

Invitation to Comment: Whether the CMA should launch a review of Part 3, Article 29 and Part 1 of Schedule 4 of the Home Credit Market Investigation Order 2007

16 January 2024

Summary

1. The Competition and Markets Authority (CMA) is launching an Invitation to Comment on a potential review of Part 3, article 29 and Part 1 of Schedule 4 of the [Home Credit Market Investigation Order 2007](#) (the Order).
2. Part 3 of the Order imposes obligations on home credit lenders, including large lenders, concerning the provision of information to and funding for the operation of a comparison website for home credit products, www.lenderscompared.org.uk. Article 29 concerns the obligation on lenders to highlight the comparison website to customers and Part 1 of Schedule 4 sets out the prescribed text including the address of the relevant website.
3. When the Order came into force, there were six large lenders funding the comparison website, however, over time and for a number of reasons, five of these six lenders have exited the market, with the most recent being Morses Club Limited (Morses), which entered administration on 17 November 2023. Funding of the comparison website is allocated under the Order proportional to the home credit turnover of the large lenders, and given the timing of Morses club entering administration which meant that it had not paid its share of the 2024 website costs, this leaves the comparison website with insufficient funds to operate throughout the whole of 2024.
4. The CMA considers that the reduction in the number of large lenders in the home credit market is a potentially relevant change of circumstance, and consequently, that it should assess in a review whether the obligations in Part 3, article 29 and Part 1 of Schedule 4 of the Order remain appropriate, and if not, whether these obligations should be varied, superseded or revoked.
5. In light of the need to deliver an outcome quickly to provide certainty for all parties involved with the comparison website including its commercial operator, the CMA has announced the suspension of Part 3, article 29 and Part 1 of Schedule 4 of the Order given the above funding position for the

comparison website, and is now issuing this Invitation to Comment on a review of Part 3, article 29 and Part 1 of Schedule 4 of the Order. The CMA does not intend to review the remaining aspects of the Order at this time as the CMA considers the protections they afford consumers to still be valuable, and also as a limited scope review will deliver an outcome more quickly.

Legal framework

6. The CMA has a statutory duty¹ to keep under review undertakings and orders accepted or imposed respectively under the Enterprise Act 2002 (EA02) as part of its markets and mergers work. As part of this, the CMA will from time to time consider whether there are any undertakings or orders that appear to be no longer appropriate due to one or more potential changes in circumstance.
7. CMA Guidance document CMA11, *Remedies: Guidance on the CMA's approach to the variation and termination of merger, monopoly and market undertakings and orders* provides that the CMA will typically issue an Invitation to Comment in circumstances where it is intending to conduct a review of any undertakings or order seeking views on whether such a review should take place.²
8. This Invitation to Comment is seeking views and evidence concerning whether the CMA should launch a review of Part 3, article 29 and Part 1 of Schedule 4 of the Home Credit Market Investigation Order 2007.

Background

Market Investigation and 2007 Order

9. The Competition Commission's Market Investigation into Home Credit found, in summary, that there was a lack of competition from other credit products, new entrants, or among the home credit providers themselves. This meant that borrowers paid higher prices for their loans than would be expected in a competitive market.
10. The Order that followed the market investigation established a comparison website, www.lenderscompared.org.uk with the intention of making it easier to choose the most appropriate lender, and placed requirements on all home credit lenders to ensure the details of their loans were advertised on the site, and set out the details to be included for each loan and where it was provided.

¹ Under sections 92 and 162 of the Enterprise Act 2002.

² CMA11, paragraph 3.8

11. The Order also included the following separate obligations:
 - (a) early settlement rebates where customers repay loans earlier than planned;
 - (b) data sharing with credit reference agencies;
 - (c) requirements to provide loan statements to customers;
 - (d) restrictions on the content of advertisements of home credit loans; and
 - (e) a duty to record specified information in loan books and to supply information on loans to customers.
12. The Order was varied in 2011 to take account of new legislation concerning advertising credit and lending (the Consumer Credit Directive), including display of interest rates.

Funding of the comparison website

13. The Order obliges all large lenders to fund the costs of the comparison website. Large lenders are those with over £10 million in home credit turnover annually, or 200 or more collecting agents.
14. When the Order came into force, the comparison website was funded by six large lenders. However, over time, the home credit sector has contracted, leading to five of those six lenders exiting the market. The most recent lender to enter administration was Morses Club Limited, which did so on 17 November 2023. The one remaining large lender is the Mutual Clothing & Supply Company Limited (Mutual).
15. As large lenders fund the comparison website proportionate to their home credit turnover as set out in the Order, Morses' entry into administration, having not paid its share of the costs of the comparison website in 2024, has left the comparison website with insufficient funds to operate throughout 2024.

Possible changes of circumstance

16. The CMA considers that a review of Part 3, article 29 and Part 1 of Schedule 4 of the Order may identify a number of changes of circumstance. Consequently, the CMA considers at this time that it has a realistic prospect of finding at least one relevant change of circumstance during the course of a review. These possible changes of circumstance are:
 - (a) The reduction in the number of 'large lenders' in the market that are obliged to fund the comparison website from six when it was first

established to one by 17 November 2023. This reduction in number reduces the certainty of funding for the comparison website, resulting in the last remaining large lender funding the comparison website in its entirety, and due to the timing of Morses entering administration, has created a specific problem where the funding mechanism in the Order will not generate sufficient funds to maintain the comparison website throughout 2024;

- (b) The number of home credit lenders active in the UK is reducing, and this is not restricted to purely the large lenders, with fewer home credit lenders active on the CMA's comparison website. This reduced from nearly 400 in 2019 to an average of around 165 in 2023. This reduction, may have been caused by a number of factors including:
 - (i) difficulties in obtaining commercial lending to support a home credit business;
 - (ii) the costs of addressing issues around unfair lending practices; and
 - (iii) consumer lending patterns and preferences changing.
- (c) Lower levels of visits on a monthly basis to the comparison website indicate the value of the site to stakeholders across the UK economy has fallen since the comparison website was created. In 2017, the comparison site received around 3,300 visits per month, while in 2023, this had fallen to 1,400 per month.

Prioritisation criteria

- 17. The CMA considers that on the basis of the information available to it, a review of Part 3, article 29 and Part 1 of Schedule 4 of the Order would represent an administrative priority at the current time for the following reasons:
 - (a) In relation to impact, the CMA considers that the Order provides important protections to consumers within this sector, and it is right to focus on this when changes take place.
 - (b) Concerning strategic significance, the CMA notes that this review is in line with its statutory duty to keep undertakings and orders such as this under review. It also notes that given the age of this particular Order, and the timing of the funding issues set out above, carrying out a review to determine whether the relevant parts of the Order remain appropriate would appear strategically significant and desirable.

- (c) In relation to whether the CMA is best-placed to act, only the CMA has the power to review the Order and to consider whether, by reason of any change of circumstance, the relevant parts of the Order concerning the comparison website remain appropriate, or should be varied, superseded or revoked.
- (d) The risk from the review appears low, and the information received from this Invitation to Comment should allow the CMA to understand the value of the comparison website to stakeholders in the sector and determine the most appropriate action.
- (e) The resourcing requirement for this review appears moderate and proportionate to the size of the sector and the complexity of relevant parts of the Order.

Responding to this Invitation to Comment

- 18. The CMA welcomes comments on whether it is appropriate to launch a review of Part 3, article 29 and Part 1 of Schedule 4 of the Order. We would particularly welcome responses from relevant stakeholders with industry-specific expertise relevant to the Order.
- 19. In addition to identifying relevant changes in circumstance, the CMA would welcome any comments on why a review of Part 3, article 29 and Part 1 of Schedule 4 of the Order should be prioritised in accordance with the [CMA's published Prioritisation Principles](#).
- 20. Responses should be received by **5pm on 30 January 2024** and should be sent in writing to: remedies.reviews@cma.gov.uk (Subject line: Home Credit Order Invitation to Comment).
- 21. The CMA requests that all submissions be accompanied by a non-confidential version which the respondent would be willing to have published on the CMA website in the event that a formal review is launched. Responses should be received by the CMA by **5pm on 30 January 2024**.
- 22. Following this consultation period, the CMA will assess all the information available in reaching a decision on whether or not to launch a formal review of Part 3, article 29 and Part 1 of Schedule 4 of the Order.