> is a CCT as well as being a CCP that offers people free access to their TransUnion score and report. Users of the TotallyMoney site can use it to carry out a comparison of credit cards, loans or mortgages. After launching in 2009 the company has grown to 50

<sup>&</sup>lt;sup>20</sup> https://www.moneysupermarket.com/

<sup>&</sup>lt;sup>21</sup> http://www.thisismoney.co.uk/money/news/article-2153130/Moneysaving-millionaire-Martin-Lewis-sells-Moneysavingexpert-Moneysupermarket-87m.html; also see the Office of Fair Trading 'found not to qualify' decision in MoneySupermarket/MoneySavingExpert, 8 August 2012.

<sup>&</sup>lt;sup>22</sup> https://www.moneysavingexpert.com/creditclub

<sup>&</sup>lt;sup>23</sup> In addition, Capital One provides a free CCT under the branding 'CreditWise' and Giffgaff also provides a free CCT. These providers do not have a large user base.

<sup>&</sup>lt;sup>24</sup> https://www.noddle.co.uk/about-us

<sup>&</sup>lt;sup>25</sup> https://newsroom.transunion.com/transunion-announces-agreement-to-sell-noddle-business-to-credit-karma/

<sup>&</sup>lt;sup>26</sup> https://www.businessinsider.com/credit-karma-acquires-noddle-2018-

<sup>11?</sup>utm\_source=feedburner&utm\_medium=feed&utm\_campaign=Feed%3A+clusterstock+%28ClusterStock%29&IR=T

<sup>&</sup>lt;sup>27</sup> https://www.totallymoney.com/

employees, with data comparing over 100 credit cards and over 40 mortgage lenders.<sup>28</sup> In addition, TotallyMoney offers a 'white label' service to other CCPs.29

The services provided by the main free credit checking providers are set out 3.22 in Table 2.

Table 2: Product characteristics of free credit checking services

Service	Experian Free (Credit- Matcher)	ClearScore	Noddle	MSE Credit Club	Totally- Money	giffgaff	CreditWise (Capital One)
Financial product comparison & eligibility	✓	✓	✓	<b>√</b>	<b>√</b>	<b>√</b>	✓
Credit score	<b>✓</b>	✓	<b>√</b>	<b>√</b>	<b>√</b>	<b>√</b>	✓
Credit report	×	✓	<b>√</b>	<b>√</b>	<b>√</b>	<b>√</b>	✓
Score history	×	✓	×	×	<b>√</b>	×	✓
Score influencers	×	✓	Premium*	<b>√</b>	×	×	✓
Mobile Application	✓	<b>√</b>	<b>√</b>	×	<b>√</b>	×	1
* Premium services ar	e no longer offe	red to new users	bv Noddle	1	1		

Source: The Parties

In addition to the above, Barclaycard provide a free credit score to Barclaycard holders. Lloyds Bank also provides a free credit score to some of its current account customers. Neither of these products is available to customers who do not subscribe to these products.

#### Paid-for CCTs

- 3.24 Paid-for credit checking websites generate the majority of their revenues from customer subscriptions, with only a small amount, if any, arising from lead generation. [%].30
- 3.25 As well as the paid-for CCT offered by Experian (CreditExpert see paragraph 2.4(a)), paid-for CCTs are provided by Equifax, Credit Angel, Checkmyfile, UK Credit Ratings, Credit Report (Credit Report Agency Limited) and My Credit Monitor. Details about each of these third party paid-for CCTs are set out below:

<sup>&</sup>lt;sup>28</sup> https://www.totallymoney.com/info/our-story/

<sup>&</sup>lt;sup>29</sup> https://www.totallymoney.com/info/b2b/

<sup>30 [%]</sup> 

- (a) Credit Angel: Credit Angel<sup>31</sup> provides credit report and score from TransUnion to its subscribers. Its subscription services include fraud and identity theft protection, recommendations on how to improve the user's credit score, and access to loans and credit cards based on the user's credit report and score. From January 2015 to July 2018 it has had [≫] subscribers.
- (b) CreditReport.co.uk: Checkmyfile and CreditReport.co.uk are both trading names of Credit Report Agency Limited. Checkmyfile provides up to six years of credit history, a credit score, fraud risk estimator and other services through the use of data from four CRBs (Experian, Equifax, Callcredit and Crediva). It had [≫] subscribers in July 2018.
- (c) Equifax: Equifax operates a subscription-based CCT based on its own CRB data. This provides access to a bundle of products, including 'Webdetect' which monitors potential criminal use of data online and 'Marketplace' which effects introductions to lenders for credit cards and personal loans. It had [≫] subscribers in June 2018.
- (d) Mycreditmonitor is part of Affinion International Limited. It provides a paid for CCT.
- (e) UK Credit Ratings: UK Credit Ratings is a trading name of RSDataTech Limited. It provides a paid for CCT and its focus is on consumers who have thin files or no credit file.

#### Statutory credit reports

3.26 In the UK individuals are able to request their 'statutory report' from the CRBs. This is further discussed in paragraph 3.45.

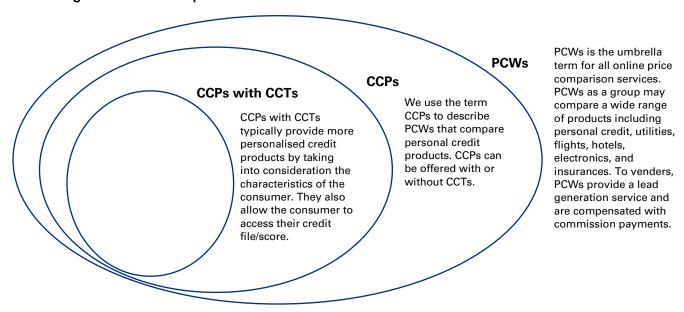
#### Credit comparison platforms (CCPs)

3.27 A CCP is an intermediary used by consumers to compare and select personal credit products, in particular credit cards and personal loans. There are a number of providers who we have considered in this inquiry to be CCPs, including some who are commonly known as price comparison websites (PCWs). We note that, whilst some PCWs do offer personal credit products, they also offer a wider range of services than those covered by a CCP. For example, some PCWs focus on insurance and energy products which are not part of a CCP.

<sup>31</sup> https://www.creditangel.co.uk/

- 3.28 We also note within the spectrum of CCPs there is a range of approaches. For example, a common approach of those historically operating as a PCW is to provide a platform for people to visit when they need a particular product and filter the product options before selecting one. Another approach one that is used by the Parties (and other CCPs with CCTs) is more customised utilising information about the users in order to make curated recommendations on financial products suited to them.
- 3.29 The Venn diagram below illustrates the relationships between CCPs with CCTs, CCPs without CCTs, and PCWs:

Figure 2: Relationship between CCPs and PCWs



- 3.30 CCPs with free CCTs are a relatively new development in how financial products are marketed to potential customers in online lead generation. Noddle launched in 2011, followed by ClearScore in 2015 and the Experian free product in 2016. Over this brief period CCPs with CCTs have grown in importance within the online lead generation sector, a sector itself that has seen growth over the same period. In a report commissioned by Experian in January 2018, [≫]. In another report commissioned by Experian in October 2018, [≫]
- 3.31 CCPs that have a CCT were described in paragraphs 3.18 to 3.22 above. The main CCPs that do not have a CCT include:
  - (a) CompareTheMarket: CompareTheMarket launched in 2006. It is part of BGL group, a digital distributor of insurance and household financial services. It provides comparison services in a wide number of markets

- including insurance, energy, telecommunications and financial products. CompareTheMarket had [ $\gg$ ] customers in 2017.<sup>32</sup>
- (b) Confused.com: Confused.com launched in 2002, originally focused around motor insurance related products but has now expanded into other insurance comparison, financial and travel products.<sup>33</sup> Confused.com is the trading name of Inspop.com and it is part of the Admiral Group, which owns other insurance companies (Admiral, Elephant.co.uk and Diamond). It had a turnover of £87.1 million in 2017.<sup>34</sup>
- (c) GoCompare: GoCompare was founded in 2006, and compares insurance, financial products, travel, energy and broadband products for individuals and businesses. It had a turnover of £149.2 million in 2017 with [≫] customer interactions.<sup>35</sup>
- (d) MSM: MSM is the UK's largest price comparison website on which users can search for a wide range of financial and non-financial products including insurance, financial products, energy, broadband and mobile phones. Indeed, it lists products from approximately 980 providers across 44 different channels. It also operates the TravelSupermarket line of business which provides a comparison site for holidays, flights, car hire and hotels. Information on the broader MSM group is in paragraph 3.21.
- (e) ZPG Limited (ZPG): ZPG owns Money.co.uk and uSwitch as well as operating other consumer brands including Zoopla, PrimeLocation and SmartNewHomes. ZPG's revenue in 2017 was £244.5 million.
  - (i) Money.co.uk<sup>36</sup> is a CCP launched in 2008 and acquired by ZPG in 2017. It provides comparison services across more than 60 product categories including mortgages, loans, credit cards, bank accounts and insurance. Money.co.uk also offers a free eligibility checker for credit cards and personal loans. Money.co.uk has over [≫] visits per month to its website (September 2017).
  - (ii) uSwitch<sup>37</sup> was launched in 2000 and acquired by ZPG in 2015. It offers free comparison and switching services in gas, electricity, broadband, TV services, mobiles and personal finance products including mortgages, loans, credit cards, car and home insurance.

<sup>&</sup>lt;sup>32</sup> Hitwise.com. response to phase 1 decision annex 3.

<sup>33</sup> https://www.confused.com/about-us

<sup>&</sup>lt;sup>34</sup> Response to phase 1 decision – Annex 3 – Competitors in the FPLG segment

<sup>35</sup> http://www.gocomparegroup.com/~/media/Files/G/GoCompare/documents/GoCompare%20ARA%202017.pdf

<sup>36</sup> https://www.money.co.uk/

<sup>37</sup> Uswitch.com

uSwitch states on its website that it is "the UK's leading comparison website and lead generation engine for energy and communications switching". 38 uSwitch offers a free credit eligibility checker for credit cards.

#### Pre-qualification services

3.32 Pre-qualification services are used by CCPs to tailor the list of credit products that they offer to users. Pre-qualification services, by combining limited customer inputted data<sup>39</sup> with the customer's credit file data sourced from a CRB and the credit policies of individual credit providers, match customers to financial products they are most likely to qualify for. This matching happens without the need for a formal credit check to be carried out by the financial provider on the prospective customer. This is known as a 'soft search'. Soft searches are valued by users since being refused a credit product following a formal credit check can harm a person's credit score and history.<sup>40</sup>

#### 3.33 The Parties submitted that:

- (a) From a user's perspective, pre-qualification reduces the risk that they will be declined in an application for a credit product.
- (b) From a credit provider's perspective, these calculations screen out unsuitable candidates and therefore potentially improve the quality of leads sent through and reduce the total costs of dealing with customers.
- 3.34 While such calculations typically offer a probability that an individual will be accepted for a product rather than a binary outcome of "accept" or "reject", they are nonetheless useful for credit providers in reducing the number of applications that they receive from unsuitable applicants.<sup>41</sup>
- 3.35 Such services can either be offered by a company such as Experian's HD Decisions<sup>42</sup> or financial product providers can directly connect with the CCP through the use of APIs.<sup>43</sup> <sup>44</sup> Where a third party is used to provide these

<sup>38</sup> https://www.zpg.co.uk/media/press-releases/2015/01-06-2015.

<sup>&</sup>lt;sup>39</sup> This usually comprises high-level data that is relevant to assessing creditworthiness (e.g. age, income and dependants).

<sup>&</sup>lt;sup>40</sup> Mintel has noted that "the soft-search has therefore become increasingly important in the lending market as it allows consumers to check their eligibility before a permanent mark is left on their credit file. This helps consumers feel reassured that they will be more likely to be accepted for a loan or credit when applying, and can help them avoid products that may be less suitable". Mintel, *Unsecured personal loans*, January 2018.

<sup>41</sup> Merger Notice paragraph 13.45

<sup>&</sup>lt;sup>42</sup> Oher providers include Runpath (an Experian Group company) and Pancredit (for loans only).

<sup>&</sup>lt;sup>43</sup> APIs in this context refers to developed sets of routines, protocols and tools which allow financial product providers and CCPs to pass information on users and financial products between using a standard format. This allows the matching of users characteristics to a financial product's characteristics.

<sup>&</sup>lt;sup>44</sup> Financial product providers with their own APIs include: [%]

- services (eg HD Decisions), it takes on an intermediary role sitting in between the CCP and the credit provider.
- The majority of CCPs include the ability to check a consumer's eligibility for a 3.36 financial provider's products or the price at which they are available to that consumer. Of those that do not [%] have told us that it is planning to launch pre-qualification services in loans in 2018.

#### The overall value of the services

- By using credit reference bureaus and credit checking services individuals are able to access information about their personal financial situation that allows them to monitor (and correct if necessary) information about their creditworthiness. Further, as a result of credit product comparison and prequalification services individual consumers are able to compare personal finance products across a range of lenders and select one suited to them.
- 3.38 As a result of credit reference bureau and pre-qualification services, lenders and personal finance product providers are able to access information that allows them to be better evaluate risk. Further, pre-qualification services help reduce costs to lenders by improving how efficiently credit products are matched to people thereby reducing the number of applications which, if made, would be refused.

# Regulated activities

- 3.39 The FCA regulates a number of activities within the consumer credit industry, and the ICO is responsible for the enforcement of data legislation. Three activities<sup>45</sup> concerning this Merger are regulated by the FCA under the Financial Services and Markets Act (FSMA):
  - (a) Providing credit references: 46 CRBs fall within this category.
  - (b) Providing credit information services:<sup>47</sup> CCTs fall within this category.

<sup>&</sup>lt;sup>45</sup> Permissions held by ClearScore and Experian can be viewed on the FCA's Financial Services Registry: https://register.fca.org.uk/ShPo\_FirmDetailsPage?id=001b000000g7trPAAQ (ClearScore), https://register.fca.org.uk/ShPo\_FirmDetailsPage?id=001b000003INjeSAAT and https://register.fca.org.uk/ShPo\_FirmDetailsPage?id=001b00000438gttAAA (Experian).

<sup>&</sup>lt;sup>46</sup> FCA Handbook PERG 2.7.20L

<sup>&</sup>lt;sup>47</sup> FCA Handbook PERG 2.7.20K

- (c) Credit broking:<sup>48</sup> This is one of the key functions of CCPs (with or without a CCT).<sup>49</sup>
- 3.40 The FCA has regulated these activities since April 2014, following the transfer of consumer credit regulation from the Office of Fair Trading. In addition to the specific conduct rules concerning consumer credit, regulated firms are also subject to the high-level standards of the FCA regulatory regime, such as the Principles for Businesses.<sup>50</sup> We note that the FCA plans to undertake a market study into credit information from CRBs (such as Experian) including whether consumers experience harm through their credit information not being shared effectively or not being of good quality.<sup>51</sup>
- 3.41 CRBs are also required to abide by the data protection principles contained in data protection legislation, which is enforced by the Information Commissioner's Office (ICO).<sup>52</sup> The ICO provides information on how consumers can access their statutory credit file from the CRBs and ensures that the information contained in their credit file is correct.<sup>53</sup>

#### Recent regulatory developments

3.42 Recent regulatory developments in the UK and the EU have focused on promoting greater customer access to their financial data and encouraging technological change in the supply of financial services. Within that context, the FCA and the ICO have a role in overseeing the regulatory context framework in which the Parties and others operate.

#### General Data Protection Regulation

- 3.43 The General Data Protection Regulation (GDPR) was formally approved by the EU Parliament on 14 April 2016 with an enforcement date of 25 May 2018.<sup>54</sup>
- 3.44 Key elements of GDPR include<sup>55</sup>:
  - (a) Right to Access: the right for data subjects to obtain from the holders of data (data controllers) confirmation as to whether personal data concerning them is being processed, where and for what purpose.

<sup>&</sup>lt;sup>48</sup> FCA Handbook PERG 2.7.7E

<sup>&</sup>lt;sup>49</sup> See https://www.fca.org.uk/firms/credit-broking-rules for FCA's key rules for credit broking firms. CCPs in this document include PCWs

<sup>&</sup>lt;sup>50</sup> FCA Policy Statement 14/3

<sup>&</sup>lt;sup>51</sup> FCA Business Plan 2018/19

<sup>&</sup>lt;sup>52</sup> Data Protection Act 2018 (c 12) and General Data Protection Regulation (EU) 2016/679.

<sup>&</sup>lt;sup>53</sup> Credit Explained, ICO. Data submitted to us by the ICO show that [%].

<sup>&</sup>lt;sup>54</sup> General Data Protection Regulation (EU) 2016/679.

<sup>&</sup>lt;sup>55</sup> https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/

- Further, the controller shall provide a copy of the personal data, free of charge, in an electronic format. This change is a dramatic shift to data transparency and empowerment of data subjects.
- (b) Data portability: GDPR introduces data portability the right for a data subject to receive the personal data concerning them and to transmit that data to another controller.
- 3.45 This legislation mandates that data controllers make relevant data freely and easily accessible to consumers. The Parties submitted that following the introduction of the GDPR, consumers are able to request their credit file from a CRB for free (CRBs previously charged £2 for statutory credit reports). <sup>56</sup> CRBs have a month in which to supply the credit file although we were informed by [≫] that in practice the CRBs usually provide it within seven days.

#### Revised Payment Services Directive (PSD2)

3.46 The revised EU Directive on payment services in the internal market (PSD2) came into force on 13 January 2018. PSD2 aims (amongst other things) to open up payment markets to new entrants leading to more competition, greater choice and better prices for consumers.<sup>57</sup> Through PSD2 and with the consent of customers, third parties registered with the FCA (including the Parties) are able to access bank account data to provide payment-related and account information services requested by the customer. These companies will then also be able to share this data with other companies.<sup>58</sup>

#### Open Banking

3.47 The CMA published its final report from its market investigation into retail banking in August 2016<sup>59</sup>. This set out a remedies package aimed at improving competition, including the Open Banking initiative, to be implemented (in stages) from March 2018.

<sup>&</sup>lt;sup>56</sup> The statutory report contains broadly the same information as the reports available through CCTs, including publicly available information about the individual (such as court judgments and information on the electoral roll), details of all open credit accounts with corresponding balances, the individual's history of paying outstanding credit (such as their credit card balance, overdrafts and utilities) on time, and details of all previous searches of the individual's credit history in the past 12 months. The ICO told us that the credit reference bureaus can no longer charge the £2 fee that they previously could charge for access to credit data because the GDPR has removed their ability to do so.

<sup>&</sup>lt;sup>57</sup> Payment Services Directive (EU) 2015/2366

<sup>&</sup>lt;sup>58</sup> Merger Notice page 21

<sup>&</sup>lt;sup>59</sup> https://www.gov.uk/cma-cases/review-of-banking-for-small-and-medium-sized-businesses-smes-in-the-uk#final-report

- 3.48 Open Banking requires the nine largest current account providers in the UK to make available to authorised third parties access to standardised product and reference data. This information will be shared through the development and adoption of an open API standard. The overseeing of the delivery of the APIs, data structures and security architectures for Open Banking is undertaken by the Open Banking Implementation Entity.
- 3.49 It is envisaged that Open Banking will enable customers to safely and securely share their financial data with other banks and third parties (for example the Parties) affording them greater management over their financial data and greater ability to access services offered by competitors to their current account providers.<sup>60</sup>

# 4. The Merger and its rationale

## The proposed transaction

- 4.1 The Merger is for the sale of the entire issued share capital of CLHL to Experian Limited for consideration of £275 million. The Sale and Purchase Agreement (SPA) was signed on 15 March 2018.
- 4.2 The SPA contains some conditions precedent which include the requirement for [%]. [%].

#### The rationale

- 4.3 The Parties submitted that the Merger is motivated by a drive to innovate and increase consumer engagement in a rapidly evolving commercial, technological and regulatory environment. <sup>61</sup> They submitted that financial services markets are undergoing significant disruption, characterised by greater access to data. <sup>62</sup>
- 4.4 The Parties stated their aim was to [≫]. This, they submitted, will allow the Parties to accelerate the development of additional innovative services that further reduce information asymmetry and transactional friction, and thereby drive consumer engagement, resulting in more switching to better financial products. [≫].63

<sup>60</sup> For more details on Open Banking see https://www.openbanking.org.uk/

<sup>&</sup>lt;sup>61</sup> Merger Notice Executive Summary paragraph I

<sup>&</sup>lt;sup>62</sup> Merger Notice Executive Summary paragraph I

<sup>63</sup> Merger Notice Executive Summary Paragraph S

- 4.5 The Parties told us that Experian will be able to improve its consumer proposition through access to ClearScore's:
  - (a) [**※**].
  - *(b)* [≫].
  - (c) [≈], as a nimble technology entrant<sup>64</sup>
- 4.6 The Parties told us that ClearScore will be able to improve its consumer proposition through the:
  - (a) [**※**], and
  - (b) [%].65

## 5. Jurisdiction

- 5.1 Under section 36 of the Act and our terms of reference, one of the questions we are required to decide is whether arrangements are in progress or in contemplation that, if carried into effect, will result in the creation of a relevant merger situation.
- 5.2 Section 23 of the Act provides that a relevant merger situation has been created if:
  - (a) Two or more enterprises have ceased to be distinct<sup>66</sup> as a result of the merger within the statutory period for a reference;<sup>67</sup> and
  - (b) Either the 'turnover test' or the 'share of supply' test (as specified in that section of the Act) is satisfied, or both are satisfied.<sup>68</sup>

#### Enterprises ceasing to be distinct

5.3 The Act defines an "enterprise" as "the activities or part of the activities of a business".<sup>69</sup> A "business" is defined as "including a professional practice and includes any other undertaking which is carried on for gain or reward or which

<sup>&</sup>lt;sup>64</sup> Merger Notice Executive Summary (V)

<sup>65</sup> Merger Notice Executive Summary (W)

<sup>&</sup>lt;sup>66</sup> Defined in further detail in section 26 of the Act.

<sup>&</sup>lt;sup>67</sup> Section 24 requires the merger to have completed less than 4 months prior to referral. In light of the anticipated nature of the Merger, this is not relevant here.

<sup>68</sup> Mergers: Guidance on the CMA's jurisdiction and procedure, January 2014 (CMA2), paragraph 4.8.

<sup>&</sup>lt;sup>69</sup> See also Mergers: Guidance on the CMA's jurisdiction and procedure, January 2014 (CMA2), paragraph 4.8 for a discussion on the concept of 'enterprise' and in particular the considerations the CMA has regard to in deciding what constitutes an 'enterprise'.

- is an undertaking in the course of which goods are supplied other than free of charge". 70
- The concept of "ceasing to be distinct" is described in section 26 of the Act.

  This provides that any two enterprises cease to be distinct if they are brought under common ownership or common control.
- 5.5 Under the proposed Merger, Experian intends to acquire the entire equity share capital of ClearScore. Experian supplies credit information services to financial providers, as well as credit checking and credit comparison services to consumers. ClearScore also supplies credit checking services and credit comparison services to consumers. Each of Experian and ClearScore is therefore an enterprise for the purposes of the Act.
- 5.6 The proposed Merger would, were it carried into effect, bring ClearScore under the common ownership of Experian. Therefore, the enterprises of Experian and ClearScore would, as a result of the proposed Merger cease to be distinct.

#### Share of supply test

- 5.7 As the turnover test is not met,<sup>71</sup> we considered whether the share of supply test was satisfied. The share of supply test is satisfied where, as a result of enterprises ceasing to be distinct, at least 25% of goods or services of any description which are supplied in the UK, or in a substantial part of the UK, are supplied either by or to one and the same entity.<sup>72</sup> For the test to be met, the relevant transaction must result in an increase in the given share of supply of the goods or services.
- 5.8 Experian and Clearscore overlap in the supply of CCPs and the supply of CCTs. The Merger would result in Experian and ClearScore having a combined share of supply of at least 25% (with an increment to that share) of the supply of several services of a particular description, including:
  - (a) the supply of CCPs for credit cards in the UK by revenue (combined share of supply of [over 25]%, with a [5-10]% increment); and

<sup>&</sup>lt;sup>70</sup> Section 129(1) and (3) of the Act

<sup>&</sup>lt;sup>71</sup> The turnover test is not satisfied on the basis of the turnover data provided for ClearScore for the financial year ended 31 December 2017. The UK turnover of ClearScore in that financial year was £27.5 million and therefore does not exceed the £70 million threshold. See Merger Notice, paragraph 6.2.

<sup>72</sup> Section 23(3) and (4) of the Act.

- (b) the supply of free credit checking tools in the UK by number of annual users (combined share of supply of [60-70]%, with a [20-30]% increment).<sup>73</sup>
- 5.9 Accordingly, we consider that the share of supply test in section 23 of the Act is met.
- 5.10 In view of this, we provisionally conclude that if the proposed Merger were to be carried into effect a relevant merger situation would be created and that we therefore have jurisdiction to decide 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.

# 6. Counterfactual

- 6.1 Before we turn to the effects of the Merger, we need to determine what we would expect the competitive situation to be absent the Merger. This is called the 'counterfactual'. <sup>74</sup> The counterfactual is a benchmark against which the expected effects of a merger can be assessed.
- 6.2 The choice of counterfactual requires a finding that, on the balance of probabilities, <sup>75</sup> a given scenario would have developed in the market in the absence of a merger. <sup>76</sup> The CMA may examine several possible scenarios, one of which may be the continuation of the pre-merger situation (the prevailing conditions of competition). <sup>77</sup> The CMA will incorporate into the counterfactual only those aspects of scenarios that appear likely based on the facts available to it and the extent of its ability to foresee future developments, and will seek to avoid any spurious claims to accurate prediction or foresight. <sup>78</sup> Where there is more than one possible alternative scenario, the situation most likely to have existed absent the merger will be selected. <sup>79</sup> Even if an event or its consequences are not sufficiently certain to include in the counterfactual they may be considered in the context of the competitive assessment. <sup>80</sup> For example, future changes in market conditions, such as

<sup>&</sup>lt;sup>73</sup> All figures are CMA estimate, based on questionnaire responses.

<sup>&</sup>lt;sup>74</sup> Merger Assessment Guidelines, paragraph 4.3.1.

<sup>&</sup>lt;sup>75</sup> Stagecoach Group Plc vs Competition Commission [2010] CAT 14, paragraph 20.

<sup>&</sup>lt;sup>76</sup> Merger Assessment Guidelines, paragraph 4.3.6.

<sup>&</sup>lt;sup>77</sup> Merger Assessment Guidelines, paragraph 4.3.6.

<sup>&</sup>lt;sup>78</sup> Merger Assessment Guidelines, paragraphs 4.3.6.

<sup>&</sup>lt;sup>79</sup> Merger Assessment Guidelines, paragraphs 4.3.6.

<sup>80</sup> Merger Assessment Guidelines, paragraph 4.3.2.

- regulation or market liberalisation, are often addressed as part of the CMA's competitive assessment, rather than in the counterfactual.<sup>81</sup>
- 6.3 The Parties submitted that the appropriate counterfactual is a more competitive environment than the prevailing conditions of competition.<sup>82</sup> The Parties submitted that the counterfactual should take into account:
  - (a) changes to the regulatory and technological landscape that are already shaping competition in the supply of consumer financial products; and
  - (b) recent and upcoming events of entry and expansion in the provision of CCTs and CCPs that mean free access to credit scores and credit data is becoming ubiquitous.
- 6.4 We have considered whether the prevailing conditions of competition represent the appropriate counterfactual or whether there is a more likely counterfactual absent the Merger, taking into account the Parties' submissions and having regard to the likely alternative course of action that each of the Parties may have pursued absent the Merger. We set out our provisional conclusions below.

# Changes to the regulatory and technological landscape

- 6.5 The Parties submitted that the relevant marketplace is evolving, and recent and ongoing developments mean it is 'becoming increasingly competitive leading to improved consumer outcomes'. The Parties submitted that developments in regulation and technology consumer data accessibility, scalable technology, development of APIs will lead to significant changes in the competitive landscape and stronger competition between existing and new players and that a static analysis would fail to take these changes into account. They stated that regulatory developments (the GDPR, PSD2 and the Open Banking initiative) are already facilitating access to rich sets of consumer data precipitating the creation of new and engaging tools to guide consumers on how to fulfil their credit and financial needs.<sup>83</sup> The Parties also stated that this disruption is based on wider access to customer data and predates the most recent legislative and regulatory developments.<sup>84</sup>
- 6.6 The Parties submitted that the impact of these changes on competition is sufficiently certain to be included in the counterfactual as it will completely

<sup>&</sup>lt;sup>81</sup> Merger Assessment Guidelines, paragraph 4.3.2.

<sup>82</sup> Merger Notice section 11

<sup>83</sup> The Parties' response to Phase 1 decision [ME/6743/18] Paragraph 3.1

<sup>84</sup> The Parties' response to Phase 1 decision [ME/6743/18] Paragraph 3.2

- transform the market in the short term by driving new products and services, describing the changes as a 'seismic transformation' with 'their impact already being felt'.<sup>85</sup>
- 6.7 We have considered whether the prevailing conditions of competition represent the appropriate counterfactual, taking into account the potential impact of the regulatory and technological changes outlined by the Parties.
- 6.8 We recognise that the markets in which the Parties operate and markets for consumer financial products more generally are dynamic and that the introduction of GDPR, PSD2 and Open Banking, as well as on-going technological developments, are likely to influence developments in these markets. However, on the basis of the available evidence, it is unclear and remains uncertain how this dynamism in the market will manifest itself in terms of its effects on rivalry. Accordingly, we consider that it is difficult to predict with any accuracy how changes in technology, consumer data accessibility (including as a result of the GDPR, PSD2 and Open Banking), the development of APIs, and customer take up of new product offerings will in practice lead to significant or concrete changes in the competitive landscape and over what period.
- 6.9 In that regard, third parties were generally of the view that the introduction of the Open Banking initiative and PSD2 could significantly increase the scope of financial products available to consumers and would act as a spur to innovation over time. However, third parties typically noted that Open Banking was still at an early stage and that they would need to see how things develop, in particular, in relation to consumer take-up. 86 For example, one lender told us that it expects a slow take-up initially of data sharing by customers of Open Banking and it is unclear when customers will be using Open Banking to provide information to Providers to make greater use of eligibility checking. Another lender summed up the position as 'Open Banking may provide greater opportunities, but we will need to see how this develops'.
- 6.10 Third parties also told us that uncertainties remain because the value of additional data available through Open Banking and PSD2 is hard to estimate and there are still significant technical, regulatory and customer trust barriers

<sup>&</sup>lt;sup>85</sup> The Parties' response to Phase 1 decision [ME/6743/18] – section 3.6; the Parties' Issues Statement Response, paragraph 1.4 and section 3.

<sup>&</sup>lt;sup>86</sup> This is consistent with the findings of the FCA. The FCA found that many respondents to one of its consultation exercise recognised the potential benefits of new developments such as Open Banking but some reservations were expressed around the extent to which consumers would be willing to engage with these products and the likely timescales for this (FCA Policy Statement: Assessing Creditworthiness in Consumer Credit, PS18/19, page 25)

- to unlocking access, while it may be that larger incumbents, ie established firms, find it easier than new entrants to gain from increased access to data.
- 6.11 We note that while a large number of firms are exploring and investing in the provision of new payment initiation service and account information service products that seek to make use of the opportunities afforded by PSD2 and Open Banking, <sup>87</sup> only a small number of providers were 'live' with customers as of 1 October 2018. <sup>88</sup> Although customer take up of new products has the potential to grow significantly over time, particularly as the underlying Open Banking requirements evolve and further enhancements are introduced, it is not clear which products will prove most popular, or at which point in time take-up will significantly increase, or the impact this will have on the provision of CCPs or CCTs. Indeed, in our view, customer take-up will ultimately be determined by a variety of factors, not least the range, usability and customer benefits from the products and applications developed and introduced as well as the trust that consumers have in allowing financial service providers access to their data.
- 6.12 In that regard, we consider it is important to note that the Open Banking initiative and the other opportunities afforded by PSD2 involve a customer opt-in model driven by the personal data requirements set out in the GDPR, under which customers are required to provide their explicit consent to providers to access their account information. The implication of this is that customer take-up is likely only to grow significantly when the benefits to customers from using Open Banking applications become clearer and customers are sufficiently confident about the security and data protection measures that are in place, such that the benefits outweigh any residual data security concerns. In our view it is therefore not possible to predict how the take-up of Open Banking products will develop with a sufficient degree of confidence to be foreseeable for the purpose of the counterfactual assessment.
- 6.13 Furthermore, it is not yet clear the extent to which applications building on regulatory changes, or new models of using customer data will specifically affect competition in the relevant markets assessed in this Merger investigation. In that regard, we consider that it is not sufficiently foreseeable what effect such changes will have on the competitive position of the Parties in the markets in which they compete such that it would be appropriate to

<sup>&</sup>lt;sup>87</sup> For example, there are a range of firms active in setting up to use Open Banking infrastructure (see the list of enrolled providers on the Open Banking website) and applying to the FCA to be authorised as account information services providers or payment initiation service providers (see list of providers on the Financial Services Register) In addition, the FCA has established a 'Regulatory Sandbox' allowing businesses to test innovative products, services and business models in the market.

<sup>&</sup>lt;sup>88</sup> See Open Banking September Highlights, 1 October 2018.

- adopt a counterfactual other than the prevailing conditions of competition. For example, absent the Merger these changes could:
- (a) further entrench the Parties' market positions and provide them with a competitive advantage over rivals and potential rivals in related markets;
- (a) increase the level of rivalry and competition that currently exists between the Parties; or
- (b) increase the likelihood and/or ease of entry by potential entrants into the markets in which Experian and ClearScore currently compete.
- 6.14 Accordingly, our provisional conclusion is that the implications for competition of the regulatory and technological developments referred to by the Parties cannot be seen with a sufficient degree of confidence such that it would be appropriate to adopt an alternative counterfactual to the prevailing conditions of competition. However, we accept that those prevailing conditions reflect a dynamic market in which the Parties and their competitors would continue to develop and evolve their respective businesses and customer propositions in the absence of the Merger, taking into account the opportunities presented by the regulatory and technological changes identified. Accordingly, we propose to assess the impact of the dynamic effects of potential changes in the industry resulting from regulatory and technological developments as part of our competitive assessment the Merger.

# Entry, expansion and the ubiquity of credit scores

- 6.15 The Parties have also submitted that we should take into account in the counterfactual the recent and possible upcoming events of entry and expansion that have made the provision of free credit scores and reports ubiquitous.
- 6.16 The evidence we have obtained indicates that free credit scores have become and are becoming more widely available, both from CCPs, [‰], and directly from lenders, including CapitalOne and Barclays. We note in this respect that Experian's Affinity strategy [‰] of its credit scores and credit reports through third parties, and also that GDPR means that individuals have a statutory right to obtain their credit report for free from the CRBs. In addition, the Parties have identified [‰] and the agreed acquisition of Noddle by Credit Karma as significant developments that we should take into account, alongside entry by a number of banks and other players into the provision of free credit scores and reports.

- 6.17 Our view is that the developments identified in terms of entry and expansion that have recently taken place or are likely to take place in the foreseeable future have done so independently of the Merger. In particular, we note that [≫].89
- 6.18 We also consider that the outcome of these recent developments cannot be predicted with sufficient confidence for it to be appropriate to adopt an alternative counterfactual.
- 6.19 We have therefore considered the effect of entry and expansion in the relevant markets and the wider availability of credit scores and credit reports in our competitive assessment of the Merger, including in our assessment of countervailing factors.

# **Prevailing conditions of competition**

- 6.20 In assessing whether the prevailing conditions of competition represent the appropriate counterfactual, we have considered the alternative options available to Experian and ClearScore prior to the Merger discussions and considered whether there is evidence to suggest that, absent the Merger, either of the Parties would have been likely to pursue either of these options. We have, in particular, considered whether ClearScore is likely to have been acquired by another purchaser.
- 6.21 [%].
- 6.22 ClearScore told the CMA that prior to agreeing to the Merger it had [%].
- 6.23 On the basis of this evidence, we provisionally conclude that the most likely scenario in the absence of Merger is that the Parties would have continued to operate and compete independently.

#### Provisional conclusion on the counterfactual

- 6.24 Based on our assessment, while we acknowledge that the industry is undergoing a considerable amount of change in terms of regulatory and technological developments, and that there have been recent developments in terms of entry and expansion, we have provisionally concluded that:
  - (a) the outcome of the regulatory and technological developments referred to by the Parties, as well as recent entry and expansion, cannot be seen with a sufficient degree of confidence such that it would be appropriate to

<sup>&</sup>lt;sup>89</sup> [%].

- adopt an alternative counterfactual to the prevailing conditions of competition; and
- (b) the most likely scenario in the absence of the Merger is that the Parties would have continued to operate and compete independently.
- 6.25 Accordingly, our provisional conclusion is that the prevailing conditions of competition in the absence of the Merger, in which the Parties continue under separate independent ownership, is the most likely and appropriate counterfactual.
- 6.26 We consider that this counterfactual is appropriate because our competitive assessment reflects the competitive conditions in the context of a dynamic market in which the Parties and their competitors continue to develop and evolve their respective businesses and customer propositions in the absence of the Merger, taking into account the opportunities presented by the regulatory and technological changes identified. Based on this counterfactual, the competitive assessment will also take into account the effect of recent and foreseeable entry and expansion in the relevant markets that has or is likely to take place independent of the Merger, most notably (i) [≫] and (ii) the acquisition by Credit Karma of Noddle.

### 7. Introduction to our assessment

#### Introduction

- 7.1 Our competitive analysis in the following chapters examines whether the Merger will result in a substantial loss of competition between the Parties in (i) the supply of CCPs for personal loans and credit cards (chapter 10) and (ii) the supply of CCTs (chapter 11). 90 We have focussed on both price and non-price factors of competition including product quality, innovation and product range. 91 We have also considered whether the Merger is likely to lead to Experian (through HD Decisions or Runpath) refusing to supply, or worsening their offer of, pre-qualification services to rival platforms. These strategies are sometimes called 'input foreclosure'.
- 7.2 This introductory chapter is structured as follows. First, we discuss how the theories of harm are interrelated and how evidence used in one theory of harm is also relevant to another. Second, we discuss some of the characteristics of the Parties and their activities that are relevant to our

<sup>90</sup> Merger Assessment Guidelines, paragraphs 5.4.6-5.4.12

<sup>91</sup> Merger Assessment Guidelines, paragraph 4.2.3

competitive assessment. Many of these characteristics are relevant to our assessments across the potential competition concerns that we have investigated (our 'theories of harm'). Third, we discuss the evidence we have used in this inquiry and how we have considered it. Fourth, we summarise some of the aspects of the legal framework that are particularly relevant for our assessment of the Merger.

# Relationship between competition in credit comparison platforms and credit checking tools

- 7.3 The evidence available to us in this inquiry is that free CCTs provide an effective mechanism to attract users to a site or mobile app. Once a user base has been established, providers are able to 'monetise' their customers through one of two broad routes. First, some providers are able to 'upsell' by offering a premium paid-for service which some users will find attractive. Experian, for example, offers a range of services on CreditExpert, which are: daily credit scores and reports, credit score history, score factors, credit report alerts and fraud alerts, web monitoring, customer support and ID fraud support. 92 The second route is to match them with personal finance products provided by third party providers (for example, banks). CCP providers will earn commission from the product providers (see below for an explanation of the common commission models).
- 7.4 Although the two revenue models for paid-for and free CCTs are very different a paid-for CCT/credit-based service versus lead generation for providers of personal finance products they both have a common competitive dynamic underpinning them. That is, the need to develop an attractive and engaging credit-checking proposition to compete for users. Our assessment has taken this into account.
- 7.5 In terms of structure, we discuss in chapter 9 the evidence for those competitive dynamics between the Parties which are used in our assessments of both competition in the supply of CCPs (chapter 10) and to competition in the supply of CCTs (chapter 11). Where there is further evidence specific to one, but not both, of those we discuss it in the relevant individual chapter.

<sup>92</sup> https://www.experian.co.uk/consumer/index.html

#### The characteristics of the Parties and their activities

7.6 In this section we discuss the characteristics of the Parties and their activities to the extent that they are relevant to our analysis. This includes a discussion of how they compete for customers.

#### CCPs are two-sided markets

- 7.7 CCPs are two-sided markets with users/consumers on one side of the market and lenders/financial product providers on the other side. CCPs match consumers with financial products suitable for them and for which they are likely to be approved.
- 7.8 The nature of such a platform may therefore be characterised by indirect network effects since the value that customers on one side derive from the platform may depend on the number (and/or variety) of customers on the other side. This can generate feedback loops between them, with an increase in the number of customers on one side leading to an increase in the number of customers on the other side and so on.
- 7.9 When more than one platform is available to customers, as is the case for CCPs, customers can decide either to 'single-home' or to 'multi-home'. Customers are described as 'single-homing' when they only use one platform, whereas 'multi-homing' refers to customers using more than one platform. Lenders typically multi-home between CCPs since, in general, they allow their products to be made available on more than one platform. A user or consumer multi-homes only if they use more than one platform in making a purchasing decision.
- 7.10 Typically, a high proportion of single-homing users on one side of the platform may mean that the platform operator faces little direct competition for those on the other side (in our case, lenders), as the platform becomes the only way to access these users. The single- or multi-homing behaviour of customers on either side of the platform has implications for how competition takes place. To the extent that users tend to single-home and lenders multi-home, we might expect there to be more competition between platforms for users.
- 7.11 In chapter 10 we have examined the available evidence on the behaviour of customers on each side of the platform, ie the behaviour of individual users and of financial product providers (or lenders).

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<sup>93</sup> See Paragraph 10.117.

#### Attracting users and the importance of product development and innovation

- 7.12 The Parties submitted that they use free CCTs as a 'hook' to attract users to their websites/mobile apps in order to engage them with a view to matching them to financial products.<sup>94</sup> As discussed in our competitive assessment below, we consider that this is the primary focus of competition between the Parties.
- 7.13 To attract users, the Parties undertake extensive marketing of their products and both Parties' internal documents monitor the marketing activities of other suppliers and comment on the impact of their own marketing and that of others.<sup>95</sup>
- 7.14 The Parties also seek to attract users and keep them engaged via product development. This involves a mixture of incremental innovation involving improvements in quality, as well as the introduction of new products or features. Much of it has centred on making the products and services more user-friendly, for example, improving the user experience, [%]:

Ultimately the way you win in this market is through engagement [ $\gg$ ]. So, it is ultimately about engagement, getting people to come back on a regular basis. The only way you do that is by offering a plethora of good features and services [ $\gg$ ].

7.15 Likewise, ClearScore submitted to us:

... for every user acquired ClearScore currently [ $\gg$ ]. In order to [ $\gg$ ]. ClearScore must therefore constantly develop its offer to users to engage them and to attract them [ $\gg$ ].

- 7.16 A number of the Parties' internal documents also discuss the value of product innovations in competing to attract and to retain users. In particular:
  - (a) In July 2016 Experian [≈].
  - (b) Experian's recent strategy documents describe Experian's vision to [%]. It is noted that there is a need to "[%]".
  - (c) ClearScore's board documents describe how to [%]
  - (d) A number of ClearScore documents also depict a dynamic whereby [X]

<sup>&</sup>lt;sup>94</sup> Experian response to issues statement paragraph 2.3; ClearScore 'Site visit – follow-up points' paragraph 3.2 <sup>95</sup> [≫].

- 7.17 In addition, some third parties also told us of the importance of innovation and product development in attracting the attention of and then building engagement with consumers. [%] told us about the importance of features such as the use and layout of credit report information, offering customers more up-to-date credit scores (rather than ones that are up to 30 days old) and the ability to raise disputes with a credit reference bureau. [%] told us that 'the continued presence of existing paid-for and free credit check markets, along with product innovation and new market entrants will see the total consumer market to continue to expand'.
- 7.18 The Parties have submitted that competition means that they have 'no choice but to continue to innovate and invest'. 96 The evidence available to us in this inquiry shows that the innovative effort that the Parties expend on attracting users by developing their customer propositions is to a significant degree a result of competition. ClearScore has told us that: 97
  - "... as a result of these competitive pressures, ClearScore has no choice but to continuously innovate ... to attract more consumers to its site. The dynamic continues to drive ClearScore's development and innovation".
- 7.19 Experian's internal documents explicitly link several product developments to competition. Experian's FY19 Strategic Plan describes how [%] Experian's recent strategy documents also [%]. Regarding the importance of the CCT to the Parties' ability to attract customers, we note that research undertaken by Experian and ClearScore about their customers shows that a [%] of users are not signing up to the Parties' services in order to find personal finance products. Indeed, the research indicates that [%]. [%], for Experian, the research indicates that around [%], [%]. 98 This finding is consistent with [%]. [%].
- 7.20 In a ClearScore commissioned survey, conducted over a year ago in mid-2017, it found that for respondents, [≫]. For ClearScore users [≫]
- 7.21 This supports the notion that the Parties need to innovate in and develop in terms of the way in which their proposition attracts customers, which currently is free credit scores and reports. The Parties' research and internal documents indicate that [%]. Although adding [%] benefits lenders and personal finance product providers and in turn the CCP providers like the Parties by contrast adding additional lenders does not seem to attract or be

<sup>&</sup>lt;sup>96</sup> Response to the Annotated Issues Statement, paragraph 3.33.

<sup>&</sup>lt;sup>97</sup> ClearScore's post-site visit submission paragraph 3.5.

<sup>98</sup> RFI2-0236, slide 3 based on a survey in March 2017.

highly valued by individual users to the same extent. The Parties themselves submitted that credit scores are a good (albeit increasingly less differentiated) marketing mechanism to attract consumers, but they are [%]. As such, in our view it is not adding incremental personal credit products that is likely to draw in large numbers of additional users, it is the innovative efforts in improving the user experience through developing the consumer-facing proposition, particularly when provided for free, that attracts customers to CCP providers like the Parties.

- 7.22 We also note that in this inquiry the evidence strongly indicates that currently a CCT is an effective tool to attract users to a CCP. We discuss this evidence in detail at paragraphs 10.22-10.36. However, we note that the tool evolves as providers develop their products. Indeed, ClearScore's internal documents outline its plans to [%]. For example, in July 2018 ClearScore announced a product called 'OneScore' which uses its free credit score and report as the basis for the product [%] in order to give an overall financial wellbeing score. It combines [%].
- 7.23 Likewise, in considering whether to integrate a credit score onto the [%] platform, [%]. When customers are engaging with a service they are likely to repeat visit, due to increased loyalty, this in turn would result in them remaining a customer with the [%] website for longer and seeing greater value'. Moreover, and as discussed in paragraphs [%].
- 7.24 The evidence in this inquiry indicates that product development and innovation in the user experience is central to how the Parties attract users and compete against each other. It is not an activity incidental to other aspects of their businesses.
- 7.25 We have therefore considered in our analysis the effect of the Merger on the Parties' incentives to continue to develop their products and innovate as compared to the degree of competitive product development and innovation that may be expected with the Parties operating under separate ownership in the counterfactual. In particular, we have assessed whether as a result of the Merger it is likely that innovation in and development of the Parties' products and services that attract users will be substantially reduced, delayed or discontinued to the detriment of users. In that regard, we note that this may not necessarily manifest itself in the deterioration of the products already offered by the Parties, but rather in reduced levels of product development and innovation.

#### Differentiated services

- 7.26 The Parties supply CCPs for personal loans and credit cards and CCTs. Although there are some similarities between the Parties, we consider that they are somewhat differentiated in the services they provide. For example, Experian offers both a free and a paid-for CCT product, whereas ClearScore offers only a free CCT. Further, the Parties' respective free products differs in terms of product characteristics, as ClearScore's free CCT includes (amongst other features) a user's credit score and report, and a history of how a user's score have changed and what has influenced that score, while Experian's free CCT only includes a user's current credit score. The Parties are also differentiated in their CCP services to the extent that the credit card and loan products available on each of their sites differs.
- 7.27 Competition can spur firms to innovate and develop new products and features in order to differentiate themselves. Products that are differentiated by, for example, branding or quality may compete less closely with each other, and concerns are more likely where the merging firms' products compete closely. 99 In chapters 9 and 11 we examine the reasons for the degree of differentiation there is between the Parties' CCT products, and we assess the differentiation between the Parties and their other competitors.

## Incumbency advantages

- 7.28 We have considered in our analysis whether Experian and/or ClearScore enjoy to some extent an incumbency advantage so that newer or less well-established competitors would find it more difficult to compete. 100
- 7.29 There are some features of the industry that make it possible for a first-mover advantage to be present. First, the CCT or related mechanism to attract users is often provided for free. If a user is satisfied with the product that they are using they may not consider it worthwhile to switch to or try a product from another provider. Second, the provision of free credit scores and reports is relatively new in the UK. It might be the case that the early providers have been able to obtain significant scale at a relatively low cost and that the cost per further user will be significantly higher. Finally, CCPs are characterised by

<sup>&</sup>lt;sup>99</sup> Merger Assessment Guidelines, paragraph 5.4.6. We note that the CMA has is in the past found that mergers may be expected to give rise to an SLC in relation to non-price factors of competition. For example, see Celesio/Sainsbury's Pharmacy Business merger inquiry, Central Manchester University Hospitals / University Hospital of South Manchester merger inquiry and BBC Worldwide Ltd, Channel Four Television Corporation and ITV plc joint venture merger inquiry.

<sup>&</sup>lt;sup>100</sup> Merger Assessment Guidelines, paragraph 5.8.5

- indirect network effects, meaning that lenders value access to the platform more the more end users the platform attracts, and *vice versa*. <sup>101</sup>
- 7.30 We note that one Experian document prepared for the acquisition of ClearScore said [%].
- 7.31 Moreover, with regard to CCPs, we note that  $[\times]$ .

# **Evidence used in this inquiry**

- 7.32 In reaching our provisional views in this inquiry we have taken into account evidence from a number of sources, including the Parties' internal documents, their submissions to us, and the views of and information supplied to us by third parties through questionnaire responses (from both the phase 1 and phase 2 stages of investigation), some of their internal documents, and hearings with third parties.
- 7.33 In forming our views, we have taken care to ensure that our assessment of documents and views and the weight to be given to them takes account of the timing and context in which they were produced or given. As indicated in chapter 3 and in chapter 6, the industry in which the Parties are active is a dynamic, changing one. ClearScore itself only entered in July 2015 and has quickly established itself as one of the leading providers of CCTs and CCPs.
- 7.34 The Parties have submitted that in the short period since ClearScore's entry the industry has undergone some substantial changes to the extent that, for at least some of our analysis, we should not place great weight on indications of competitive dynamic from before the time when Experian had a free CCT product. Since then, the Parties told us that user demand has split between free and paid-for CCTs. In particular, the Parties submitted that:
  - (a) free credit scores have become ubiquitous; and
  - (b) free and paid-for CCTs [≈].
- 7.35 The Parties have submitted that as a result we should take care in placing undue reliance on internal documents recording the competitive dynamic involving them from around two years ago when Experian launched its own free CCT.
- 7.36 However, we consider that the internal documents of the Parties since Clearscore entered the market provide considerable insight into the rivalry

<sup>&</sup>lt;sup>101</sup> See Paragraphs 7.7-7.8.

between the Parties over time and are thus relevant to understanding the implications of the Merger for competition. We also note that care needs to be taken in relying on material produced since the Merger was contemplated whereas this is not a concern in relation to the period of approximately two years between 2015 and 2017 when ClearScore competed against Experian.

- 7.37 We believe that, read with care, documents used for the Parties' own decision making and documents giving insight to how the Parties themselves view their industry, their place in that industry, who their competitors are and the factors influencing their decisions, offer valuable indications of the pre-Merger competitive dynamic. Indeed, in our view internal documents are an important source of evidence as they provide an indication of the Parties' contemporaneous view of competition at a point in time, which may be particularly instructive for the period before the Merger was in contemplation. Accordingly, we consider that these documents offer valuable insight to how competition (and the industry more generally) has evolved since ClearScore's entry.
- 7.38 We recognise that, as with all the available evidence, we must give due and appropriate weight to the Parties' internal documents, taking into account the relevant context and their probative value, for example the extent to which they corroborate or contradict other evidence, such as that from third parties. In that regard, the Parties have told us that there is a hierarchy of internal documents such that we ought to put greater weight on some in our decision-making than others.
- 7.39 Experian has told us that its most important internal cycles, and therefore its most important strategic decision-making and management action stages, [≫]. It submitted that we should therefore focus on documents prepared for these decision points and have regard to their chronology in our assessment. Experian submitted to us a list of 20 internal documents relating to its budget and business strategy 2015-2018. Likewise, ClearScore has drawn our attention to specific documents that it views as particularly relevant. We have carefully reviewed and taken into account the internal documents highlighted by both Experian and ClearScore in our provisional findings.
- 7.40 We recognise that it can be appropriate to give greater credence and weight to documents that are shown to have been used in or have influenced commercial and strategic decision-making by the Parties. However, we have not restricted our consideration of the Parties' internal documents only to those documents highlighted by the Parties. We note, for example, that the

<sup>102</sup> Response to the annotated issues statement, annex 2: treatment of ClearScore internal documents

documents that the Parties drew our attention to do not contain all of the Board level documents that have been submitted to us. Moreover, the Parties' list omits a large number of other documents, many of which were (i) produced for senior management or (ii) provide useful information as to how the Parties' operate their business on a day-to-day basis.

7.41 Furthermore, in our view, documents prepared in the ordinary course of business – both at a senior management level and at an operational level – may be informative and provide insights about competition in the relevant markets, provided that the weight given to them properly reflects the specific and overall context of the documents, including, for example, where particular documents are prepared on a regular basis. In that regard, we have in some instances had regard to draft versions of documents where we consider that it is appropriate within the relevant context, for example where the observations reflect or are consistent with other contemporaneous documents and where the draft is informative in understanding the final version. For these reasons, while we have placed particular weight on the strategic planning and budget documents identified by the Parties, we have also taken into account a wider breadth of internal documents and have considered the Parties' internal documents in the round in reaching our provisional conclusions.

# Framework for application of the SLC test

- 7.42 We consider in chapters 10 and 11 whether the Merger may be expected to result in a SLC in the supply of CCPs and CCTs respectively. 103
- 7.43 According to the settled case law<sup>104</sup>, whether a reduction in rivalry expected to result from a merger amounts to a SLC within the meaning of the Act, is a matter of judgement.
- 7.44 The Merger Assessment Guidelines make clear that rivalry may be affected and give rise to adverse effects on customers in relation to non-price aspects of merging parties' competitive offer to customers, such as service quality, product range, product quality and innovation. 105 Accordingly, these non-price aspects of competition may be taken into account in assessing the impact of a merger and whether it may be expected to give rise to an SLC.
- 7.45 In considering how these concepts should be applied to the present case, we have had particular regard to the central parameters upon which the Parties compete for users of CCPs and CCTs, namely (as set out in paragraphs 7.12-

<sup>&</sup>lt;sup>103</sup> In accordance with s36(1)(b) of the Act.

<sup>&</sup>lt;sup>104</sup> Global Radio Holdings Limited v Competition Commission [2013] CAT 26.

<sup>&</sup>lt;sup>105</sup> Merger Assessment Guidelines, paragraph 4.2.3.

7.24) on product development and innovation in the user experience. We consider this to be an appropriate basis for identifying whether the impact of the Merger could be worthy of consideration for the purposes of the Act.

# 8. Competition between the Parties

#### Introduction

- 8.1 As described above, the Parties compete to generate leads for financial product providers through their CCPs. Both Parties use free CCTs to attract consumers to these comparison platforms. Where one Party introduces innovations and/or quality improvements to its free CCT, this can also be regarded as improving its CCP offer. 106 Experian also uses its free CCT in order to attract customers to its paid-for CCT (CreditExpert).
- 8.2 In this section we set out evidence from the Parties' internal documents that we consider is relevant to how the Parties and other suppliers compete across both their CCTs and their CCPs and is therefore relevant to both of the subsequent sections assessing competition in the supply of CCPs and CCTs respectively. Much of the evidence we have obtained concerns how the Parties and other suppliers compete in general, both in relation to the provision of CCTs and of CCPs. We refer to, and consider, evidence, including that from third parties, that is more specific to either competition in the supply of CCPs or CCTs in the relevant chapters, namely chapter 10 in respect of CCPs and chapter 11 in respect of CCTs. Moreover, discussions in chapters 10 and 11 refer back to internal document evidence in this chapter where relevant.
- 8.3 In summary, our view is that the evidence from the Parties' internal documents shows the following.
- 8.4 First, Experian documents recognise [≫]. These effects continue to be discussed in Experian's [≫] documents produced in late 2017 and early 2018 (paragraphs 8.52 and 8.53).
- 8.5 Second, [%]
- 8.6 Third, ClearScore's documents, whilst describing an increase in competition over time, position Experian as a particularly close competitor currently.

  Particularly:

 $<sup>^{106}</sup>$  Directly on the consumer side of the platform, but potentially also indirectly on the lender side if more consumers are attracted to the platform as a result.

	(a) [X]
	(b) [≪]
	(c) [ <b>※</b> ]
	(i) [ <b>※</b> ]
	(ii) [ <b>≫</b> ]
	(iii) [ <b>≫</b> ]
8.7	Fourth, the Parties' documents also position MSM (incorporating both MSE and MSM itself) as a strong competitor.
	(a) [ <b>※</b> ]
	(b) [%]
	(c) [X]
	(d) However, both Parties' documents also indicate a limit to the current competitive constraint from MSM, in particular from its MSE Credit Club. For example:
	(i) [ <b>※</b> ]
	(ii) [ <b>※</b> ]
8.8	Fifth, whilst Experian's documents [ $\gg$ ], neither Party's documents describe [ $\gg$ ].
	(a) [ <b>※</b> ]
	(b) [ <b>※</b> ]
8.9	Sixth, the Parties' internal documents [≫]. However:
	(a) [≫]
	(b) [≈]
	(c) [≈]
8.10	Our detailed review of the Parties' internal documents is set out in Appendix B. In this section we summarise the main conclusions from that review considering the evidence from those documents concerning:

- (a) Competition prior to ClearScore's entry ([%]).
- (b) ClearScore's entry (paragraphs 8.12-8.21).
- (c) The introduction of Experian's free product (paragraphs 8.22-8.34).
- (d) Subsequent discussions of competition (paragraphs 8.35-8.68).
- (e) Experian's considerations of acquiring ClearScore ([%]).

#### Competition prior to ClearScore's entry

8.11 Prior to ClearScore's entry in July 2015, Experian's internal documents [%]

#### ClearScore's entry

- 8.12 In our provisional view, the Parties' documents provide strong evidence that [%], with [%] and Experian carefully considering its response. Indeed, Experian submitted to us that it does not contest the fact that ClearScore's entry, along with the significant proliferation of free access to credit scores from a variety of sources (such as Noddle's "free scores for life" and Barclaycard and Lloyds offering free scores) were disruptive events for Experian. 107
- 8.13 ClearScore's documents considered the impact that its entry could have and [ >< ]
- 8.14 Both Parties' internal documents commented on the [≫]. ClearScore's documents discuss how other suppliers, including Experian, responded. For example:
  - (a) ClearScore's October 2015 board slides note that [%]
  - (b) ClearScore's December 2015 board papers state [%]
  - (c) ClearScore's September 2016 board documents describe how [%]
- 8.15 Experian's documents also commented on the effect that ClearScore, and in some instances Noddle's, free products had on its CreditExpert product. For example: 108
  - (a) [**%**]

<sup>&</sup>lt;sup>107</sup> Response to annotated issues statement, paragraph 3.6

<sup>108</sup> This effect was also noted in [%].

	(b) [ <b>※</b> ]			
	(c) [ <b>※</b> ]			
	(d) [ <b>※</b> ]			
8.16	A number of Experian documents also [≫]			
8.17	A document produced in July 2015 [≫]:			
8.18	$[st\!$			
8.19	The document concluded by stating [≫]			
8.20	A subsequent document from October 2015 discussed [≫]			
8.21	These options were then assessed and the document noted that $[st\!\!\!/]$			
The in	ntroduction of Experian's free product			
8.22	In this sub-section we discuss documents concerning the introduction of Experian's free CCT and CCP in June 2016.			
8.23	Experian's internal documents illustrate that it had [涎].			
8.24	However, although Experian's documents [≫].			
8.25	ClearScore's September 2016 board papers [≫].			
8.26	Once Experian introduced its free products both Parties' internal document comment on the effect that the introduction of Experian's free product had. [%].			
8.27	ClearScore's internal documents record [≫]:			
	(a) [ <b>%</b> ]			
	(b) [ <b>%</b> ]			
8.28	ClearScore's documents also recognise [≫]:			
	(a) [ <b>%</b> ]			
	(b) [ <b>※</b> ]			
	(c) [≫]			

8.29 In our view these documents show that in the period immediately following Experian's entry into the provision of free CCTs, the Parties directly competed and that competition influenced how many users signed up to each of the Parties' offers and influenced their marketing strategies.

The effect of free CCT products on CreditExpert

- 8.30 Several Experian documents from this time [%]
- 8.31 [%]

Documents discussing price comparison

- 8.32 Prior to the introduction of its free product Experian conducted [%]
- 8.33 Both of these documents provide an overview of [%]
- 8.34 [%]

#### Subsequent discussions of competition

8.35 The Parties dispute that beyond the one-off disruptive event of ClearScore's entry there is strong ongoing competition between Experian's CreditExpert product and Clearscore after 2016. 109 Therefore, in this section we set out the Parties' most recent documents that discuss competition following the introduction of Experian's free CCT and CCP product. In doing so we distinguish between (i) ClearScore's board and Experian's budget and strategy documents, (ii) documents which discuss marketing and advertising strategies, and (iii) documents which discuss competition more generally. Finally, we summarise our view on these documents.

ClearScore's board documents and Experian's budget and strategy documents

8.36 ClearScore has submitted that "material strategic thinking within the business is generally reflected in its board packs and minutes". 110 Likewise Experian has submitted that its annual budget and strategy documents are its key strategic documents. 111 In this section we summarise our view on those documents.

<sup>&</sup>lt;sup>109</sup> Annotated Issues Statement Response, paragraph 3.6.

<sup>&</sup>lt;sup>110</sup> ClearScore Response to the First Day Letter.

<sup>&</sup>lt;sup>111</sup> Response to the Annotated Issues Statement, Annex 1, paragraph 2.5

# ClearScore's board documents

8.37	ClearScore's board documents comment [≫]:			
	(a) [ <b>※</b> ]			
	(b) [ <b>%</b> ]			
	(c) [ <b>%</b> ]			
8.38	More generally [≫]:			
	(a) [ <b>%</b> ]			
	(b) [ <b>※</b> ]			
	(c) [ <b>%</b> ]			
8.39	In 2016 a number of ClearScore documents [≫]			
8.40				
8.41				
8.42	[%]			
Figure	3			
[%]				
8.43	[≫]ClearScore's board papers [≫]			
8.44	However, these suppliers are not referred to in other board papers, including those from $[\%]$ .			
	Experian's FY18 budget and strategy documents			
8.45	Experian's FY18 budget and strategy documents were produced between August 2016 and February 2017. 112			
8.46	First, these documents [≫]			
8.47	Second, these documents discuss [≫]			
8.48	Experian's FY18-22 Strategic Plan, [≫]			

<sup>&</sup>lt;sup>112</sup> Merger Notice, Annex 12.4, Merger Notice, Annex 12.5, Merger Notice, Annex 12.3, Merger Notice, Annex 12.2

8.49	The FY18-22 Strategic Plan, [≫]			
8.50	Third, these FY18 documents particularly highlight [≫]			
	Experian's FY19 budget and strategy documents			
8.51	Experian's FY19 budget and strategy documents were produced between September 2017 and January 2018. <sup>113</sup>			
8.52	First, these documents [%].			
	(a) [≫]			
8.53	[ <b>※</b> ]:			
	(a) [ <b>※</b> ]			
8.54	Third, a number of these documents also [≫]			
Docu	ments discussing marketing and advertising			
8.55	Marketing is an important mechanism by which providers attract users (paragraph 7.13) to their CCTs. 114 We have therefore considered the effect that the Parties have had on each other's marketing strategies and the suppliers they consider to be important when deciding on their marketing and advertising strategy.			
8.56	ClearScore's documents discussing [≫]:			
	(a) [ <b>※</b> ]			
	(b) [ <b>※</b> ]			
	(c) [ <b>※</b> ]:			
	(i) [ <b>※</b> ]			
	(ii) [ <b>※</b> ]			
	(iii) [≪]			
	(iv) [≪]			

 $<sup>^{113}</sup>$  Merger Notice Annex 12.1, Merger Notice Annex 8.2, Merger Notice Annex 8.1, Merger Notice Annex 8.3, Merger Notice Annex 8.4 and Merger Notice Annex 8.5  $^{114}$  [%].

	(v) [ <b>※</b> ]					
8.57						
Figure	4					
[%]						
	(b) [%] [%]					
Docum	ments discussing competition more generally					
8.58	The Parties have provided a number of other documents which discuss competition more generally and which do not generally distinguish between competition between CCPs or CCTs.					
	Experian					
8.59						
8.60	[ <b>%</b> ]: <sup>115</sup>					
8.61						
	ClearScore					
8.62						
8.63	[ <b>%</b> ]:					
	(a) [ <b>※</b> ]					
	(b) [%]					
	(c) [ <b>※</b> ]					
8.64	[ <b>%</b> ]:					
	(a) [≫]					
	(b) [≈]					

8.65 [%]

<sup>&</sup>lt;sup>115</sup> RFI2-1513.

# 8.66 [%]

Our view on documents discussing competition following the introduction of Experian's free product

Exper	iaiis	s nee product		
8.67	In our view Experian's internal documents described above illustrate that:			
	(a)	Experian continues to recognise [ $\gg$ ] (paragraphs 8.46, 8.52 and 8.53). [ $\gg$ ].		
	(b)	Experian considers ClearScore to be a particularly close competitor currently. In particular:		
		(i) [ <b>%</b> ]		
	(c)	MSE and MSM are also [≫] by Experian.		
		(i) [ <b>%</b> ]		
	(d)	$[\!\!\! \   \!\!\!  ]$ is not identified as currently providing a particularly strong competitive constraint on Experian. $[\!\!\! \   \!\!\!  ]$		
	(e)	Experian does not currently compete strongly with other suppliers such as $[\ensuremath{\gg}].$		
		(i) [ <b>%</b> ]		
8.68	In our view ClearScore's internal documents described above show that:			
	(a)	ClearScore considers Experian to be a particularly close competitor currently:		
		(i) [ <b>%</b> ]		
		(ii) [ <b>※</b> ]		
		(iii) [ <b>※</b> ]		
	(b)	MSM/MSE is described as a strong competitor to ClearScore, although consistent with Experian's internal documents, ClearScore's documents identify limits to the current competitive constraint exerted by MSE and MSM.		
		(i) [ <b>%</b> ]		
		(ii) [ <b>%</b> ]		
		(iii) [%]		

- (iv) [≪]
- (c) Noddle is not described as being a strong current competitor to ClearScore. [≫]
- (d) ClearScore does not currently compete strongly with other suppliers such as CompareTheMarket, GoCompare or Confused.com. [≫]

#### Experian's considerations of acquiring ClearScore

8.69 [%]

## 9. Market definition

- 9.1 The purpose of market definition is to provide a framework for the analysis of the competitive effects of a merger. Market definition is a useful analytical tool, but not an end in itself, and identifying the relevant market involves an element of judgement.<sup>116</sup>
- 9.2 The boundaries of the market do not determine the outcome of our analysis of the competitive effects of a merger in a mechanistic way. In assessing whether a merger may be expected to give rise to an SLC, we may take into account constraints outside the relevant market, segmentation within the relevant market, or other ways in which some constraints are more important than others.<sup>117</sup>
- 9.3 In practice, the analysis underpinning the identification of the market or markets and the assessment of the competitive effects of a merger overlap, with many of the factors affecting market definition being relevant to the assessment of competitive effects and vice versa. Therefore, market definition and the assessment of competitive effects should not be viewed as distinct analyses.<sup>118</sup>
- 9.4 In the remainder of this chapter, we consider the definition of the relevant markets in which the effects of the Merger should be assessed. For each, we have assessed the relevant product market and the relevant geographic market.

<sup>&</sup>lt;sup>116</sup> Merger Assessment Guidelines, paragraphs 5.2.1 and 5.2.2.

<sup>&</sup>lt;sup>117</sup> Merger Assessment Guidelines, paragraph 5.2.2.

<sup>&</sup>lt;sup>118</sup> Merger Assessment Guidelines, paragraph 5.1.1.

#### **Product market**

9.5 The relevant product market is identified primarily by considering the degree of demand-side and, to a lesser degree, supply-side substitution. It is usual to define markets using the hypothetical monopolist test. This test delineates a market as a set of substitute products over which a hypothetical monopolist would find it profitable to impose a small but significant non-transitory increase in prices (SSNIP). The test is described in detail in paragraphs 5.2.10 to 5.2.20 of the CMA guidance.<sup>119</sup>

#### **CCPs**

- 9.6 As described above in paragraphs 7.7 to 7.11, CCPs are two-sided products. It is common practice to define a single 'platform' market where, as in this case, the platform matches users on both sides. However, it is difficult to implement the hypothetical monopolist test in the context of two-sided markets, as there is no single price to both sets of customers to consider a SSNIP. 120 We can nonetheless consider the relevant evidence on demandand supply-side substitution for each set of customers (lenders and consumers), in order to form a view about the market.
- 9.7 From the perspective of consumers, CCPs provide free access to a large number of different financial products and allow them to check prices and their likely eligibility.
- 9.8 The CMA's Digital Comparison Tools market study found that consumers use CCPs to save time in comparing a large number of suppliers. 121 Consumers' only alternative is to individually check suppliers' websites (or visit their premises). This is more time-consuming and requires that consumers independently research the providers which might offer them financial products. This alternative is therefore, from the perspective of those consumers who value the functionality of a CCP, clearly inferior to using a CCP.
- 9.9 From the perspective of lenders, CCPs are a way to acquire customers for their financial products. Other marketing and sales channels will be substitutes to the extent that they allow lenders to acquire customers at a similar scale and price, and to the extent that the customers acquired have a

<sup>&</sup>lt;sup>119</sup> Merger Assessment Guidelines, paragraph 5.2.10-5.2.20.

<sup>&</sup>lt;sup>120</sup> Merger Assessment Guidelines, paragraph 5.2.20.

<sup>&</sup>lt;sup>121</sup> Digital comparison tools market study final report, Paper E: Competitive landscape and effectiveness of competition, CMA, paragraph 2.8 and ff.

similar risk profile (which affects the profitability of providing a particular financial product).

#### CCPs and other marketing channels

- 9.10 The Parties submitted 122 that financial product providers use many channels to acquire customers, trading off the costs and risks of each, and that, in addition to CCPs, we should assess all other such channels as part of the same market, including:
  - (a) Traditional offline direct channels (eg TV advertising, bricks-and-mortar branches);
  - (b) Online direct channels (ie lenders' websites); and
  - (c) Online advertising (such as Google AdSense and Facebook).
- 9.11 From a lender's perspective, branch and website visits are the outcomes of other successful marketing activities, such as using CCPs, rather than being substitutes for marketing themselves. Lenders' genuine alternatives are therefore restricted to alternative marketing activities.
- 9.12 Almost all lenders which responded to the CMA's questionnaire said that they use organic visits, paid online advertising (eg Google Adwords) and CCPs to generate leads from potential customers. Averaging across these lenders, just under half of all leads generated for each lender come through CCPs, direct visits provide just over a third of leads and online advertising supplies the remainder. This was consistent with comments from most responding lenders that they considered CCPs to be an important marketing channel. However, there was significant variety in the extent to which individual lenders said they use each distribution channel. Lenders with a branch network said that branches generate many more direct leads, especially for loans. Lenders without a branch network therefore tended to be relatively heavier users of online advertising and CCPs.
- 9.13 Some lenders told the CMA that, while in principle lenders' own advertising is in competition with CCPs, lenders struggle to compete in alternative marketing channels because CCPs can outbid them for advertising space, as CCPs' monetisation model is more efficient. This was consistent with comments from other lenders that CCPs are a particularly cost-efficient marketing tool, relative to other alternatives. When asked whether they would

<sup>&</sup>lt;sup>122</sup> Response to Phase 1 Decision, paragraph 5.5.

<sup>&</sup>lt;sup>123</sup> Organic visits to lenders' websites may be driven by any of a range of marketing activities, including visits to CCPs.

switch to other marketing channels if CCPs increased their prices by 5-10%, several lenders said they would need to review their alternatives in detail before making a decision. However, most of those lenders which were able to answer this question said they would not switch away to other marketing channels. Several lenders commented that if CCPs' prices' rose by this much, they might respond by raising borrowers' costs or rejecting more marginally profitable customers.

- 9.14 Many lenders told the CMA that CCPs are important to reaching a large volume of customers, and some commented that if a lender were to stop using CCPs, it would reach fewer customers. Several lenders told the CMA that the various marketing channels are complements, rather than alternatives.
- 9.15 We consider that the evidence from third parties indicates that there is only a limited level of demand-side substitution between CCPs and alternative marketing channels.
- 9.16 In terms of supply-side substitution, we have not found evidence that suppliers in alternative marketing channels are well placed to promptly switch to the supply of CCPs, and we note that firms which supply other forms of marketing do not currently supply CCPs.
- 9.17 Consistent with this, we found that the Parties' internal documents  $[\times]$ . This contrasts with the  $[\times]$  evidence of competition  $[\times]$ , as documented elsewhere in these findings.
- 9.18 On the basis of the above evidence, we believe it is not appropriate to widen the relevant market in this case to include other marketing channels, including lenders' direct online and offline channels. In our view this consideration applies to both the lender and the consumer sides of the market. However, we have considered these constraints in our competitive assessment.

#### CCPs for loans, credit cards and mortgages

- 9.19 One CCP stated that price comparison websites compete by product (loan, credit card, mortgage) and not as a whole across all money services. We therefore considered whether to assess the supply of CCPs separately for each financial product.
- 9.20 For borrowers, we note that consumers using a CCP are typically searching for a specific type of financial product, and that other financial products are

<sup>&</sup>lt;sup>124</sup> See Appendix B, paragraph 113.

- not at that point demand-side substitutes. Similarly, third party responses indicated that many of the lenders on the Parties' CCPs offer only a subset of these types of financial product.
- 9.21 However, although the boundaries of the relevant product market are generally determined by reference to demand-side substitution alone, the CMA may aggregate several narrow relevant markets into one broader one where the same firms compete to supply these different products and the conditions of competition between the firms are the same for each product. 125
- 9.22 The Parties submitted that they compete in a market for financial product lead generation (referred to as 'FPLG') as a whole, without segmentation by type of financial product. <sup>126</sup> More specifically, they submitted that the supply of CCP services for loans and the supply of CCP services for credit cards are entirely substitutable from a supply side perspective and should be considered as part of the same relevant product market. <sup>127</sup> They noted that all of the main CCPs have both credit cards and loans in their portfolio. <sup>128</sup>
- 9.23 Although CCPs' shares of supply by revenue (see Table 10.1) vary between loans and credit cards, the CMA confirmed with third parties that the major CCPs include both credit cards and loans, indicating that the conditions of competition for these two products are the same. Some smaller CCPs do not offer both types of financial product, but we consider it is likely that a CCP which only compares credit cards or loans could move quickly into comparing the other because it already has relationships with lenders in place; for example, ClearScore itself launched with credit card offers (July 2015) before it introduced loan offers (September 2015).
- 9.24 However, several third parties told us that the sales channel for mortgages, in particular, is very different to those for loans and credit cards, with few consumers purchasing mortgages online.
- 9.25 On the basis of this evidence, we believe it is appropriate to assess the effects of the Merger on the supply of CCPs for loans and the supply of CCPs for credit cards together within a single product market. As neither of the Parties is well-established in the supply of CCPs for mortgages, and as third parties have not raised concerns which are specific to this segment, we have not considered it further.<sup>129</sup>

<sup>&</sup>lt;sup>125</sup> Merger Assessment Guidelines, paragraph 5.2.17.

<sup>&</sup>lt;sup>126</sup> Issues Statement Response, paragraph 1.3 (a). Where we use the 'CCP' terminology, the Parties use the phrase 'financial product lead generation' (FPLG).

<sup>&</sup>lt;sup>127</sup> Issues Statement Response, paragraph 2.16 (c).

<sup>&</sup>lt;sup>128</sup> Issues Statement Response, paragraph 2.30.

 $<sup>^{129}</sup>$  [ $\gg$ ] their overlap in relation to mortgages is not considered further.

#### CCPs with, and without, CCTs

9.26 Given that the Parties' CCPs are both linked to free CCTs, we considered whether a narrow market should be defined for CCPs with CCTs. However, we considered it appropriate to address the relevance of this segmentation in our competitive assessment below.

## Provisional conclusion on the product market for CCPs

9.27 Based on the above, we have provisionally concluded that the relevant product market is the supply of CCPs for loans and credit cards.

#### **CCTs**

- 9.28 CCTs can be supplied as paid-for products or, as described above in chapter 3, as free products that are monetised through upselling and through lead generation via a CCP. Although many free CCTs are monetised through a CCP, we have assessed whether the supply of CCTs forms a separate product market from the supply of CCPs and also whether that product market should be segmented between paid-for CCTs and free CCTs.
- 9.29 The Parties submitted that on their own, CCTs do not constitute a relevant product market. 130

#### Paid-for CCTs and free CCTs

9.30 The Parties submitted that paid-for and free CCTs are in distinct markets, as [≫]. <sup>131</sup> In particular, the Parties submitted that customers of Experian's paid-for CCT [≫].

#### Differentiation between paid-for CCTs and free CCTs

9.31 As described above in paragraph 7.26, we accept that the Parties' paid-for CCTs and free CCTs are differentiated. However, we consider that competitive constraints can exist between products with significantly different levels of price and quality<sup>132</sup> (or range of content). In our view, what matters is the extent to which consumers take into account and trade off product quality or features and price in their consumption decisions; ie whether the products are demand-side substitutes. 133

<sup>&</sup>lt;sup>130</sup> Issues Statement Response, paragraph 2.2.

<sup>&</sup>lt;sup>131</sup> Response to Annotated Issues Statement, Annex 3, paragraphs 4-5.

<sup>&</sup>lt;sup>132</sup> That is, products which are 'vertically differentiated'.

<sup>&</sup>lt;sup>133</sup> Merger Assessment Guidelines, paragraph 5.2.7.

- 9.32 As is obvious, paid-for CCTs and free CCTs are differently priced. Paid-for CCTs generally provide additional features to consumers over any above those offered by free CCTs, such as identity protection and access to a call centre. However, paid-for and free CCTs nevertheless overlap in terms of features: all provide a credit score, many free CCTs include a credit report, and most CCTs (both paid-for and free) provide additional features (such as a score history) to help customers to understand changes in their credit score and report and to improve their creditworthiness. One CCT told the CMA that some free CCTs, such as ClearScore, have very similar features to paid CCTs, and that paid CCTs therefore struggle to ensure their features justify their price. Several CCTs said that paid-for CCTs have sought to differentiate themselves from free CCTs by innovating, and some CCTs described to the CMA the ways in which they had added value to their paid-for products to differentiate themselves from free CCTs.
- 9.33 This is consistent with the Parties' internal documents. For example, Experian's FY19-23 strategy plan, dated September 2017, identifies [%] Experian's internal documents also show that it is [%] For example, its [%]
- 9.34 We also reviewed internal documents from several third parties. [%]
- 9.35 In our view, the feature overlap between paid-for and free CCTs, and the efforts by paid-for CCTs to continue to differentiate themselves from free CCTs by providing additional value, imply that many users of paid-for CCTs would consider free CCTs to be alternatives, where those free CCTs offer (some) features that they require.

Evidence of recent and ongoing competition between paid-for and free CCTs

- 9.36 As discussed above in paragraphs 8.12 to 8.21, [%]
- 9.37 CCTs told the CMA that the entry of free CCTs had a significant impact on paid-for CCTs. They also identified a general trend in the market towards the increasing importance of free CCTs.
- 9.38 The Parties agreed that [≫]. However, the Parties submitted that their internal documents overall reflect "a fundamental one-time shift in the industry from paid-for to free". If such a fundamental one-time shift occurred, the remaining users of the paid-for product might no longer consider free CCTs as a potential substitute.

- 9.39 However, to the contrary, we consider that the evidence shows ongoing demand-side substitutability between paid-for and free CCTs. For example: 134
  - (a) Experian's FY19-23 strategy plan, dated September 2017, illustrates [%]
  - (b) Experian's August 2018 pricing strategy states [≫] Additionally, in June 2018 [≫]
- 9.40 As described below in paragraphs 11.11 to 11.27 and 11.37-11.53, Experian's internal documents (including the most recent ones) [≫] In our view to exclude free CCTs from the relevant market would be to exclude the closest competitive constraint to CreditExpert.
- 9.41 Overall, we consider that there is a strong constraint from free CCTs on paidfor CCTs. However, we also recognise that the constraint is likely to be asymmetric; there is less evidence of a constraint from paid-for CCTs on free CCTs such as ClearScore than vice versa.<sup>135</sup>

The monetisation model of free and paid-for CCTs

- 9.42 As noted above, the Parties submitted that the differences in the way that free and paid-for CCTs are monetised strongly indicate that the two products are not part of the same relevant product market. However, our view is that the fact that two products are monetised in different ways does not mean that there cannot be an important competitive interaction between the two products and does not mean that the two products cannot be part of the same product market. He that, in this case there is an important and ongoing competitive interaction between free and paid-for CCTs which merits considering the two products as part of the same product market when assessing the Merger.
- 9.43 However, we acknowledge that when considering competition between free and paid-for CCTs and the effects of the Merger it is necessary to consider the relevant competitive constraints faced by each of the Parties' products. In particular, the Parties have submitted that their free CCTs compete with (i) other CCPs (including those without a CCT to attract users)<sup>138</sup> and (ii) range of providers, including banks, who offer access to free credit scores, and who

<sup>&</sup>lt;sup>134</sup> For further evidence see paragraphs 11.11 to 11.27 and 11.37-11.53.

<sup>135</sup> We discuss the implications of this asymmetry for our competitive assessment at paragraph 11.4.

<sup>&</sup>lt;sup>136</sup> Issues Statement response, paragraph 2.5.

<sup>&</sup>lt;sup>137</sup> The CMA's aim when identifying the relevant market is to include the most relevant constraints on behaviour of the merger firms. (Merger Assessment Guidelines, paragraph 5.2.1.)

<sup>&</sup>lt;sup>138</sup> Annotated Issues Statement response, paragraph 3.33 and Response to the Issues Statement, paragraphs 1.5(a) and 4.1(b).

should "also be considered competitors". 139 We have considered the evidence regarding the competitive constraint on the Parties from these suppliers and the subsequent implications for our inquiry when undertaking our competitive assessment (see chapters 10 and 11).

Applying the hypothetical monopolist test to the supply of paid-for CCTs

- 9.44 The Parties submitted that, in order for the paid-for and free CCTs to be in the same market, there would need to be sufficient switching between them 'to pass the SSNIP test'.¹⁴⁰ The Parties furthermore submitted that measures of the impact of the entry of free CCTs on Experian's paid-for CCT demonstrate a cross-price elasticity between paid-for and free products which would not constrain a hypothetical monopolist of paid-for CCTs from increasing its prices (even if all the decline in Credit Expert's user base were attributed to the entry of free credit scores rather than, for instance, the fact that [≫] and reorganised its website so that the landing page for customers was the free Experian offer). As a result, the Parties submitted, the paid-for and free products should be considered to be in separate markets.¹⁴¹
- 9.45 The Parties submitted that the introduction of free products led to a price reduction of 100% relative to the price of paid-for products and calculate a low cross-price elasticity between paid-for and free products on that basis.

  According to the Parties, this demonstrates that paid-for CCTs constitute a separate market, and that the two product categories are complements rather than substitutes. 142
- 9.46 We note in this regard that the quality of Experian's paid-for product increased in the period after ClearScore's entry (see paragraphs 11.11-11.20). As the nominal price for CreditExpert remained the same, this implies a decrease in the product's real price. Further, the free products that were introduced were not identical to the paid-for products. The interpretation of the introduction of free CCTs as a 100% price reduction is therefore misleading. Had, We do not consider that the approach suggested by the Parties provides a sound basis in this case for an elasticity estimate with which to undertake a SSNIP test (with a small price increase).

<sup>&</sup>lt;sup>139</sup> For example, Issues Statement response, paragraph 2.12.

<sup>&</sup>lt;sup>140</sup> Response to Annotated Issues Statement, Annex 3, paragraph 10.

<sup>&</sup>lt;sup>141</sup> Response to Annotated Issues Statement, Annex 3, paragraphs 7-8.

<sup>&</sup>lt;sup>142</sup> Response to Annotated Issues Statement, paragraph 3.14. and Annex 3, paragraphs 7-9.

<sup>&</sup>lt;sup>143</sup> Further, framing it as a 100% price reduction guarantees that the quantity effect on the other product will be proportionately smaller (since it cannot exceed 100%) resulting in a cross-elasticity below 1.

- 9.47 The specific question which the Parties are seeking to address with their submission would be more pertinent if we were assessing a merger overlap between paid-for CCTs, but that is not the case. Rather than relying on this quantitative analysis, which is in our view misdirected, in applying the hypothetical monopolist test framework we have placed weight on the Parties' internal documents and third party views, which clearly demonstrate ongoing competition between the Parties' paid-for and free CCTs. 144 This indicates that a hypothetical monopolist of paid-for and free CCTs would be less constrained in setting the price and quality parameters of its offers.
- 9.48 Consistent with our approach, as set out in the CMA's guidance, the hypothetical monopolist test is used as a tool to check that the relevant product market is not defined too narrowly. The relevant product market may be wider than the narrowest market that satisfies the hypothetical monopolist test. 145

#### Provisional conclusion on free and paid for products

9.49 We consider that, overall, the evidence from internal documents and third parties (and, in particular, as set out above in paragraphs 9.36 to 9.41) shows that free CCTs exert a significant competitive constraint on paid-for CCTs. Consequently, our view is that the two types of CCT should be included in the same product market when assessing the competitive effects of the Merger. We consider the closeness of competition between Experian's paid-for CreditExpert and ClearScore's free CCT in detail in our competitive assessment below in paragraphs 11.11 to 11.27.

#### Provisional conclusion on relevant product market for CCTs

9.50 Based on the above, we provisionally conclude that the evidence of competitive constraints between free CCTs and paid-for CCTs means that the relevant product market includes the supply of all CCTs, both free and paidfor.

#### Pre-qualification services

9.51 Pre-qualification services are supplied to CCPs by third parties such as HD Decisions, Runpath (both Experian) and Pancredit (loans only). ClearScore does not supply pre-qualification services. The Parties have submitted that any market definition for pre-qualification services should include the

<sup>&</sup>lt;sup>144</sup> Merger Assessment Guidelines, paragraph 5.2.15(a).

<sup>&</sup>lt;sup>145</sup> Merger Assessment Guidelines, paragraph 5.2.8.

- constraints from alternative technologies such as APIs. The Parties further point out that [ $\gg$ ] ClearScore lenders have direct APIs and submitted that if these constraints are not included in the relevant market, they should be included in the competitive assessment.<sup>146</sup>
- 9.52 We have considered whether the relevant market in this case should include other services than such third-party pre-qualification, which is supplied by HD Decisions.
- 9.53 The internal documents from Experian include some discussion of [≫]Also, as noted above, the Parties have submitted that ClearScore has direct API connections with [≫] the lenders included on its CCP.
- 9.54 We have spoken to third party CCPs and lenders. Some respondents told us that building direct APIs can be an alternative to using HD Decisions, and some do already. However, several CCPs and lenders said it would be difficult to do completely without HD Decisions' services and only rely on APIs for pre-qualification.
- 9.55 As pointed out by the Parties, lenders are in control as to whether CCPs and lenders link directly through APIs. Some CCPs have indicated that they would like the ability to link with lenders through APIs, but that lenders have not been willing to do this. This constrains CCPs' ability to substitute away from third-party supply of pre-qualification, eg in response to a price increase.
- 9.56 Third party views on APIs as alternatives to third-party pre-qualification suppliers such as HD Decisions are discussed at more length in our competitive assessment of the vertical theory of harm (chapter 12). In that chapter, we take the constraints from APIs on HD Decisions into consideration where this is relevant.

Provisional conclusion on relevant product scope for pre-qualification services

9.57 Based on the above, we provisionally conclude that the relevant product market is for pre-qualification services supplied by third parties, not including APIs. However, we will consider the constraints arising from APIs in our competitive assessment.

<sup>&</sup>lt;sup>146</sup> Response to Annotated Issues Statement, Annex 3, paragraphs 25–26.

## Geographic market

- 9.58 The Parties submitted that the relevant geographic market for all relevant products is UK-wide, as suppliers operate nationally.
- 9.59 Our market testing found no variation in suppliers across the UK. No third parties suggested that a narrower (or wider) geographic frame of reference would be appropriate.
- 9.60 For these reasons, our provisional conclusion is that the relevant geographic market for all relevant products is UK-wide.

#### Provisional conclusion on market definition

- 9.61 In the light of the above assessment, we provisionally conclude that the relevant markets in which to assess the effects of the Merger are:
  - (a) The supply of CCPs for personal 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.
- 9.62 However, we take into account constraints outside these relevant markets where we consider this is appropriate in our assessment of the whether the Merger may be expected to give rise to an SLC.

# 10. Competition in the supply of credit comparison platforms for loans and credit cards

#### Introduction

- 10.1 In this section we assess the competitive effects of the Merger with respect to the supply of CCPs. We have considered whether the Merger may be expected to result in an SLC in the market for the supply of CCPs for personal loans and credit cards. We have assessed the effects of the Merger against the competitive position in the absence of the Merger.
- 10.2 The Merger Assessment Guidelines make clear that adverse effects on customers on non-price aspects such as service quality, product range, product quality and innovation may be taken into account in assessing the impact of a merger. 147 While the impact of competition based on such

<sup>&</sup>lt;sup>147</sup> Merger Assessment Guidelines, paragraph 4.2.3.

parameters (as opposed to price) is inherently difficult to quantify, we consider that there is in the present case clear evidence that product development and innovation in the user experience are driven by competition in both CCPs and CCTs (paragraphs 7.12-7.25).

- 10.3 The Merger Assessment Guidelines also explain that a merger gives rise to an SLC when it has a significant effect on rivalry over time, and therefore on the competitive pressure on firms to improve their offer to customers or become more efficient or innovative. 148 In that regard, we consider that a merger may be expected to result in a material loss of competitive constraint if, as a result of the merger, the combined entity would be likely to face materially reduced competition because there are insufficient post-merger competitive constraints to ensure that rivalry continues. 149 Where products are differentiated this may be the case where, for example, the merging parties were close competitors pre-merger. 150
- 10.4 We assessed whether, because the Parties are close competitors in the supply of CCPs, an important competitive constraint may be removed as a result of the Merger, such that the remaining competitors may not exert a sufficient competitive constraint on the Parties to prevent an SLC arising. This closeness of competition between the Parties could be due to the similarities of their offers in terms of the way users are introduced via associated CCTs, the ability to provide personalised product recommendations for them, and a consequent degree of user engagement, which is attractive to lenders.
- 10.5 In particular, we assessed whether the removal of the competitive constraint between the Parties 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.
- 10.6 We first set out shares of supply amongst providers in the supply of CCPs for personal loans and credit cards, before setting out our assessment of the effect of the Merger on competition on the user side of the market and then on the lender side of the market. We consider additional points arising from the two-sided nature of the market within the discussion.

<sup>&</sup>lt;sup>148</sup> Merger Assessment Guidelines, paragraph 4.1.3.

<sup>&</sup>lt;sup>149</sup> Merger Assessment Guidelines, paragraph 4.1.3.

<sup>&</sup>lt;sup>150</sup> Merger Assessment Guidelines, paragraph 5.4.6.

#### **Market shares**

10.7 We have calculated market shares based on CCP revenues. CCPs earn revenue via commissions from financial product providers and Table 10.1 shows shares of CCP revenues for 2017. These indicate that the Parties' share of overall CCP revenues would remain below that of the MSM group of companies (comprising MSM and MSE). The Parties would be significantly larger than ZPG (comprising uSwitch and Money.co.uk, in combination the third largest supplier) in credit cards and larger than ZPG to a material degree in loans. The Parties would then have shares of supply significantly above that of any of the other remaining market participants, including TotallyMoney, Noddle, CompareTheMarket and GoCompare.

Table 10.1: Shares of CCP revenues in the UK, 2017

	Credit cards (%)	Loans (%)
Experian*	[5-10]	[5-10]
ClearScore*	[20-30]	[10-20]
Parties combined	[20-30]	[20-30]
MSM	[30-40]	[20-30]
MSE* (MSM Group)	[20-30]	[10-20]
MSM Group total	[50-60]	[30-40]
uSwitch (ZPG)	[0-5]	[5-10]
Money.co.uk (ZPG)	[0-5]	[10-20]
ZPG total	[5-10]	[10-20]
TotallyMoney*	[5-10]	[0-5]
Noddle*	[0-5]	[0-5]
CompareTheMarket	[0-5]	[0-5]
Go Compare	[0-5]	[0-5]
Knowyourmoney	[0-5]	[5-10]
giffgaff	[0-5]	[0-5]

Source: Parties and third party questionnaires

Note: CCPs with a CCT during the period covered are marked with \*. The table shows share of commission revenue.

10.8 When interpreting information on market shares we may have regard to the extent to which products are differentiated and the extent to which some products are closer competitors than would be indicated by market shares. Specifically, where products are differentiated, for example by branding or quality, unilateral effects are more likely where the merger firms' products compete closely. Because of the different ways in which CCPs attract users (and in particular the distinction between CCPs with and without CCTs, discussed in paragraphs 10.22 to 10.36) CCP-wide market shares may not fully reflect the strength of competitive constraints between different market participants.

<sup>&</sup>lt;sup>151</sup> Merger Assessment Guidelines, paragraph 5.3.2

<sup>&</sup>lt;sup>152</sup> Merger Assessment Guidelines, paragraph 5.4.6

## Assessment of competition on the user side of the CCP market

#### Introduction

- 10.9 CCPs use a variety of different methods to acquire users. As discussed in chapters 7 and 8, the Parties use their free CCTs to compete to attract users who can then be presented with credit product offers. Other CCPs use alternative methods, such as promotions or free gifts. Therefore, from the Parties' perspective, competition to attract users to their CCPs is inextricably linked to their free CCTs. This competition comes in the form of marketing to attract users to the Parties' CCT and product development to improve the functionality and features of their free CCTs (see chapter 7), with a view to encouraging CCT users to decide to choose a personal loan or credit card offered by a lender through the Parties' CCPs.
- 10.10 ClearScore has acknowledged the need to continue to improve its offering in response to competition, stating that:

'For ClearScore to be sustainable it must:

- a) Expand its product offering (through providing new verticals); and
- b) Continue to innovate to provide a better product than competitors and keep users engaged.' 153
- 10.11 Likewise, the Parties have submitted that given "the fierce competition the Parties face in the [CCP] space ... [they] have no choice but to continue to innovate and to invest". 154
- 10.12 The need to develop their free CCTs to compete to attract users to a CCP is also reflected in the Parties' internal documents. Experian's FY19 Strategic Plan<sup>155</sup> refers to,

[%]

10.13 Experian's FY19 Budget 156 refers to,

[%]

10.14 Both documents also consider the development of the following elements of Experian's free product: [ ]%].

<sup>&</sup>lt;sup>153</sup> ClearScore CMA site visit presentation, slide 23.

<sup>&</sup>lt;sup>154</sup> Annotated Issues Statement response, paragraph 3.3.

<sup>&</sup>lt;sup>155</sup> Merger Notice Annex 8.3.

<sup>&</sup>lt;sup>156</sup> Merger Notice Annex 8.2

- 10.15 Since its entry ClearScore has continually made incremental changes to its products. A number of ClearScore's product developments are concerned with improving the ease of use for consumers, such as the pre-population of application forms. ClearScore is also launching its 'OneScore' product in 2019, [≫], in ways designed to attract and engage consumers.
- 10.16 Both Parties are also actively considering strategies to add more product categories to their comparison platforms, such as insurance products, utilities and mortgages.
- 10.17 To attract users, the Parties also undertake extensive marketing of their products and both Parties' documents monitor the marketing activities of other suppliers and comment on the impact of their own marketing and that of others.<sup>157</sup>
- 10.18 Given this context in the following sections we:
  - (a) Set out a summary the Parties' submissions about competition in the supply of CCPs.
  - (b) Consider whether having a CCT is an effective mechanism to attract users such that the Parties might be close competitors within the CCP market and whether CCTs can be expected to continue to be an effective means of acquiring users.
  - (c) Assess the closeness of competition between the Parties' CCPs.
  - (d) Assess the competitive constraints from other CCPs.
  - (e) Assess the constraint on the Parties from other channels when competing for users.
  - (f) Assess the implications of the two-sided nature of the Parties' CCPs for our assessment.

## Parties' submissions

- 10.19 The Parties submitted that: 158
  - (a) a significant number of strong CCP competitors, both those with and without CCTs, will continue to constrain them post-Merger;

<sup>&</sup>lt;sup>157</sup> For example, Merger Notice Annex 12.3, slide 15, Annex RFI2-1435, Merger Notice Annexes 12.25-12.43, RFI2-1531, and Annexes 13.097 to 13.104, Annex 13.105, slide 22.

<sup>&</sup>lt;sup>158</sup> Response to the Annotated Issues Statement, paragraph 4.2.

- (b) amongst financial product lead generators within the CCP space they are very small players;
- (c) they face a strong constraint from lenders' direct channels; and
- (d) further entry and expansion is imminent.
- 10.20 The Parties also submitted that any concerns that the Merger may lead to a lower quality or range of services to CCPs users or an increase in commission rates for lenders is inconsistent with their future plans. They submitted that given the proliferation of credit scores and the increasing level of competition within CCPs and from the direct channel, they must continue innovating to offer the best customer experience possible. They submitted that these incentives are reflected in both Parties' [3] and [3].
- 10.21 The Parties submitted that [≫]. 161

#### The importance of CCTs as a means of attracting consumers to CCPs

10.22 The Parties acknowledge in their submissions the role of their CCTs in attracting users to their CCPs. They submitted that,

'Free credit checking tools are merely a 'hook' or mechanism to attract consumers to comparison platforms and thereby generate revenues from lender commissions.' <sup>162</sup>

- 10.23 However, the Parties dispute that there is a degree of differentiation between CCPs with and without CCTs. They also submitted that [≫]. 163
- 10.24 The Parties' strategies for acquiring users and successful growth in the CCP market and in acquiring users is illustrative of the effectiveness of using a CCT to attract users. ClearScore entered on the basis that such a business model could be successful, and in three years has acquired over six million users. Experian has also now developed its business model in the same direction and has acquired over [≫] users in two years. Other CCP suppliers (including TotallyMoney and MSE) now look to attract customers in the same way, having added CCTs to existing CCPs.
- 10.25 Some CCPs have told us that the conventional comparison site approach to selling consumer finance products is in decline and they have indicated that

<sup>&</sup>lt;sup>159</sup> Issues Statement Response, paragraph 5.37.

<sup>&</sup>lt;sup>160</sup> Issues Statement Response, paragraph 5.43.

<sup>&</sup>lt;sup>161</sup> Response to Annotated Issues Statement, Annex 7, paragraphs 1.1-1.2.

<sup>&</sup>lt;sup>162</sup> Issues Statement Response, paragraph 1.3.

<sup>&</sup>lt;sup>163</sup> Response to Annotated Issues Statement, paragraphs 4.3-4.4.

there is a trend of CCPs moving towards a model of using CCTs to attract and engage people in order to introduce them to relevant products.

- (a) [**※**].
- (b) TotallyMoney told us that it expects "CCTs to eclipse CCPs [without a CCT] in terms of market share of the intermediary/aggregator space in consumer finance... TotallyMoney introduced a CCT to its CCP 9-12 months ago and has been able to access a wider market of consumers cost effectively and engage them on an ongoing basis better".
- (c) [X].
- (d) [ $\gg$ ] said that it sees "these two services [CCTs and CCPs] converging as customers come to expect the use of CCT tools primarily to help inform the CCP service and vice versa... CCT services can be used as an effective means of communicating and offering credit products to customers. This was estimated as c.50% more effective than current [ $\gg$ ] marketing communications at successfully introducing customers to relevant products, particularly in the sub-prime category".
- (e) One lender [≫] commented that CCTs "provide greater insight for consumers into their credit history, offering the benefit of an ongoing relationship over time, and helping consumers make more informed choices, as opposed to aggregators which tend to be used by consumers at the point of need only."
- 10.26 Further, some third party CCPs submitted:
  - (a) that CCPs with CCTs generated leads that offer higher quality and commitment than other channels, and that well-executed CCTs have the ability to generate new intermediary market share via broader market appeal and a more engaging, 'sticky' proposition.
  - (b) that CCPs with CCTs could use credit file data to assist in providing a seamless customer journey and reduce the number of questions asked to customers, [≫].
- 10.27 These third party CCPs told us that they expect CCPs with CCTs to grow at the expense of other CCPs.
- 10.28 The evidence we have received from third parties and the recent or intended actions of a number of market participants strongly suggest that CCTs are, and are expected to continue to be, an effective means of attracting users.

- 10.29 The Parties' internal documents also reflect their views of the value of a CCT in attracting consumers to a CCP. [≫].
- 10.30 Second, [≈].
- 10.31 Third, in May 2017 ClearScore's Board discussed the role of PCWs and noted that: <sup>164</sup> [≫]Fourth, the Parties' consumer research indicates that the CCT plays a crucial role in attracting new customers. [≫].
- 10.32 [%].
- 10.33 Consistent with this evidence, we note that access to the credit score or report continues to be a very prominent feature on each of the Parties' websites and both Parties have plans to further develop their free CCTs. 165
- 10.34 While this evidence shows that although having a CCT can be a very effective means to attract and engage users, merely having limited product offering, for example only a free credit score without other features, might not in itself be a sufficiently effective "hook" for potential users so as to make a CCP an effective competitor. For example, [≫], a supplier of a paid-for CCT, told us '…it is incredibly hard to sell a consumer a free credit report and then monetise them on getting a financial product because their need is the credit report not the financial product'.
- 10.35 Similarly, as we discuss at paragraph 3.20 providers can have differing degrees of access to the underlying CRB data and in some cases can only provider a user with access to their current credit score. A number of third parties considered that access to the underlying credit file data was essential to developing an attractive product. Without such access a supplier cannot provide any additional analysis of the data, for example a timeline of an individual's credit score and reasons for the changes. Without this data third parties told us that it was not possible to use a CCT to present a differentiated/attractive proposition to potential customers, thereby limiting the effectiveness of a CCT as a means of attracting users to a CCP. [3<], which do not have access to the underlying data to use in their CCTs, told us that they had found it difficult to attract customers by just providing a free credit report, despite their large customer base in their core CCP businesses.
- 10.36 Overall, in our view the evidence described above shows that CCTs are likely to continue to play an important role in attracting users to the Parties' CCPs and that this will be increasingly expected by users looking to compare

<sup>&</sup>lt;sup>164</sup> Annex 13.14, slide 47.

 $<sup>^{165}</sup>$  See Appendix B.

suitable credit products. The evidence also shows that other CCPs recognise that there is a trend towards consumers using CCTs when shopping around for credit products. However, we note that it is a continuing challenge to monetise users of CCTs in circumstances where a significant proportion of them use CCTs primarily to find out their credit score, rather than to look for credit products.

### Closeness of competition between the Parties

10.37 We have assessed the closeness of competition between the Parties in assessing the likely effect of the Merger on competition in the supply of CCPs. This assessment has been informed by our review of the Parties' internal documents, set out in detail in chapter 8, and the importance of product development and innovation in attracting users, as set out in chapter 7.

#### Evidence from Experian's internal documents

10.38 As set out in detail in chapter 8 we consider that Experian's internal documents illustrate that Experian considers ClearScore to currently be a particularly close competitor. These documents [≫]. This is reflected in:

(a) [**※**].

#### Evidence from ClearScore's internal documents

10.39 As set out in detail in chapter 8, we consider that ClearScore's internal documents describe Experian as currently a particularly close competitor. [%]:

- (a) [%].
- *(b)* [≫].
- (c) [≈].
- *(d)* [**※**].

## New user acquisitions by CCTs

10.40 As described above, the Parties' CCTs play an important role in attracting users to their CCPs, and a number of other CCPs also use a CCT in order to attract new users. The data we have received indicates that the Parties together accounted for approximately [≫] of new free CCT user acquisitions during the first half of 2018 (and [≫]). Further detail is provided in paragraphs 11.8-11.10. This is consistent with each Party being a particularly strong rival

- to the other in terms of signing up new users via their CCTs and there being a more limited constraint from other suppliers who use a CCT to acquire users.
- 10.41 Nevertheless, we are conscious that this measure is restricted to CCPs with a CCT. We therefore have assessed how closely other CCPs compete with the Parties, below.

## Marketing activities

- 10.42 As set out in detail in chapter 8 (see paragraphs 8.55 to (b)), the Parties' marketing and advertising activities, as set out in their internal documents, provide evidence of a direct competitive interaction between the Parties and underlining the closeness of competition between them. In particular:
  - *(a)* [≫].
  - *(b)* [≫].
  - (c) [X].
- 10.43 Our view is that this evidence shows that the Parties compete closely in advertising and marketing in the relation to the supply of CCPs.

## Product development

- 10.44 As set out in detail in paragraphs 7.12 to 7.24, the evidence shows that product development and innovation in the user experience is central to how the Parties attract users and compete against each other.
- 10.45 The evidence shows that rivalry between the Parties has often driven product development to date. [≫].
- 10.46 The evidence [≫] also shows that there were significant similarities between the Parties' development plans at the time the Merger was entered into. [≫]
- 10.47 Our view is that this evidence shows that the Parties compete closely in developing products and improving the user experience in the supply of CCPs.

#### Constraints from other competitors on the user side of the market

10.48 The Parties submitted that they face intense competition from other CCPs.

They identify MSM [≫] and submitted that in addition to MSM/MSE, there are many other major competitors including TotallyMoney, Zoopla (through

- uSwitch and Money.co.uk), Noddle, giffgaff, CompareTheMarket, GoCompare and LoveMoney. 166
- 10.49 The Parties also submitted that their documents show that [≫], they have [≫] considered the direct competition that they face from CCPs [≫]. 167
- 10.50 Our assessment of the constraints imposed by other competitors on the Parties is set out below. For context, we note that the relevant CCPs with a CCT (apart from the Parties themselves) are currently MSE/MSM, TotallyMoney, giffgaff and Noddle, but we have also assessed the constraint from CCPs without CCTs and, in doing so, have considered the importance of eligibility-checking in attracting users. <sup>168</sup> In our assessment of the constraints imposed by other competitors, we have considered evidence regarding planned entry and expansion taking place independent of the Merger, having regard to the framework for considering entry and expansion set out in the Merger Assessment Guidelines. <sup>169</sup> We have also considered the extent to which user behaviour may affect the assessment of competition in the supply of CCPs.

#### Evidence on user behaviour

- 10.51 As explained in paragraphs 7.9 to 7.10, the extent to which users 'single-home' or 'multi-home' may affect the assessment of competition between CCPs. Accordingly, in carrying out our assessment, we have considered evidence relating to user behaviour and the extent to which this provides an indication of the closeness of competition between the Parties and other competing CCPs. Data covering two time periods provided by Experian allowed us to undertake some assessment of consumer multi-homing (ie the use of more than one platform to search for credit products), by matching soft searches by individual consumers across different CCPs. 170
- 10.52 For each of the Parties' users, the highest levels of multi-homing were with MSM/MSE and the second-highest were with the other Party. <sup>171</sup> This data indicates that for ClearScore users:
  - (a) [X].

<sup>&</sup>lt;sup>166</sup> Issues Statement Response, paragraphs 5.6-5.7; 5.9.

<sup>&</sup>lt;sup>167</sup> Response to the Annotated Issues Statement, paragraph 4.10.

<sup>&</sup>lt;sup>168</sup> As discussed in paragraphs 10.68 to 10.73, [%].

<sup>&</sup>lt;sup>169</sup> See Merger Assessment Guidelines, section 5.8.

<sup>&</sup>lt;sup>170</sup> 'HD Overlap data' supplied to CMA on 13 July 2018

<sup>&</sup>lt;sup>171</sup> The Parties submitted that since the analysis is based on HD Decisions' data it will only capture searches that led to a call with HD Decisions, so will not include certain CCPs, nor the fact that consumers may visit various platforms without reaching the stage of a call to HD Decisions. Response to Annotated Issues Statement, Annex 3, paragraph 28.

- 10.53 For Experian users, the data indicates:
  - (a) [**※**].
- 10.54 Finally, in both time periods, MSM and ClearScore users used the fewest number of other CCPs. [≫].
- 10.55 Our view is that the analysis of multi-homing based on HD Decisions data is consistent with the other evidence that we have seen, indicating that MSM is a close competitor to the Parties but that other CCPs are not currently a particularly strong competitive constraint on either CCP. Moreover, this data, subject to the caveats noted above, indicates that there is relatively limited multi-homing on the user side of the Parties' CCPs. We also note, as we did in paragraph 10.41 above, the recent success rates of those CCPs who offer a CCT in signing up new users via their CCTs has been substantially below that of each of the Parties.
- 10.56 The Parties also submitted that between [≫] of cards and loans purchased by their customers are bought through other CCPs or direct channels. 172 In this regard, we note that the Parties do not use this measure to gauge the success or otherwise of their business in their internal documents. 173 However, in our view, the evidence discussed above indicates that the Parties' free CCTs are an important means by which the Parties acquire users to their CCPs and by which the Parties compete. Therefore, in what follows we have considered the evidence regarding the sources of competition faced by the Parties to acquire users to their CCPs. In doing so we acknowledge that, as this statistic illustrates, users do acquire products through a variety of channels.
- 10.57 We now consider the main CCPs and their competitive constraint on the Parties.

#### MSE and MSM

MSE

10.58 MSE is part of the MSM Group of companies, and currently offers a free CCT (credit score and report) through its 'MSE Credit Club', although use of MSE's CCP does not require users to join MSE Credit Club. MSE accounts for a substantial share of CCP revenues ([20-30]% for credit cards; [10-20]% for

<sup>&</sup>lt;sup>172</sup> Response to the Annotated Issues Statement, paragraph 2.9.

 $<sup>^{173}</sup>$  For example, this measure is not considered in [ $\gg$ ] or in ClearScore's regular business performance reports (S1091.01.003, S1091.01.006, S1091.01.008, S1091.01.009, S1091.01.010, S1091.01.011, S1091.01.013, S1091.01.014, S1091.01.015 and S1091.01.028).

loans) but only a much smaller proportion of free CCT users (around [5-10]%). MSE's launch of Credit Club received attention in the Parties' internal documents around the time of launch (eg paragraphs 8.39).

- 10.59 The Parties' internal documents also discuss competition from MSE. [%]
- 10.60 However, the Parties' internal documents also indicate a limit to the competitive constraint they currently face from MSE. For example:
  - (a) [X].
  - *(b)* [≫].
- 10.61 We note that the positioning of MSE in the Parties' internal documents is consistent with [≫]. We discuss MSM's plans further below.

**MSM** 

- 10.62 MSM is an important CCP, as indicated by its share of CCP revenues (30-40% for credit cards; 20-30% for loans). Most CCP respondents told us that MSM is their strongest competitor in the supply of financial product comparison tools.
- 10.63 MSM provided specific evidence, including internal documents, [≫]. Given the discussions of MSE and MSM in the Parties' internal documents (see above), the Parties' submissions regarding [≫], 174 we consider the evidence we have received from MSM regarding the current state of competition to be particularly informative. We have drawn on some of MSM's documents in our competitive assessments in the chapters below, where relevant.
- 10.64 The Parties discuss MSM in many of their internal documents. [≫]
- 10.65 However, the Parties' internal documents also indicate that there are limits to the competitive constraint they currently face from MSM to attract users to their CCP. For example:
  - (a) [**※**].
  - (b) [≈].

<sup>&</sup>lt;sup>174</sup> For example, Annotated Issues Statement response, paragraphs 3.26 and 3.38(a) and Initial Meeting of the Main Party Hearing transcript, p5-10.

- 10.66 The competitive interaction between the Parties and MSM as described in the Parties' internal documents is consistent with the evidence we received from MSM. MSM told us that [≫].
- 10.67 [%].
- 10.68 MSM's internal documents [ $\approx$ ]. <sup>175</sup> MSM has also explained that [ $\approx$ ].
- 10.69 This [※] is corroborated in MSM's internal documents. [※].
- 10.70 [%]. 176
- 10.71 [%].
- 10.72 However, MSM's board papers [≫] and MSM explained that:

[%]

- 10.73 Assessing the above evidence in the round, we consider that, at this stage, there is considerable uncertainty regarding [≫], its specific impact on the competition faced by the Parties to sign up consumers to their CCTs and to drive use of their CCPs, and any consequent impact on the Parties' incentives to develop their CCT and CCP offers.
- 10.74 We note that MSM's internal documents typically [%]. 177
- 10.75 We consider further below the impact that [%] would have on the Parties, if [%].

#### Noddle

- 10.76 Noddle's free CCT user base is substantial, but has been growing at a significantly slower rate than each of the Parties' (see Table 11.1 and Figure 5). Also, its overall ability to convert its CCT subscriber base into CCP revenues (see Table 10.1) has been limited relative to the Parties.
- 10.77 The Parties' internal documents [≈]. In particular:
  - (a) [**※**].
  - (b) [≈].

 $<sup>^{175}</sup>$  [ $\gg$ ] Board Update [ $\gg$ ].

<sup>176 [</sup>X] Board Update [X].

For example, MSM Update – [ $\gg$ ]; [ $\gg$ ]: Proposition refinement research, presentation of results, [ $\gg$ ] (Ipsos Marketing); Credit Club Board Update [ $\gg$ ], [ $\gg$ ] Board Update [ $\gg$ ].

10.78 [%]

- 10.79 As explained in the Counterfactual section (see paragraph 6.16), Credit Karma has recently agreed to acquire Noddle from its current owners TransUnion. Whilst not changing the number of competitors active in the markets for CCTs and CCPs, we consider there is potential for the competitive constraint imposed on the Parties by Noddle, both in the counterfactual and a post-Merger scenario, to be impacted by its new ownership. Credit Karma is the leading provider of free credit scores and associated credit product lead generation in the US and [≫]. 178
- 10.80 Credit Karma's plans involve [≫]. Specifically, Credit Karma gave to us its Board paper containing its UK growth targets for the Noddle business. This shows that, with Noddle's existing user base, it aims to have [≫] users by the end of 2019, [≫] in 2020 and [≫] at the end of 2021. Credit Karma explained that this was [≫]. Credit Karma's business plan also states that [≫].
- 10.81 We note that there is considerable uncertainty regarding the likely additional take-up of Noddle's CCT (and usage/revenues for its CCP) under Credit Karma's ownership, its specific impact on the competition faced by the Parties to sign up consumers to their CCTs and to drive use of their CCPs, and any consequent impact on the Parties' incentives to innovate and enhance the quality of their CCT and CCP offers.
- 10.82 We have considered the combined implications of [≫] and Credit Karma's acquisition of Noddle for our assessment at paragraphs 10.126-10.132.

## TotallyMoney

- 10.83 TotallyMoney's product offering includes a free credit report and score. It specialises in price comparison of consumer finance products and it explained that its main competitors are ClearScore, Experian and Noddle. It has a modest share of CCP revenue for credit cards ([5-10]%) but only a very small share of CCP revenue for loans ([0-5]%).
- 10.84 [**※**]. For example:
  - (a) [≫].
  - *(b)* [≫].

<sup>&</sup>lt;sup>178</sup> See paragraphs 8.74, 8.75 and 8.81.

10.85 In our view, the evidence therefore indicates that TotallyMoney is a competitor but a weak competitor to the Parties.

## Giffgaff

- 10.86 Giffgaff is traditionally a mobile telephone service provider and the analysis in Table 10.1 illustrates that it has a very small CCP presence. The analysis in Table 11.1 also shows that giffgaff currently has a very low number of free CCT users and is only acquiring a low number of new users. [≫].
- 10.87 Giffgaff [%].
- 10.88 Consequently, we consider giffgaff to currently be a weak competitor to the Parties.

#### Other CCPs

10.89 There are a number of other CCP providers that do not use a CCT to attract potential customers. As noted above, MSM was in this position and [≫], albeit the evidence indicates that it remained an effective competitor to both Parties. The due diligence document prepared for Experian by OC&C states that,

[%]

- 10.90 The other CCPs are ZPG (uSwitch and money.co.uk), CompareTheMarket, GoCompare and Knowyourmoney.
- 10.91 [**※**]. In particular:
  - (a) [**※**].
  - *(b)* [≫].
- 10.92 The description of these suppliers in the Parties' internal documents is consistent with evidence we received from the suppliers and the extent of their activities in credit comparison.
- 10.93 ZPG has a share of supply of [10-20]% in personal loans and [5-10]% in credit cards (Table 10.1). However, [≫].
- 10.94 We also note that the Parties' internal documents rarely discuss ZPG's two brands, uSwitch or Money.co.uk. In particular, [≫].
- 10.95 Overall, in our view ZPG is not currently a strong competitor to the Parties in CCPs for credit cards and personal loans.

- 10.96 CompareTheMarket has a relatively small share of CCP revenues, particularly when set against its position as an insurance comparison platform and the consequent overall volume of visits to its site and when compared to the Parties. Notably, CompareTheMarket's internal documents [≫]. These documents describe [≫]. A May 2017 document discusses [≫].
- 10.97 The Parties submitted that [≫]. [≫]. Although adding eligibility checking services [≫].
- 10.98 With respect to GoCompare, its CCP uses a white label product from Runpath (Experian). [≫]. GoCompare accounts for a small proportion of credit cards and personal loans from CCPs. We therefore do not consider that GoCompare offers effective competition to either of the Parties.
- 10.99 Finally, we also note that a third party credit information service told us that it does not view Confused.com, CompareTheMarket and GoCompare as competitive threats since these comparison sites are not responsible for significant volumes in personal loans and credit cards.
- 10.100 In our view, and assessing the evidence in the round, these other CCPs are not currently imposing a particularly strong competitive constraint on the Parties.

#### Constraints from other channels

- 10.101 The Parties submitted that the direct channel (eg direct marketing or sales in branches) is a particularly important competitive constraint given consumers' preference to apply for financial products directly with lenders.

  The Parties submitted that their internal documents show they both monitor a broad set of CCP players as well as banks.<sup>179</sup>
- 10.102 As explained in chapter 10, from a user's perspective CCPs provide free access to comparing a large number of suppliers' credit products and individually checking different suppliers' websites is clearly inferior. However, even though our provisional conclusion is that that the direct channel falls outside the relevant market, in our competitive assessment we have still considered the extent to which the direct channel may provide a competitive constraint. However, we consider that there is limited focus on competition from direct channels in the Parties' internal documents, relative to the attention paid to other CCPs, and competition from direct channels is not expressed as a significant concern in the Parties' internal documents.

<sup>&</sup>lt;sup>179</sup> Issues Statement Response, paragraph 5.2.

- 10.103 The commercial due diligence assessment prepared for Experian by OC&C [≫]
- 10.104 Consequently, in our view the evidence does not indicate that the direct channel is a strong competitive constraint on the Parties relative to either competition between the Parties or to competition from other CCPs.

## Lender side

#### Parties' submissions

- 10.105 The Parties submitted that Experian will have no ability to increase prices to lenders following the Merger. They submitted that:<sup>180</sup>
  - (a) Lenders use many routes to market (both direct and indirect), of which the Parties represent only a very small proportion (with the same being true on an individual lender basis).
  - (b) In addition to significant competition from the lenders' direct channels, the Parties operate in a segment in which a number of significant CCP competitors, including MSM/MSE, Zoopla (uSwitch/Money.co.uk), CompareTheMarket, GoCompare, and others with strong brand names, wide engaged consumer 'footprint', deep pockets and compelling customer propositions are present.
  - (c) In light of these circumstances, the Parties do not enjoy significant negotiating power vis-à-vis lenders. This will not change following the Merger, as demonstrated by the way in which the Parties' CCP pricing has evolved over time and the fact that barriers to entry and expansion are low.

#### Closeness of competition

- 10.106 We considered whether the Parties' CCPs are particularly close competitors in terms of:
  - (a) the type of potential end consumers that they can deliver to lenders; and
  - (b) whether certain lenders are particularly reliant on the Parties' CCPs to generate leads.

<sup>&</sup>lt;sup>180</sup> Issues Statement Response, paragraph 1.6.

- 10.107 The Parties provided some evidence, which they submitted shows their customer set is representative of the UK population as a whole, with respect to socio-economic groups and credit levels. They submitted that, as a result, lenders do not have to rely on the Parties for accessing any particular group of consumers that they are otherwise unable to reach.<sup>181</sup>
- 10.108 Lenders did not express strong views on the relative merits of CCPs with and without CCTs including the Parties. Responses were mixed on whether CCPs with associated CCTs delivered a different customer risk profile to those without. There was little indication of suppliers using credit check CCPs specifically to target certain customers.
- 10.109 Some lenders source a reasonably high proportion of 'new business' from the Parties. Analysis of data received from lenders indicates that:
  - (a) 3 of a sample of 7 credit card providers source at least 25% of their 'new business' from both Parties combined, and;
  - (b) 3 of a sample of 8 loan providers source at least 25% of their 'new business' from both Parties combined.
- 10.110 However, further analysis did not identify a relationship between the proportion of 'new business' sourced from the Parties, and commissions<sup>182</sup>. Furthermore, no lender submitted that they were 'captive' to the Parties' CCPs, or lacked outside options.

#### Constraints from competitors

- 10.111 The Parties submitted that they face intense competition from other CCPs and that Experian is part of a long 'tail' of small and medium-sized competitors challenging larger players. 183
- 10.112 A number of the Parties' customers on the lender side explained that they were unconcerned about the Merger, on the basis of the level of competition remaining between CCPs. One also suggested that the Merger may enable Experian to compete more strongly with MSM.
- 10.113 We note that lenders did not express strong views on the relative merits of CCPs with and without CCTs.

<sup>&</sup>lt;sup>181</sup> Issues Statement Response, paragraph 5.14.

<sup>&</sup>lt;sup>182</sup> The Parties submitted that commissions are based on a number of factors; our analysis indicated substantial variation across lenders, especially for loan products.

<sup>&</sup>lt;sup>183</sup> Issues Statement Response, paragraph 5.6.

- 10.114 Some lenders did raise concerns about the Merger, based on:
  - (a) Consolidation amongst the leading CCP players, and
  - (b) Potential increased market power for Experian to increase commission rates unilaterally.
- 10.115 Evidence from the Parties<sup>184</sup> and third parties indicates that lenders multi-home across a variety of CCPs. The Parties submitted that this shows there are many options for lenders, which means they will not face increased bargaining power from the Parties following the Merger.
- 10.116 The Parties submitted that [%]. 185
- 10.117 Most lenders identified pre-qualification (eligibility checks) and volume as important factors in choosing CCPs and negotiating the price paid for leads. Lenders explained that pre-qualification is very important in order to improve the customer experience, and to increase conversion rates and reduce costs. This was also generally recognised by third party CCP respondents. However, they also noted that the availability of eligibility checking was now standard for the largest CCP players.

#### Constraints from other channels

- 10.118 Although we have concluded that lenders' direct channels should not be included in the relevant product market, we recognise that these channels may impose some constraints on the Parties.
- 10.119 The Parties submitted that the direct channel (online and offline) is a particularly important competitive constraint, given consumers' overall preference to apply for financial products directly with lenders. 186
- 10.120 Whilst almost all lenders that responded to the CMA's questions confirmed that they use direct sales channels, the extent of use varied across lenders. There were several comments that CCPs are a particularly cost-efficient marketing tool, relative to other alternatives, and also that the various marketing channels are complements rather than alternatives.

<sup>&</sup>lt;sup>184</sup> Issues Statement Response paragraphs 5.22-5.26.

<sup>&</sup>lt;sup>185</sup> Issues Statement Response, paragraphs 5.27-5.28.

<sup>&</sup>lt;sup>186</sup> Issues Statement Response, paragraph 5.2.

## Constraints from two-sided nature of platform

- 10.121 The Parties submitted that the two-sided nature of CCPs means they will have no incentive to deteriorate the quality of their offering, either in terms of their free credit checking services or their wider CCP offering. They submitted that any deterioration would lead to an increase in consumers switching to other CCPs or channels with the associated loss of revenues from lenders.
- 10.122 Comparison platforms seek a wide consumer user base to attract lenders to the other side of the platform. This drives active competition between the Parties to improve their offerings and sign up users to their specific platform, whether attracted by the free CCT or the credit offers directly. Post-Merger, we would expect the combined business would take into account the impact of each platform's competitive activity on the other, which may reduce competitive incentives at the margin. Depending on the strength of other constraints, the Parties may be able to compete less vigorously with each other without risking a significant reduction in their combined consumer user base, or their consequent share of CCP transactions and revenues. The ongoing value to lenders of platforms having a large consumer user base does not replace this lost competitive dynamic.

#### Provisional assessment

The user side of CCPs

- 10.123 We have considered whether the Parties are close competitors such that the Merger might give rise to an SLC on the user side of CCPs.
- 10.124 Evidence from the Parties and third parties shows that CCTs are an effective mechanism to attract and engage users, some of whom will take out personal credit products from lenders (paragraphs 10.22 to 10.35).
- 10.125 The evidence also shows that the Parties are currently particularly close competitors in trying to acquire users to their CCPs (paragraphs 10.38-10.47). MSM (including MSE) is also currently a strong competitor to the Parties, although the Parties' internal documents and the other evidence available to us indicates that there are some limitations to the competitive constraint they currently face from MSM (paragraph 10.58-10.75). The

<sup>&</sup>lt;sup>187</sup> Issues Statement Response, paragraphs 1.5-1.6.

- evidence does not indicate that other CCPs are currently a particularly strong competitive constraint on the Parties (paragraph 10.76-10.100).
- 10.126 We note MSM's [≫]. While we acknowledge that MSM's [≫]. In assessing the evidence, we have given weight to this uncertainty [≫].
- 10.127 In addition, Credit Karma's deal to acquire Noddle was announced on 5 November 2018. Having carefully considered Credit Karma's internal documents on this, we have given weight to [≫] uncertainty surrounding how successful Credit Karma will be in taking over Noddle (paragraph 10.81).
- 10.128 We also note the following evidence which illustrates the uncertainty around the effect of [ ] and Credit Karma's deal to acquire Noddle:
  - (a) As described at paragraphs 1.1-1.1 [≫].
  - (b) [≫].
  - (c) [≫]. The Merger would result in the Parties having significantly more users than Noddle or MSE Credit Club. In a context where scale is important to competition it is less likely than Credit Karma's acquisition of Noddle or [≫] will significantly change the competitive dynamics.
  - (d) A number of third parties also noted that the costs of acquiring users will increase, since the easiest (and therefore cheapest) users had already been acquired. For example, [≫]. Therefore, the previous success of the Parties' in acquiring customers does not necessarily indicate that Credit Karma [≫] will be able to replicate this success.
- 10.129 That is not to say that we have dismissed the possibility of [≫]. Indeed, we have calculated what the Parties' share of free CCT users might be under two different scenarios. In both scenarios we have, on a cautious basis, assumed [≫]. That is, by the end of 2021 Noddle would have [≫] users [≫]. ¹88 Under one scenario, if we apply a cautious growth rate of 10% to the merged entity (and if we ignore any incumbency advantage that the Parties might enjoy), in terms of the number of CCT users, the Parties would still account for over [50-60]% by the end of 2021 [≫]. Under another scenario in

- which we use Experian's post-Merger growth projections, <sup>189</sup> the merged entity would account for around [50-60]% of users [ $\gg$ ]. <sup>190</sup>
- 10.130 We also note that the Parties' growth rate (in number of CCT users) over the first half of 2018 has been at a rate equivalent to around 2 million users a year for each of their free CCTs, which is [≫]. ClearScore will grow over [≫]% of its userbase this year, and Experian will grow over [≫]% of its userbase.<sup>191</sup>
- 10.131 We note, furthermore, that while the CCTs of [≫] Noddle may become more widely used, this expansion would represent the strengthening of existing players rather than the addition of a new independent constraint on the Parties. Even under the cautious scenarios that we have looked at we expect that the Parties' combined business would continue to have the most CCT users. The merged entity would face substantially weaker competitive constraints than the Parties' separate businesses would face absent the Merger. Accordingly, even under these cautious scenarios, we do not consider it likely that expansion by Noddle [≫] would mitigate or prevent any SLC arising from the Merger.
- 10.132 The overall picture remains consistent with the Parties regarding each other as particularly close competitors currently, and constraints from other CCPs, with the exception of MSM, being significantly weaker (paragraphs 10.83 to 10.99).
- 10.133 In our view, the evidence shows that the Parties innovate and improve their product quality in response to competition from rivals (paragraphs 10.9-10.17). 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.
- 10.134 Overall, we consider that the evidence set out above and in the preceding chapters shows that the Parties are particularly close competitors with respect to the consumer-facing aspects of their CCPs and particularly their free CCTs. A concern arising from the Merger is that 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. Furthermore,

<sup>&</sup>lt;sup>189</sup> [**%**]. We note that the Parties growth in 2018 has already out performed their growth projections and therefore applying these projections might understate the actual growth in the next few years.

<sup>&</sup>lt;sup>190</sup> This assumes that all parties meet their growth targets and therefore ignores that one party might win users from another.

<sup>&</sup>lt;sup>191</sup> See Table 11.1.

the evidence indicates that competition in this market creates an incentive to innovate and make improvements in product quality and range. It follows that the potential harm arising from the loss of rivalry between the Parties is likely in particular to take the form of a substantial reduction in the rate of product development and improvements in the user experience.

#### The lender side of CCPs

- 10.135 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 appears to be 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.
- 10.136 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.

#### **Provisional conclusion on CCPs**

10.137 Given our provisional assessment above we have provisionally concluded that the Merger may be expected to result in an SLC in relation to the supply of CCPs for personal loans and credit cards in the UK, subject to any countervailing factors (assessed in chapter 13 below).

## 11. Competition in the supply of credit checking tools

11.1 As described above ClearScore provides a free CCT whereas Experian provides both a free CCT and, separately, a paid-for CCT (CreditExpert). 192 Therefore, the concern we examine in this chapter is whether the proposed Merger may eliminate a close competitor to each of the Parties' CCTs (both free and paid-for), and that the remaining competitors currently or in the future may not exert a sufficient competitive constraint on the Parties to prevent an SLC arising from the Merger.

<sup>&</sup>lt;sup>192</sup> The services offered by CreditExpert are described at paragraph 7.3.

- 11.2 As described above the Parties' free CCTs play an important role in attracting users to their CCPs (see chapter 7). Therefore, our assessment of the effects of the Merger on competition between free CCTs is closely linked to our discussion of the effects of the Merger on competition between CCPs (chapter 10). In this chapter we have also considered the evidence regarding competition between free CCTs and Experian's CreditExpert and how the Merger might affect this. We have assessed the effects of the Merger against the competitive position in the absence of the Merger and within the framework set out in the Merger Assessment Guidelines described previously. 193
- 11.3 We investigated the possibility that the Merger could be likely to result in: 194
  - (a) higher prices for Experian's paid-for CCT 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 its paid-for CCT; 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 their CCTs.
- 11.4 At paragraph 9.41 we noted that the evidence indicated that the competitive interaction between paid-for and free CCTs is asymmetric; free CCTs exert a stronger competitive constraint on paid-for CCTs than vice-versa. This means that when considering the interaction between free and paid-for CCTs and the effect of the Merger, we are most likely to be concerned about the merged entity's incentives to improve ClearScore's free CCT due to the adverse effects this could have on CreditExpert's user numbers and profitability than vice-versa. 195

<sup>&</sup>lt;sup>193</sup> See paragraphs 7.44-7.47 and 10.2-10.3

<sup>194</sup> The Parties have submitted that our theory of harm is that 'Experian would have an incentive to reduce the quality of ClearScore post-merger in order to encourage customers to switch to either its free product or CreditExpert' (Annotated Issues Statement response Annex 6.) This is incorrect. Our concern has been whether the Merger could reduce the incentive for the Parties to continue to improve their free CCTs because of a loss of competition between the Parties' free CCTs or because the merged entity considers the effects of improvements to ClearScore's CCT on Experian's CreditExpert (which ClearScore currently has no incentive to do). Additionally, we have also considered whether the Merger might lead to a reduction in competition which could lead to higher prices for Experian's paid-for product than would otherwise be the case.

<sup>&</sup>lt;sup>195</sup> As we discuss further at paragraphs 11.59-11.60, Experian already has these conflicting incentives regarding its free and paid-for CCT.

#### Parties' submissions

- 11.5 In relation to this theory of harm the Parties have submitted that:
  - (a) Competition between free CCTs is strong and will be even stronger in the future. This is demonstrated by the fact that [≫] free credit scores are being proliferated by banks, CCPs and others. The Parties are not each other's closest CCT competitors and competition from other providers to attract users (including CCPs without a CCT) is strong such that the Parties will have to continue to develop their free CCTs following the Merger. 198
  - (b) Free and paid-for CCTs do not compete today and the two types of CCT meet different customer requirements. The former is focussed on driving traffic to the comparison platform and customer numbers, whereas the latter focuses on addressing customer needs relating to personalised credit advice and fraud services. 199 Additionally, ClearScore and CreditExpert are not close competitors. 200,201
  - (c) The Parties' intention is to continue to grow their CCP business and [≫]. Furthermore, [≫] to deliver on this growth plan.
  - (d) Barriers to entry and expansion for CCTs are also low. 202
- 11.6 Therefore, the Parties have submitted that the Merger will not lead to higher prices for CreditExpert or to lower quality or reduced innovation in CCTs (whether paid-for or free).<sup>203</sup>

## **Closeness of competition**

11.7 In this section we review the evidence regarding closeness of competition between the Parties and the other competitive constraints they face. by them. In doing so we have considered:

<sup>&</sup>lt;sup>196</sup> Eg Annotated Issues Statement response paragraph 2.2(d) and Response to the Issues Statement paragraph 4.16.

<sup>&</sup>lt;sup>197</sup> Annotated Issues Statement response paragraphs 3.16-3.19.

<sup>&</sup>lt;sup>198</sup> Annotated Issues Statement response paragraphs 2.9, 3.26 and 3.33-3.34, Response to the Phase 1 Decision, paragraphs 6.13-6.15 and Response to the Issues Statement paragraphs 4.15-4.22.

<sup>&</sup>lt;sup>199</sup> Annotated Issues Statement response paragraphs 2.10(a), Response to the Phase 1 Decision paragraphs 6.4-6.12 and Response to the Issues Statement paragraphs 4.5-4.13.

<sup>&</sup>lt;sup>200</sup> Annotated Issues Statement response paragraphs 2.10(b) and 3.4-3.15, Response to the Phase 1 Decision paragraphs 6.22-6.24 and Response to the Issues Statement paragraphs 4.5-4.13.

<sup>&</sup>lt;sup>201</sup> The Parties have submitted an econometric analysis to support this submission. We discuss this submission in Appendix C where we explain why we consider that it is inappropriate to put weight on this submission.

<sup>202</sup> Annotated Issues Statement response paragraphs 3.36-3.43 and Response to the Phase 1 Decision paragraphs 6.25-6.26

paragraphs 6.25-6.26. <sup>203</sup> Eg Annotated Issues Statement response paragraphs 3.20-3.35.

- (a) CCT user numbers and user acquisitions.
- (b) Evidence on the current competitive interactions between free and paidfor CCTs.
- (c) Competition from other paid-for CCTs.
- (d) Competition from other providers of credit scores.
- (e) Evidence on how competition between CCTs is likely to evolve, focussing both on future product developments and the possibilities of entry and expansion.
- (f) The implications of the use of free CCTs to attract users to the Parties' CCPs for this theory of harm.

#### CCT user numbers and user acquisitions

- 11.8 We have received total registered user numbers and user acquisition numbers from a number of CCT providers during the course of our inquiry. We consider user acquisitions over the last six months to be particularly informative of the current competitive dynamic amongst free CCTs since they illustrate the success of a supplier's recent competitive activity as opposed to the stock of customers a supplier may have acquired over a significant period of time.<sup>204</sup>
- 11.9 Table 11.1 shows total CCT user numbers as of June 2017 and user acquisitions over the period January-June 2018 for various providers of free CCTs. Table 11.2 provides the same figures for paid-for CCTs. Figure 5 also shows the evolution of user numbers since 2015 for ClearScore, Experian's free CCT, MSE and Noddle.

Table 11.1: Free CCT users

Average number of new users per Total users (as of June 2018) month (Jan-June 2018) **Free CCT** Number (millions) % of total Number (000s) % of total Experian  $[\infty]$ [20-30]% [%][30-40]% ClearScore [%][30-40]% [%][30-40]% [60-70]% Parties combined  $[\infty]$ [%][60-70]% Noddle [%][20-30]% [%][0-10]% MSM\* [0-5]% [%][0-5]% [%]

<sup>&</sup>lt;sup>204</sup> We consider this to be particularly relevant for a free product where there is less incentive for a user to unsubscribe even if they are no longer using the product.

Barclaycard	[%]	[0-5]%	[%]	[0-5]%
TotallyMoney	[%]	[0-5]%	[%]	[10-20]%
CapitalOne	[%]	[0-5]%	[%]	[0-5]%
giffgaff	[%]	[0-5]%	[%]	[0-5]%
Lloyds	[%]	[0-5]%	[%]	[0-5]%

Source: CMA analysis of data provided by relevant providers.

Table 11.2: Paid-for CCT users

		Total users (June 2018)	
Paid-for CCT	2017 revenue	Number (000s)	% of total
Experian	[70-80]%	[※]*	[60-70]%
Equifax	[10-20]%	[%]	[20-30]%
Checkmyfile	[0-5]%	[%]	[10-20]%
Credit Angel	[0-5]%	[%]	[%]
UKCreditratings.com	[0-5]%	[leph]	[0-5]%

<sup>\*</sup>Excludes free triallists

Source: CMA analysis of data provided by relevant providers.

Figure 5: Free CCT user numbers

[leph]

Source: CMA analysis

#### 11.10 This data shows that:

(a) [**※**].

## Evidence on the current competitive interactions between free and paid-for CCTs

11.11 Experian's CreditExpert offers the following bundle of services: daily credit scores and reports, credit score history, score factors, credit report alerts and fraud alerts, web monitoring, customer support and ID fraud support (paragraph 7.3).

11.12 [%]

11.13 [%]

11.14 [%]

11.15 The Parties have acknowledged the disruption that free CCTs caused Experian when they became available, stating that "Experian does not contest the fact that ClearScore's entry, along with the significant proliferation of free access to credit scores from a variety of sources (such as Noddle's "free

<sup>\*</sup>MSM refers to MSE Credit Club

- scores for life" and Barclaycard and Lloyds offering free scores) were disruptive events for Experian". <sup>205</sup>
- 11.16 In our view, the available evidence indicates that close competition between Experian's CreditExpert and free CCTs has continued to the current year. [%]
- 11.17 As described in detail in chapters 8 and 10, in our view, Experian's internal documents illustrate that it considers ClearScore to be the leading current free CCT provider. This is particularly reflected in:
  - (a) [**※**]
- 11.18 [%]
- 11.19 The evidence from Experian's internal documents is consistent with the evidence on user numbers and user acquisitions discussed in paragraphs 11.9-11.10 which illustrates that [≫]. This is also consistent with comments from third parties that, following its initial rapid growth, ClearScore has continued to grow significantly over the past year. Similarly, [≫].
- 11.20 Therefore, [≫], we consider that the evidence indicates that ClearScore is likely to be a significant factor in this competition.
- 11.21 Finally, the Parties have submitted that [≫]. In particular the Parties have submitted that [≫]. We have considered this submission and the associated evidence in detail at paragraphs 11.37-11.53. At this point we note that the above evidence illustrates that Experian's most recent internal documents [≫] and how Experian has responded to that competition by [≫].

#### Competition from other paid-for CCTs

11.22 There are a number of other paid-for CCTs including Equifax, Checkmyfile and Credit Angel (see chapter 3). In principle, these could constitute competitive constraints on CreditExpert, due to similarities in their product characteristics, or to the merged entity more widely. However, the available evidence indicates that they provide only a limited competitive constraint.

11.23 [%].

11.24 [%].

<sup>&</sup>lt;sup>205</sup> Annotated Issues Statement Response, paragraph 3.6.

- 11.25 However, the competitive threat from Equifax is not treated with the same level of attention as that from the credit monitoring offers of [≫]. For example:
  - (a) [≫].
- 11.26 [%].
- 11.27 Overall, Experian's internal documents [%].

## Competition from other suppliers of credit scores

- 11.28 The Parties have submitted that a range of providers, including banks, offer access to free credit scores, that these lenders are using credit scores to increase consumer engagement<sup>206</sup> and that these suppliers providers should "also be considered competitors".<sup>207</sup> The Parties have provided examples such as Lloyds, Barclaycard, [%] and CapitalOne (which offers CreditWise).<sup>208</sup> [%] Therefore, we have considered the evidence regarding the competitive constraint on the Parties from other suppliers of credit scores, such as banks.
- 11.29 First, Experian has made its credit score available to a number of partners through its Affinity programme. [≫]
- 11.30 [%]

#### Figure 6

[%]

- 11.31 Second, although ClearScore has noted that [%].
- 11.32 Third, we note that banks generally only offer access to credit scores to existing customers and in some cases only to customers on certain accounts or who sign-up to a specific service. Furthermore, providers can have different degrees of access to the underlying CRB data (see paragraph 3.20) with some suppliers only able to providers users with access to their current credit score. Third parties considered that access to the underlying data was essential to have an attractive product. Without such access the entrant cannot provide any additional analysis of the data for example a timeline of an individual's credit score and reasons for the changes. Without this data third parties told us that it was not possible to present a differentiated or attractive proposition to potential customers.

<sup>&</sup>lt;sup>206</sup> Issues Statement response, paragraph 1.3 (a)

<sup>&</sup>lt;sup>207</sup> For example, Issues Statement response, paragraph 2.12.

<sup>&</sup>lt;sup>208</sup> Response to the Annotated Issues Statement, paragraph 3.34 and Figure 2.

<sup>&</sup>lt;sup>209</sup> For example, Lloyds has only offered this product to customers of certain accounts.

- 11.33 Experian invited us to speak to its 'Affinity Partners' about some of these offering credit scores to its customers. We did so and this is discussed in chapter 13.
- 11.34 Fourth, CapitalOne offers its CCT (CreditWise) to non-CapitalOne customers and [≫] Consistent with this Table 11.1 shows that between January and June 2018 CapitalOne acquired [≫] the number of customers that either of the Parties acquired.
- 11.35 Fifth, we have received evidence [

  | regarding these specific suppliers:
  - (a) [≫]. In our view, Barclaycard is therefore not currently able to develop a proposition to significantly compete with the Parties' free CCTs. [≫].
  - (b) [≫]. This compares to ClearScore's over [≫] users and [≫] monthly new users and Experian's over [≫] users of the free product and [≫] monthly new users of the free product over the same period.
- 11.36 Therefore, based on the evidence discussed above, we consider that other providers of free credit scores (such as banks and lenders) are a weak competitive constraint on the Parties.

#### Competition in the future

Ongoing competition between free and paid-for products and future product developments

- 11.37 As noted at paragraph 11.21 the Parties have submitted that "[t]here is no evidence to show that, following the initial disruption caused by ClearScore's and others' entry, there continues to be an observable competitive interaction between ClearScore and CreditExpert". <sup>210</sup> In particular, the Parties have submitted that:
  - (a) Free and paid-for products are differentiated with significantly different cost bases. In particular, CreditExpert offers a personalised service and other features such as fraud prevention and identity theft detection which could not be replicated by a free CCT.<sup>211</sup>
  - (b) CreditExpert pricing is driven by cost, value perception and "competitive forces in the paid-for space" and not by free products.

<sup>&</sup>lt;sup>210</sup> Response to the Annotated Issues Statement, paragraph 3.7.

<sup>&</sup>lt;sup>211</sup> Issues Statement Response paragraphs 4.5-4.7 and Issues Statement Response paragraph 3.23.

- (c) [**%**].
- 11.38 We agree that free and paid-for CCTs are clearly differentiated and that CreditExpert will need to offer additional features over and above those provided by free CCTs if it is to retain users in the long-term. However, the products share a number of core features and, as the evidence discussed in paragraphs 11.11-11.20 shows, the differences between the products have not prevented free CCTs from exerting a significant competitive constraint on CreditExpert in the past which has led Experian to improve the features offered by CreditExpert. [%].
- 11.39 Such forward looking statements describing an ongoing competitive interaction between free and paid-for CCTs are inconsistent with the Parties' submission that there will be no such ongoing competitive interaction. We also note that these documents [ ] [ ].
- 11.40 We also note that, contrary to the Parties' submission (paragraph 11.37(b)), there is evidence that [≫]:
- 11.41 [≫] which is consistent with an expectation that free CCTs will continue to be an important competitive constraint on Experian's paid-for products going forward.
- 11.42 Finally, we note that although Experian has not adjusted CreditExpert's price in recent years, the evidence described above indicates that:
  - (a) [≫].
- 11.43 In our view the evidence described above indicates that free CCTs are currently the closest competitive constraint to CreditExpert and this is expected to continue to be the case in the future.

#### The Parties' submissions

11.44 To support their submission, the Parties have particularly highlighted the "markedly different"<sup>212</sup> product development pipelines for free and paid-for CCTs. In this regard, first, we note that despite the differences in the product development pipelines the evidence discussed above illustrates that Experian continues to be concerned about the effects of competition from free CCTs on CreditExpert. Indeed Experian has linked improvements to CreditExpert to competition from free CCTs.

<sup>&</sup>lt;sup>212</sup> Response to the Annotated Issues Statement, paragraph 3.28-3.29.

- 11.45 Second, Experian has [%]
- 11.46 The Parties have also emphasised the personalised advice which is provided by CreditExpert and which differentiates CreditExpert from free CCTs<sup>213</sup> and that such personalised services are [%]. In this regard, we note that the Parties have also submitted that [%].
- 11.47 Third, although we would not expect ClearScore to introduce free products with exactly the same functionality as CreditExpert at a particular point in time, this does not preclude the possibility that ClearScore could introduce products with similar functionality which, especially when combined with the fact it is offered for free, will be attractive to customers who would otherwise have used Experian's product. For example, Experian has identified fraud prevention and identity theft detection as examples of a premium service.<sup>214</sup> ClearScore's October 2017 board minutes record [%].
- 11.48 Fourth, [**≫**].
- 11.49 [%].
- 11.50 Overall, for the reasons described above, we do not consider that the differences in the product development pipelines for free and paid-for products mean that free CCTs (including ClearScore's) would not impose a significant competitive constraint on CreditExpert going forward.
- 11.51 Finally, to support their submission the Parties have also noted that:
  - (a) A large number of CreditExpert members are "reactivators, using CreditExpert multiple separate times when specific needs arise" and that this illustrates that free and paid-for CCTs are now complementary in nature. In this respect, the Parties have also submitted that it is now the case that [X] all new CreditExpert subscribers are transitioning from Experian's free CCT.
  - (b) CreditExpert user [≫] and user numbers have stabilised [≫].
  - (c) CreditExpert receives high Net Promoter Scores.
- 11.52 We have considered the observation that many CreditExpert members are reactivators who use CreditExpert "when the need arises" and that a high proportion of new CreditExpert subscribers are transitioning from Experian's free CCT. We agree that CreditExpert is differentiated and offers some

<sup>&</sup>lt;sup>213</sup> For example, Response to the Phase 1 Decision, paragraph 6.1(a) and Response to the Issues Statement, paragraph 4.3(b). <sup>214</sup> Response to the Phase 1 Decision, paragraph 6.11 (b).

features which are not provided by Experian's free product (if it did not then there would be no reason to upgrade). Moreover, we agree that some features such as ID fraud support or web monitoring are functionally different from any free CCT currently available in the UK (whereas daily credit scores and reports, and credit score history are functionally closer to what is available for free). However, this does not mean that there cannot be a competitive interaction between the two products and the evidence discussed at paragraphs 11.11-11.20 and 11.38-11.42 shows that [ $\gg$ ].<sup>215</sup>

11.53 We have also noted the Parties' submissions concerning CreditExpert's user churn rates, user numbers and Net Promoter scores. However, the Parties' observations are consistent with both: (i) no interaction between free CCTs and CreditExpert (either ongoing or at any time) or (ii) an ongoing interaction in which CreditExpert is responding to competition from free CCTs.

## The implications of the use of free CCTs to attract users to the Parties' CCP for this theory of harm

- 11.54 The Parties' have submitted that because of the competition they face from [third parties] to attract users using their free CCT (eg from other CCPs including those without a CCT) they will have no choice other than to continue to innovate and invest, both in their free and paid-for products. <sup>216</sup> Furthermore, the Parties have submitted that they will not have an incentive to protect the profitability of CreditExpert at the expense of the free CCP product given the [ $\gg$ ].
- 11.55 In this section we consider this aspect of the Parties' submission and in doing so consider the interaction between the theories of harm.
- 11.56 First, we agree with the Parties that product development and an attractive user experience is an important element of competition in this market, with the Parties iteratively developing their free and paid-for CCTs to attract new users. This is apparent from the Parties' submissions, their internal documents and the other evidence available to us.<sup>217</sup>
- 11.57 Second, our assessment of competition in the supply of CCPs (chapter 10) indicates that the Parties are close competitors with respect to their free CCTs and the consumer-facing aspects of their CCPs. Therefore, as we explain there, we are concerned that the Merger is likely to lead to a significant loss of

<sup>&</sup>lt;sup>215</sup> For example, Experian's free product does not offer a credit report, whilst ClearScore's does.

<sup>&</sup>lt;sup>216</sup> [%] Response to the Issues Statement, paragraphs 1.5(a) and 4.1(b).

<sup>&</sup>lt;sup>217</sup> See paragraphs 7.12-7.25 and 11.54.

rivalry in competition in the supply of CCPs and that this loss of rivalry could further reduce the incentives of the Parties to develop their free CCTs.

11.58 [%].

- 11.59 Fourth, ClearScore currently does not need to consider the implications of its actions on CreditExpert. However, following the Merger the merged firm could have conflicting incentives. While the merged entity will continue to have an incentive to improve ClearScore's product to attract new users, it will also have an incentive to consider the effects of those improvements on the profitability of Experian's paid-for products. In particular, the merged entity will consider the risk that improvements to ClearScore's product reduces the number of CreditExpert users and therefore, the overall profitability of the merged entity. This could create an incentive for the merged entity not to introduce some developments to ClearScore's product which would have been introduced absent the Merger.
- 11.60 Experian currently faces this trade-off between its own free CCT and CreditExpert and the evidence indicates that Experian has been conscious of this trade-off in the past. For example:
  - (a) [**※**].
- 11.61 [%].
- 11.62 The Parties have submitted that [≫] They have noted that CCP revenues [≫], with CCP revenues for the merged entity expected [≫]. Therefore, the Parties' submitted that it would be [≫].
- 11.63 In this regard we note that:
  - (a) These projections are inherently uncertain and therefore should be viewed with appropriate caution.<sup>218</sup>
  - (b) Even on the basis of these projections CreditExpert will continue to be an important part of the merged entity's business [≫].
- 11.64 Finally, regarding the incentives provided to the merged entity's management team, we note that [≫].
- 11.65 Therefore, for the reasons described above we do not agree with the Parties' submission as described in paragraph 11.54.

<sup>&</sup>lt;sup>218</sup> The inherent uncertainty regarding such forecasts is reflected in Experian's documents which show that in FY18: CreditMatcher revenues were [ $\gg$ ] and CreditMatcher EBIT [ $\gg$ ] whilst CreditExpert EBIT was [ $\gg$ ]

#### **Provisional conclusion on CCTs**

- 11.66 In our view, the evidence discussed above illustrates 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 (chapter 10) supports this 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 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.
- 11.67 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 [%].
- 11.68 Therefore, the Merger would lead to Experian acquiring the closest competitive constraint to its 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. The evidence indicates that Experian has considered such effects in the past (paragraph 11.60). These concerns are also significant given that CreditExpert is currently significantly more profitable than Experian's free product and is likely to continue to be an important product for Experian for the foreseeable future (paragraphs 11.61-11.63).
- 11.69 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 the 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.
- 11.70 We therefore provisionally conclude that the Merger may be expected to result in an SLC in relation to the supply of CCTs, subject to any countervailing factors.

# 12. The supply of pre-qualification services

### Introduction

### Framework for the analysis

- 12.1 Experian's business units HD Decisions and, to a lesser extent, Runpath supply pre-qualification services to CCPs, including to ClearScore's and Experian's own CCPs. These services enable CCPs to display the likelihood that an end user will be accepted for the credit products which are presented.<sup>219</sup> They are a valuable input into the operation of a CCP. We have considered whether acquiring ClearScore changes Experian's incentive to either refuse pre-qualifications services to other CCPs or to supply those services on worse terms.<sup>220</sup>
- 12.2 Such action is known as 'input foreclosure'. Foreclosure actions may harm the ability of the merged firm's rivals to provide a competitive constraint into the future.<sup>221</sup> Total foreclosure involves refusing to supply some (or all) competitors at all, whereas partial foreclosure may involve supplying competitors but on worse terms (by, for example, increasing the price charged to competitors or degrading the quality of the input supplied).
- 12.3 Experian already is a CCP as well as a supplier of pre-qualification services, so the possibility of Experian foreclosing rival CCPs was present before the Merger. In this chapter, we have therefore mainly assessed whether the Merger is likely to increase Experian's incentive to harm its CCP competitors to such an extent that it is likely lead to an SLC.
- 12.4 The CMA analyses such theories of harm with reference to the following three questions:<sup>222</sup>
  - (a) Ability: Would the merged firm have the ability to harm rivals, for example through raising prices or refusing to supply them?
  - (b) Incentive: Would it find it profitable to do so?

<sup>&</sup>lt;sup>219</sup> See paragraph 3.32.

<sup>&</sup>lt;sup>220</sup> Merger Assessment Guidelines, paragraph 5.4.22 says that mergers which are principally horizontal in character may have vertical effects if one or more of the merger firms also operate at a different level of the supply chain for a good or service. The merged firm will generally need to have a significant position in the market for an SLC to arise from vertical effects. We note that the CMA has considered similar vertical effects in Celesio/Sainsbury's Pharmacy Business merger inquiry.

<sup>&</sup>lt;sup>221</sup> Merger Assessment Guidelines, paragraph 5.6.5.

<sup>&</sup>lt;sup>222</sup> Merger Assessment Guidelines, paragraph 5.6.6.

- (c) Effect: Would the effect of any action by the merged firm be sufficient to reduce competition in the affected market to the extent that, in the context of the market in question, it gives rise to an SLC?
- 12.5 These conditions are cumulative; if we find that one condition is not met, we may not find it necessary to assess the other conditions. They may also overlap, and many factors may affect more than one question.

### Foreclosure mechanisms

- 12.6 The Merger significantly increases Experian's downstream presence in CCP services, <sup>223</sup> potentially giving it a greater incentive to worsen rival CCPs' competitive positions. We have considered whether this might materialise and, if so, in the form of total foreclosure of CCPs (ie refusing to supply prequalification services to some rivals at all), or in the form of partial foreclosure through quality degradation or price increases to HD Decisions' CCP customers. We have identified four mechanisms to consider in assessing whether it is likely that Experian would foreclose its CCP rivals after the Merger.
- 12.7 First, Experian could stop supplying one or several rival CCPs with prequalification services. The foreclosed CCP would lose an important input (prequalification services from HD Decisions) and would be a weaker competitor as a result, causing it to lose end users who value pre-qualification services.
- 12.8 Second, Experian could degrade the quality of the pre-qualification services provided to rival CCPs, relative to the pre-qualification services provided to Experian's or ClearScore's CCPs. This could result in end users switching away from the foreclosed CCPs.
- 12.9 Third, Experian could increase the prices it charges rival CCPs for prequalification services. This would raise the rival CCPs' costs per end user, reducing their incentives to compete aggressively for new users (for example through rewards such as meal vouchers, free CCTs etc.) and thus dampening the competition on Experian's and ClearScore's CCPs after the Merger.

  Again, the result would be fewer end users on the foreclosed platforms.
- 12.10 Finally, if HD Decisions increases its price for pre-qualification services to rival CCPs, these CCPs could pass these increased costs on to lenders in the form of higher commissions. If lenders delist from the CCPs in question as a result,

<sup>&</sup>lt;sup>223</sup> See paragraph 10.7.

- end users could find the CCP less attractive, and could switch away from the foreclosed CCPs.
- 12.11 In all four mechanisms, the result is fewer end users on the competing CCPs than would be the case without the foreclosure action.<sup>224</sup> If the end users who drop the foreclosed CCP become ClearScore users instead, and if those additional ClearScore users are profitable, the Merger would increase Experian's incentive to foreclose competing CCPs. 225
- 12.12 In considering this theory of harm we are conscious that before the Merger Experian was vertically integrated. The proposed Merger itself is not vertical in nature.
- 12.13 We also consider the following points relevant to this theory of harm.
  - (a) It is not necessary for Experian pre- or post-Merger to foreclose all CCPs, or to foreclose all CCPs in the same way. Foreclosure may be targeted on one or a few CCPs, or on a specific product (eg on credit cards but not on loans).
  - (b) CCPs are differentiated, so the number of end users diverting to ClearScore after a foreclosure action by Experian on a specific CCP need not be proportional to ClearScore's market share. If a relatively large share of the foreclosed CCP's end users divert to ClearScore the increase in Experian's incentives to foreclose that CCP will generally be higher.

### Parties' submissions

- 12.14 The Parties have submitted that HD Decisions' commercial strategy is to offer its services as widely as possible, that this strategy is evident from HD Decisions' history, and that it is demonstrated by the fact that, today, HD Decisions offers pre-qualification services to many of Experian's key CCP competitors. Further, the Parties point to  $[\times]$ .
- 12.15 Regarding Experian's ability to foreclose rival CCPs, the Parties have submitted that Experian's ability to foreclose is not changed by the Merger. [%].
- 12.16 The Parties also submitted that Experian will not have an incentive to foreclose rival CCPs post-merger, and that a lack of incentive to foreclose is

<sup>&</sup>lt;sup>224</sup> For all the foreclosure mechanisms, Experian could also limit its foreclosure to pre-qualification for a specific

product group, such as credit cards or loans. <sup>225</sup> The end users who drop the foreclosed CCPs' platforms may also divert to Experian's own CCP. However, this was the case before the merger as well, and is not changed by the acquisition of ClearScore.

- reflected in HD Decisions' behaviour since the launch of Experian's free CCT/CCP. Further, damaging relationships with lenders through foreclosing CCPs could harm Experian's CRB business, as it could lead to lenders switching to other CRBs.
- 12.17 Finally, regarding the effect of foreclosure, the Parties have submitted that the alternatives available to lenders and CCPs would make foreclosure attempts unsuccessful in harming competition in CCPs, and that lenders and CCPs may exert buyer power to prevent foreclosure, also rendering attempts at foreclosure ineffectual.
- 12.18 Approximately half of the responding third party CCPs we have questioned expressed concerns that following the Merger Experian could favour ClearScore or worsen the terms of supply of pre-qualification services. Some lenders also expressed concerns about the strength of the position held by HD Decisions in relation to pre-qualification services, but there was little positioning of these concerns as being merger-related.
- 12.19 In the following subsections, we have assessed the available evidence on Experian's ability to foreclose its rivals through the mechanisms described above. Subsequently, we analyse the likely change in Experian's incentives to foreclose, as well as evidence from Experian's internal documents which is relevant to Experian's incentive and ability to foreclose its rivals.

## **Ability**

- 12.20 We have examined Experian's ability to foreclose rival CCPs, including
  - (a) the importance of the supply of pre-qualification services to rival CCPs;
  - (b) the constraints on the Parties from existing contractual arrangements and other suppliers of pre-qualification services; and
  - (c) the extent to which the Parties could favour their own CCPs by raising prices or lowering relative quality of service provided to rivals.
- 12.21 This includes the constraints from alternatives to HD Decisions for the supply of pre-qualification services, which is discussed only briefly in this section, and then discussed at more length in the subsection on incentives to foreclose post-merger.

### The Parties' submissions

- 12.22 The Parties have submitted that Experian have not had the ability to foreclose its CCP rivals before the Merger, and that the ability to foreclose is not changed by the Merger.
- 12.23 Specifically, the Parties have submitted that  $[\times]$ .
- 12.24 Furthermore, the Parties have submitted that Experian lacks the ability to foreclose its rivals because CCPs increasingly can obtain pre-qualification services through alternatives to HD Decisions. Such alternatives include self-supply options, such as APIs that link lenders directly up with CCPs, as well as possible entry of direct competitors to HD Decisions. [%].

### Provisional assessment of Experian's ability to foreclose

- 12.25 We consider that the contracts between HD Decisions and the CCPs may provide some protection to some of the CCPs against foreclosure in the short-term, [≫].
- 12.26 Among the third parties we questioned, CCPs and lenders identified prequalification generally as being very important. The responses indicate that customers like knowing whether they are likely to be accepted for a product, and pre-qualification improves the rate of converting applicants into customers. One CCP called eligibility checking 'critical'. Further, HD Decisions' market position is strong. Third party CCP respondents were only aware of HD Decisions and Runpath as third-party providers of pre-qualification services. Approximately half of responsive lenders which use pre-qualification services said that they have no alternatives to HD Decisions. Of those who said that there was an alternative supplier, most named only Runpath, another Experian business unit.
- 12.27 Third party responses on the availability and cost of alternatives to buying prequalification services from HD Decisions confirm that there are some alternatives in the form of direct APIs linking lenders and CCPs, as well as other forms of self-supply. However, the submissions also confirm that CCPs buy HD Decisions' services [≫]. CCPs and lenders might be able to circumvent HD Decisions in the long run (either by encouraging upstream entry or through self-supply options such as APIs), but circumventing HD Decisions will not be immediate, and it may be costly. Thus, the Parties are likely to have some ability to foreclose rival CCPs at least for a limited period of time. However, given our findings in the next section on Experian's incentives to foreclose its rivals, we do not need to reach a provisional conclusion on Experian's ability to foreclose.

### Incentive

- 12.28 We have considered Experian's incentives to harm its CCP rivals post-Merger, including
  - (a) the Parties' profitability at each level of the supply chain; and
  - (b) the extent to which consumers and lenders would switch to the Parties' products, if they successfully worsened their rivals' offerings, and what that is likely to mean for the Parties' profitability.
- 12.29 We have also considered other factors which according to the Parties' submissions are important in decisions about whether to foreclose rival CCPs, such as the effects on Experian's general relationships with lenders. The internal documents from the Parties were important in our assessment of all of these factors.<sup>226</sup>

#### The Parties' submissions

- 12.30 The Parties have submitted that [≫]. Following on from this, if HD Decisions were to attempt to engage in foreclosure and thereby limit lenders' access to eligibility checking services for the whole of the market this would quickly become apparent to the lenders. HD Decisions' proposition [≫] as lenders would be incentivised to find alternative solutions, such as APIs, to connect directly with CCPs. [≫].
- 12.31 The Parties have also submitted that existing competitors of HD Decisions, as well as the possibility of new entry, constrain the [≫] of foreclosing CCPs. [≫].
- 12.32 Furthermore, the Parties submitted that any harm to a CCP would risk further losses across Experian's business more broadly, especially within its CRB business. Experian's revenue from the provision of HD Decisions' prequalification services to lenders represents [≫] of Experian's business with those customers. According to the Parties, Experian has no incentive to frustrate lenders' routes to market and risk damaging Experian's broader commercial relationships with these providers, many of which have [≫],

<sup>&</sup>lt;sup>226</sup> We considered the feasibility of calculating the gains and losses for Experian of foreclosing HD Decisions' CCP customers following the merger (a 'vertical arithmetic' calculation), and the changes in pricing incentives (a 'vGUPPI' calculation). However, in this case, we felt there was too much uncertainty to derive reliable and robust estimates. The uncertainties include: the extent to which HD Decisions can implement price increases in negotiations with CCPs; the extent to which CCPs would switch away from HD Decisions to APIs or other forms of self-supply in response to a price increase or a quality degradation; the effect of a given foreclosure action on CCPs' competitiveness; the diversion from foreclosed CCPs to Experian and/or ClearScore; and relevant margins for HD Decisions, Experian's CCP and/or ClearScore.

- allowing them to switch their primary supplier easily between the three major CRBs. [ ]%].
- 12.33 The Parties also submitted that the foreclosure mechanisms we have set out rest on several steps, each of which relies on assumptions which cannot be ascertained.

### Evidence from internal documents

12.34 In what follows we report passages from some of the internal documents we have reviewed which are relevant to the question of whether Experian may find it profitable to foreclose its rivals after the Merger.

```
12.35 [※].
12.36 [※].
12.37 However, [※].
12.38 [※].
12.39 [※].
12.40 [※].
12.41 Under [※] it was noted that [※]. Furthermore, it was noted that [※].
12.42 Under [※] it was noted that [※]. Further, that [※] and finally, that [※].
12.43 [※].
```

12.44 [≫]. These considerations of the consequences of discontinuing or limiting supply to other CCPs provide context for and input to our assessment of the likely effects of the Merger on Experian's incentives to foreclose rival CCPs.

### Provisional assessment on Experian's incentive to foreclose

- 12.45 Experian's downstream presence is significantly increased by the addition of ClearScore. In this subsection we have considered whether that is likely to increase Experian's incentives to harm its CCP rivals through foreclosure of pre-qualification services to such an extent that it gives rise to an SLC.
- 12.46 The possibility of CCPs and lenders turning to alternatives to HD Decisions may dampen Experian's incentives to foreclose. In particular, the

- development of APIs to directly connect lenders and CCPs appears to be a growing competitive threat to HD Decisions.<sup>227</sup> [%].
- 12.47 Experian's concerns about retaliation by lenders may also dampen its incentives to foreclose. This is supported by [≫]. Experian's CRB business is far larger than its consumer business, so even a small effect on CRB revenues may make an otherwise profitable foreclosure strategy unprofitable.
- 12.48 [%].<sup>228</sup> This implies that there would have been a strong incentive to foreclose ClearScore. Nevertheless, Experian chose not to foreclose. The strong advice against foreclosing ClearScore in these circumstances, and the reasons given for that conclusion, are notable.
- 12.49 Furthermore, we note that Experian's incentives to foreclose its CCP rivals increased when Experian launched its free CCT/CCP. The fact that Experian did not foreclose rival CCPs in that situation, may also indicate that the Merger will not increase the incentives sufficiently to foreclose after the Merger.
- 12.50 Overall, our view is that although [≫]. Given the evidence we have reviewed, we have provisionally found it unlikely this will change with the Merger.

#### Provisional conclusion on incentive to foreclose

- 12.51 We have provisionally concluded that it is unlikely that that the Merger would significantly increase Experian's incentives to foreclose rival CCP's access to HD Decisions' pre-qualification services.
- 12.52 We do not find it necessary to examine the effect of any foreclosure action by Experian post-Merger, as we have provisionally found it unlikely that the Merger will significantly increase Experian's foreclosure incentives.

## Provisional conclusion on the supply of pre-qualification services

12.53 On the basis of the considerations above, we have provisionally found it unlikely that the Merger will materially increase Experian's foreclosure incentives and as such we provisionally consider it is not likely that the Merger will give rise to an SLC with respect to the supply of pre-qualification services. This being the case, we have not reached a provisional conclusion on Experian's ability to foreclose and the effect of any foreclosure.

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<sup>&</sup>lt;sup>227</sup> The profitability of partial foreclosure through degrading the relative quality of the pre-qualification services may be especially affected by the growth of APIs as an alternative to HD Decisions[≫]. <sup>228</sup> See paragraphs 8.15–8.21 and 8.27.

# 13. Countervailing factors

- 13.1 The Merger Assessment Guidelines indicate that, in considering whether a merger may be expected to result in an SLC, the CMA will consider factors that may mitigate the initial effect of a merger on competition ('countervailing factors'), which in some cases may mean that there is no SLC. These factors include:
  - (a) the responses of others in the market (rivals, customers, potential new entrants) to the merger, for instance the entry into the relevant market of new providers or expansion by existing providers;
  - (b) the effect of any rivalry-enhancing efficiencies arising as a result of the merger; and
  - (c) the ability of customers to exercise buyer power.<sup>229</sup>
- 13.2 The Parties have submitted that barriers to entry are low and that the industry is characterised by the frequent entry of new players and new services. They submitted that developments such as the GDPR, PSD2 and the Open Banking initiative will eliminate or greatly reduce barriers to entry and expansion through access to data.<sup>230</sup>
- 13.3 They also submitted that the Merger would give rise to some efficiencies.<sup>231</sup>
- 13.4 Finally, the Parties submitted that financial product providers may exert strong buyer power to prevent a hypothetical foreclosure strategy from succeeding.<sup>232</sup> However, given we provisionally consider that the Merger is not likely to give rise to input foreclosure, we do not discuss countervailing buyer power any further.
- 13.5 We start by discussing barriers and entry and expansion before considering efficiencies.

# **Barriers to entry and expansion**

13.6 The Merger Assessment Guidelines explain that as part of our assessment of the effect of a merger on competition, we will consider the responses of other firms to the merger and whether entry by new firms or expansion by existing

<sup>&</sup>lt;sup>229</sup> Merger Assessment Guidelines, sections 5.7, 5.8 and 5.9.

<sup>&</sup>lt;sup>230</sup> Response to phase 1 decision

<sup>&</sup>lt;sup>231</sup> Response to phase 1 decision

<sup>&</sup>lt;sup>232</sup> Response to phase 1 decision

- firms may mitigate the initial effect of the merger or prevent an SLC.<sup>233</sup> In doing so we have considered whether any such entry or expansion may be expected to be timely, likely and sufficient.<sup>234</sup>
- 13.7 As set out in our competitive assessment in relation to the effects of the Merger in the supply of CCTs and CCPs for loans and credit cards, we are aware of expansion plans taking place independently of the Merger. These have already been discussed in our competitive assessment where we considered whether these developments might be expected to mitigate or prevent the effects of the Merger:
  - (a) [%];
  - (b) Credit Karma's agreement with TransUnion to acquire Noddle, with [%];
  - (c) [**※**]; and
- 13.8 Additionally, the Parties submitted that [%].
- 13.9 We therefore do not consider the countervailing effect of such expansion further in this section.
- 13.10 Accordingly, we have considered barriers to entry and expansion into the provision of CCTs and in CCPs in order to assess whether these might mitigate or prevent the SLC we have provisionally identified. Our provisional view is that the Merger is not likely to give rise to an SLC in the supply of prequalification services. Therefore, we have not considered barriers to entry in respect of pre-qualification services in our assessment of barriers to entry and expansion.

## Barriers to entry into the provision of CCTs

The Parties' submissions

13.11 The Parties submitted that there have been numerous examples of entry and expansion<sup>235</sup> in the provision of free CCTs, through a variety of channels<sup>236</sup>, including by CCPs, CRBs, fintech and start-ups (eg ClearScore), and financial advice websites.

<sup>&</sup>lt;sup>233</sup> Merger Assessment Guidelines, paragraph 5.8.1

<sup>&</sup>lt;sup>234</sup> Merger Assessment Guidelines, paragraphs 5.8.3 and 5.8.4.

<sup>&</sup>lt;sup>235</sup> Merger Notice 22.23.

<sup>&</sup>lt;sup>236</sup> Merger Notice 22.24 and RFI 9 April 2018 paragraph 26.1.

- 13.12 The Parties' view is that, as has been the case in the past, future entry can be expected from firms in a number of related markets, with this being further enabled by changes to the regulatory and technological landscape, in the form of the GDPR, PSD2 and the Open Banking initiative.<sup>237</sup>
- 13.13 In terms of setting up a CCT, the Parties submitted that there were limited requirements for entry and that these were readily available to a potential entrant. Specifically, credit file data could be obtained from one of the three main CRBs or from a reseller; database requirements could be outsourced; customer service is limited to passing queries through to the CRB; and obtaining the necessary regulatory clearance is straightforward and not prohibitive in terms of costs.<sup>238</sup>
- 13.14 The Parties stated that regulatory initiatives such as Open Banking have further accelerated entry, citing HSBC's launch of Connected Money and challengers such as Starling Bank, Monzo and Tandem Bank all publicly stating their ambition to become financial marketplaces. The Parties submitted evidence that Experian is in discussion with a total of [≫] possible affiliate partners, and at least [≫] of these partners have plans to [≫] imminently.<sup>239</sup> The Parties submitted these examples showed entry is timely, likely and sufficient.

## Third party views

- 13.15 Third parties generally considered it was relatively easy to enter the CCT market with a reseller model, providing simply the CRBs' credit score or report with no additional data analysis where this was linked to an existing service. We have though found (see paragraphs 11.28 to 11.36) that CCTs that have adopted this model (eg Barclaycard and Lloyds) act as a weak constraint, at best, on the Parties. In fact, Experian's internal documents describe its Affinity programme as a [≫].
- 13.16 In terms of expansion, an entrant may already have some of the requirements needed to enter. In particular, if the entrant already has a CCP it will have existing users and a recognised brand. However, several third parties<sup>240</sup> told us that it is not straight forward to convert large numbers of existing subscribers of their core service to a CCT proposition. A supplier may have a generally well-known brand (eq in another product segment), but that does

<sup>&</sup>lt;sup>237</sup> Merger Notice 22.26.

<sup>&</sup>lt;sup>238</sup> Merger Notice 22.21.

<sup>&</sup>lt;sup>239</sup> Response to the Annotated Issues Statement, paragraph 3.40.

<sup>240 [%]</sup> 

- not necessarily translate into a similarly strong brand position when it attempts to shift the focus onto its CCT proposition.
- 13.17 Furthermore, third parties considered that in addition to the requirements for entry into CCTs set out by the Parties there were a number of other requirements that needed to be considered being, namely access to data, marketing and user acquisition costs, data security and handling and customer care. Of these requirements, access to data and marketing/ customer acquisition costs were identified as being key.
- 13.18 As we explain providers can have different levels of access to a CRB's credit-file data (paragraph 3.20). Third parties considered that access to the underlying data was essential to develop an attractive and differentiated product. Without access to this data it is not possible to provide additional functionality such as a timeline of an individual's credit score and reasons for changes in credit scores.
- 13.19 Regarding marketing costs and user acquisition costs, third party estimates of customer acquisition costs were significant. These estimates cited the large amounts existing providers (of both free and paid for CCTs) spend and the significant positions of current providers in terms of customer bases and as a result the need to at least match these levels to compete.

[%]

13.20 [%].

- 13.21 [≫] similarly submitted that operating at scale is key to a successful business model and this can be costly to achieve given the substantial marketing costs that would be incurred if this product is not part of a wider, already established, business model / customer base.
- 13.22 [ $\gg$ ] stated that while getting access to CRB data is relatively simple, getting a positive return on investment on the marketing spend to cover the costs of the credit checking service is a significant challenge.
- 13.23 Third parties provided a wide range of estimates for the cost of setting up and developing a CCT. Discounting the lower estimates which related to a reseller type arrangement, set up costs tended to range between £1 million and £3 million, but were dependent on the scale and volume of entry. Marketing costs were estimated for a new entrant by [%] at circa 35%-45% of revenues, subject to absolute minimum of £500k and realistically, greater than £2 million per annum to achieve momentum, with marketing needing to be consistently maintained to remain visible and viable. [%] estimated marketing costs at £5 £10 million per annum.

13.24 Third parties submitted that it would take between 6 and 18 months to enter the CCT market<sup>241</sup> and 24-36 months to achieve the necessary scale to compete effectively in the CCT market and 3 to 5 years for breakeven.<sup>242</sup> [≫] noted that as part of the entry period it would take around 4 months to obtain regulatory clearance from the FCA.

Provisional assessment on barriers to entry and expansion into the provision of CCTs

13.25 We note that there are a number of ways that an entrant can look to enter the market for CCTs (paid-for or free). A free CCT needs to have a direct monetisation link (eg a CCP) or to be associated with an add-on service (eg current account banking services). A paid-for CCT needs to provide services additional to the simple credit score or report in order to attract subscribers. We have evaluated potential entry and expansion within the framework set out in our guidance on whether it would be timely, likely and sufficient (paragraph 13.6).

Timeliness of entry or expansion

- 13.26 CMA guidance says that new entry or expansion must be sufficiently timely and sustained to constrain the Parties. The CMA's practice usually considers two years to be timely, although a shorter period is possible, assessed on a case-by-case basis, depending on the characteristics and dynamics of the market, as well as on the specific capabilities of potential entrants.<sup>243</sup> In this case there may be some scope to consider a shorter period given it took ClearScore itself less than two years to enter [≫]. Third parties also submitted that they considered entry could happen within 6 to 18 months (paragraph 13.24).
- 13.27 In this case we consider that entry or expansion could take place in a timely manner to mitigate or prevent an SLC from arising in the provision of CCTs.

Likelihood of entry or expansion

13.28 Some third parties supported the Parties' view that the prevalence of paid-for CCT providers would decrease rather than increase<sup>244</sup>. All third parties who

<sup>&</sup>lt;sup>241</sup> [%].

<sup>242 [%]</sup> 

<sup>&</sup>lt;sup>243</sup> Merger Assessment Guidelines, paragraph 5.8.11.

<sup>&</sup>lt;sup>244</sup> [ $\gg$ ] cited 11 paid for CCTs that had exited the market which it believed was as a result of the high cost of search engine marketing and the impact of ClearScore's entry.

- specifically commented told us that the demand for free CCTs will continue to grow in the foreseeable future.
- 13.29 We do not consider that the barriers to entry and expansion are low as the Parties submitted, but at the same time they are not so high as to make entry or expansion improbable.
- 13.30 Evidence provided by third parties showed that whilst some were considering entry or expansion into CCTs (and which have been discussed above, as indicated in paragraph 13.7), no third party not already discussed in our report had any firm plans or was committed to expenditure to either enter or expand into the CCT market.
- 13.31 Experian provided evidence of discussions it had had with a number of financial providers regarding providing a CCT proposition as part of their offer to their own customers. We noted that of these discussions a number had not progressed beyond an initial exploration of the possibility and had been closed, others were still open but at a very early stage or where further advanced but had not reached any firm agreement. We received specific evidence from [%] and [%] that showed that neither had any plans to launch a CCT in the near future and from [%].
- 13.32 Furthermore, we note that Experian's most recent strategy documents state that in developing its Affinity programme it should provide its credit score [≫].
- 13.33 Experian also submitted that there are a number of potential entrants that were considering launching marketplace propositions which would compete with or include CCTs. We received evidence from a number of these. Of those that responded we found that either plans were still at the design stage ([≫]) or that they did not have plans to enter into CCTs within the next 12 months.<sup>247</sup>
- 13.34 In addition, we received no evidence that any entity is looking to enter the paid-for CCT sector. Our view therefore is that is unlikely that entry into paid-for CCTs would occur in the foreseeable future, such that it would constrain the merged entity.
- 13.35 We therefore do not think it is likely that a third party, other than those that we have already considered as part of our competitive assessment, would enter or expand in the provision of CCTs in a timely manner in the event of the

246 [%].

<sup>&</sup>lt;sup>245</sup> [%].

<sup>&</sup>lt;sup>247</sup> [ told us that it has no current plans to add a CCT feature to its app in 2018 or 2019.

merged entity raising prices or slowing the rate of product improvement in CCTs.

### Sufficiency of entry or expansion

- 13.36 Some third parties suggested that there were some sizeable barriers to entry or expansion in the form of the costs of marketing and acquiring customers and access to data. Indeed, some third parties told us that the costs of acquiring users to a CCT is increasing (ie the cheapest users to attract have largely been attracted already) (paragraph 10.128).
- 13.37 Customer acquisition would appear key to whether entry or expansion of sufficient scope is likely to happen. Third party estimates of costs and the experience of ClearScore, which incurred £[≫] million of marketing costs in its first 18 months, suggest that the costs would be significant. Several third parties also cited the potential early mover / incumbency advantage of the Parties as a potential barrier. The Parties scale and brand awareness adds additional risk to an entrant's ability to attract customers, some of which are likely to have to come from the Parties existing user base.
- 13.38 [≫] referred to the importance of scale when competing and several of the Parties' internal documents highlight the importance of user numbers and incumbency to competing successfully.<sup>248</sup> For example, [≫] Similarly, Experian's most recent strategy and budget documents describe [≫].
- 13.39 The evidence described above indicates that the success of the Parties in developing their own products does not imply that others will necessarily achieve the same success. Additionally, in a context where scale is important to competition we consider it is less likely that new entry or expansion in response to the Merger will be of sufficient scope to mitigate or prevent an SLC.
- 13.40 Given the barriers to expansion described above, and our assessment of the effect of expansion in our competitive assessment, we consider that the sufficiency of any entry, or further expansion from existing players, as a result of the Merger is highly uncertain. Accordingly, we do not consider that it is likely that entry or expansion will be sufficient in scope to mitigate or prevent the SLC that we have provisionally identified will result from the Merger in the supply of CCTs in the UK.

<sup>&</sup>lt;sup>248</sup> See for example, RFI-0002, slide 3-4, Merger Notice Annex 10.5, p4, Merger Notice Annex 8.3 and RFI2-0014 and S1092.01.059.

### Barriers to entry and expansion into the provision of CCPs

#### The Parties' submissions

- 13.41 The Parties submitted<sup>249</sup> that there are low barriers to entry and expansion in the provision of CCPs. They stated that many firms including ClearScore and Experian have entered in the past five years and are expanding rapidly. The Parties submitted that this trend was likely to continue as:
  - (a) It was a fast-growing market with low barriers encouraged by recent and ongoing technological and regulatory changes;
  - (b) There was provision of 'third party' 'out-of-box' technology solutions; and
  - (c) Initial entry costs were low as commission is paid on a successful application basis. As such, financial product providers can therefore cast their net widely without incurring fixed costs.
- 13.42 The Parties submitted that there are limited requirements for entry and that these would be readily available to a potential entrant. Specifically, such requirements are: an (up-to date) catalogue of third party financial products (which is obtainable from either third party providers or direct from financial providers via APIs); contractual relationships with end financial product providers for receiving commissions (which could again be sourced through third party providers or direct); and an attractive consumer-facing proposition.<sup>250</sup> The Parties also stated that some of the infrastructure could be outsourced to reduce time and costs.
- 13.43 The Parties submitted that it would be possible to enter as a CCP in a timely manner and grow quickly. They cited the example of ClearScore, which took approximately nine months to enter: it was legally incorporated on 14 September 2014 and launched its website in July 2015. The Parties also submitted that ClearScore had grown in two and half years since launch to over [≫] customers (end of October 2017). In addition, they stated that ClearScore did this with £[≫] million of financing and incurred costs in its first 18 months of £[≫] million.
- 13.44 The Parties submitted that regulatory changes such as the GDPR, Open Banking and PSD2 would facilitate the entry of other players into CCP activities and enable them to compete on matching customers to the right financial product at the best prices through new applications. In this section

<sup>&</sup>lt;sup>249</sup> Merger Notice paragraph 22.2

<sup>&</sup>lt;sup>250</sup> Merger Notice paragraph 22.8

- we consider the potential impact of these changes on the potential for entry and expansion in CCPs.<sup>251</sup>
- 13.45 The Parties submitted that these regulatory changes act as both a source of new competition in the credit history and product comparison sector as well an opportunity to innovate and offer new consumer-facing propositions.<sup>252</sup> In particular:
  - (a) access to consumer data would reduce barriers to entry, eg Open Banking will reduce the cost and time burden for a new entrant to obtain and maintain a catalogue of financial products through the open API standard; and
  - (b) data will become freely available through open API standards or by consumer request, reducing any competitive advantage CCPs have because of contracts with upstream data providers such as the CRBs.<sup>253</sup>

### Third party views

- 13.46 A number of third parties told us that Open Banking and PSD2 had the potential to provide greater opportunities for new entrants and could serve as a platform for innovation and entry into CCP markets. Third parties were also generally of the view that the introduction of the Open Banking initiative and PSD2 could significantly increase the scope of financial products available to consumers and would act as a spur to innovation over time. However, third parties typically noted that Open Banking was still at an early stage and that they would need to see how things develop, in particular, in relation to consumer take-up.<sup>254</sup> For example, one lender told us that it expects a slow take-up initially and it is unclear when consumers will be using the services to a significant extent. Another lender summed up the position as 'Open Banking may provide greater opportunities, but we will need to see how this develops'.
- 13.47 Third parties in general considered that it was relatively easy to enter as a CCP using white label/out-sourcing solutions, as submitted by the Parties, although not all elements could be outsourced. They considered there were sufficient providers of, for example, credit product data (eg MoneyFacts and DeFacto), as well as companies that provide white label platforms (such as

<sup>&</sup>lt;sup>251</sup> Response to annotated issues statement.

<sup>&</sup>lt;sup>252</sup> Merger Notice paragraph 11.4

<sup>&</sup>lt;sup>253</sup> Merger Notice paragraph 11.8

<sup>&</sup>lt;sup>254</sup> This is consistent with the findings of the FCA. The FCA found that many respondents to one of its consultation exercise recognised the potential benefits of new developments such as Open Banking but some reservations were expressed around the extent to which consumers would be willing to engage with these products and the likely timescales for this (FCA Policy Statement: Assessing Creditworthiness in Consumer Credit, PS18/19, page 25)

TotallyMoney) to enable entry. However, third parties generally considered that there were significant challenges in building a brand, developing a differentiated product, and acquiring sufficient customers to achieve scale.

- 13.48 [%] and [%] stated that there are significant costs associated with building a trusted brand and the cost of acquisition, to acquire customers at scale profitably. [%] stated that while getting access to CRB data is relatively simple, getting a positive return on investment on the marketing spend to cover the costs of the credit checking service is a significant challenge. [%] submitted that the CCP market is overcrowded and expensive and that, deep pockets are required to sustain traffic to a CCP website because adequate working capital is required to cover marketing costs that need to be paid for upfront in circumstances where commissions are not paid for approximately 3-4 months. [%] stated that the main barriers to entry relate to operating and advertising expenses and the digital marketing expertise required to generate traffic to the CCP to successfully enable offers to be presented to consumers.
- 13.49 Third parties estimated that the time required for entry is mainly between 6 and 12 months. One third party considered it may take 2-3 years. 255 Estimates on the time to achieve breakeven and become profitable mainly ranged from 2 to 5 years, with two parties believing it would take between 5 and 7 years. 256
- 13.50 Third parties' estimates for entry costs for CCPs reflected similar factors to those cited in relation to CCTs, with costs dependent on the size and scale of the business seeking to enter and how it wished to approach customer acquisition, the data charges it would incur and whether it is entering as a standalone CCP business or is part of an already established business model. Cost estimates therefore varied. Two parties estimated the costs (excluding marketing) in the range of £0.5 million to £2 million.<sup>257</sup> Another estimated around £3 million before any data or running costs<sup>258</sup>, whilst another estimated £10 to 15 million in up-front costs (depending on starting point), plus £6 to 7m per annum in ongoing operating costs.<sup>259</sup>
- 13.51 ClearScore, despite its rapid growth, did not become breakeven [≫]. We note that these figures and timescale are broadly similar to those estimated by third parties.

<sup>&</sup>lt;sup>255</sup> [%].

<sup>256 [%</sup> 

<sup>250 [%]</sup> 

<sup>258 [%]</sup> 

<sup>259 [%]</sup> 

Timeliness of entry or expansion

13.52 As with CCTs, we consider that a provider entering or expanding could do so in a timely manner. ClearScore, for example, was founded in September 2014 and began operating in July 2015 (paragraph 2.13).

Likelihood of entry or expansion

- 13.53 In addition to the expansion that we have already taken into account in our competitive assessment, the Parties considered that other CRBs such as Equifax may launch their own CCT/CCP. [ ]
- 13.54 [≫] As with CCTs, and particularly in the light of the effectiveness of CCTs as a means of attracting consumers to CCPs (as set out in paragraphs 10.22 to 10.36), we do not think it is likely that a third party, other than those that we have already considered as part of our competitive assessment, would enter or expand in the provision of CCPs in a timely manner in the event of the merged entity raising prices or slowing the rate of product improvement in its free CCTs, and in turn its CCPs.

Sufficiency of entry or expansion

- 13.55 We recognise that the markets in which the Parties operate and markets for consumer financial products more generally are dynamic and that the introduction of GDPR, PSD2 and Open Banking, as well as on-going technological developments, are likely to influence developments in these markets. However, as we set out in chapter 6 (Counterfactual), on the basis of the available evidence, it is unclear and remains uncertain how this dynamism in the market will manifest itself in terms of its effects on rivalry, including entry and expansion.
- 13.56 However, we nevertheless consider that the regulatory changes that have been cited by the Parties are important developments, the potential impacts of which on the ability to ease entry and expansion need to be included in our assessment of whether the Merger is expected to result in a SLC. From the evidence available to us and our understanding of how these changes are currently impacting these markets, we consider that they may make it easier for competitors and potential competitors to enter or create new models of provision which may compete with the Parties models. However, it is currently too early to tell which providers, if any will enter, with what propositions and when, and what effect on competition any such entry will have.

- [≫] users of their CCTs, which they endeavour to convert to leads for credit cards and loans provided through their CCPs. Moreover, we note that the Parties' might be able to increase the number of people taking out credit cards and loans on their CCPs given that they are attracting new users to their CCTs at a rate of [≫] per month (table 12.1). In credit cards and loans, the Parties together are [≫] (table 11.1). Our view therefore is that it is likely to be difficult for an entrant or a firm looking to expand in the supply of CCPs for loans and credit cards to gain sufficient scale such that the scope of that entry or expansion could be expected to mitigate or prevent the SLC we have provisionally identified as arising from the Merger.
- 13.58 We also do not consider that entry or expansion via white label is likely to be sufficient, given what third parties have told us about the challenges to differentiate themselves and compete using white label products.
- 13.59 Finally, we also note that significant expenditure and marketing is necessary in order to compete in the supply of CCPs.
- 13.60 Given the barriers to expansion described above, and our assessment of the effect of expansion in our competitive assessment, we consider that the sufficiency of any entry, or further expansion from existing players, in the supply of CCPs for loans and credit cards as a result of the Merger is highly uncertain. Accordingly, we do not consider that it is likely that entry or expansion will be sufficient in scope to mitigate or prevent the SLC that we have provisionally identified will result from the Merger in the supply of CCPs for loans and credit cards in the UK.

## Provisional conclusion on likelihood of entry or expansion in the UK

13.61 For the reasons given above, our provisional conclusion is that entry or expansion would not be timely, likely and sufficient to prevent or mitigate the SLCs we have provisionally found in the supply of CCPs for credit cards and loans and in the supply of CCTs.

### **Efficiencies**

- 13.62 With respect to possible rivalry-enhancing efficiencies, the Parties submitted that the Merger would allow:
  - (a) OneScore to innovate rapidly, be able to be used more quickly, and by attracting more users ClearScore will be able to generate more leads.[≫]. ClearScore estimates that OneScore would become mature up to 2

- years earlier as a result of the Merger and that, without the Merger, ClearScore's international expansion would be delayed by 3-5 years;
- (b) increasing customer switching in the auto insurance market. ClearScore has identified that, subject to contractual restrictions, it is likely that data from the Claims and Underwriting Exchange database (CUE), which is currently available to Experian (and Equifax), could be combined with other data accessible by ClearScore to provide more than 95% of the information currently required to obtain an auto insurance quote. This development would likely not be possible absent the Merger and certainly not as quickly and cost-effectively given the likely double marginalisation issues that would arise from contracting with a third-party data holder; and
- (c) the combination of ClearScore with the capabilities and international footprint of Experian will allow more innovation, more quickly, with the aim of serving more users around the world.<sup>260</sup>

### Our provisional assessment of possible efficiencies

- 13.63 In our assessment we have not placed any weight on any potential efficiencies or benefits regarding international expansion. This reflects the statutory duty on us to decide whether the Merger is expected to result in an SLC within any market or markets in the UK for goods or services.
- 13.64 Regarding the other possible efficiencies listed in paragraph 13.62, the Parties have not submitted any evidence as to why these cannot be achieved without the Merger, nor have they made any submissions about whether these are likely to be timely, likely and sufficient to prevent an SLC from arising.<sup>261</sup>
- 13.65 Therefore, we have not placed any weight on possible efficiencies in our assessment.

### 14. Provisional conclusions

- 14.1 As a result of our assessment we have provisionally found that:
  - (a) arrangements are in progress which will result in the creation of a relevant merger situation;

<sup>&</sup>lt;sup>260</sup> Response to phase 1 decision

<sup>&</sup>lt;sup>261</sup> Merger Assessment Guidelines, paragraph 5.7.4

- (b) the Merger may be expected to result in an SLC in the markets for:
  - (i) the supply of CCPs for loans and credit cards in the UK; and
  - (ii) the supply of CCTs in the UK; and
- (c) the Merger may not be expected to result in an SLC in the market for prequalification services in the UK.