

# **Decision to launch a review of Part 3, Article 29 and Part 1 of Schedule 4 of the Home Credit Market Investigation Order 2007**

28 February 2024

## **Summary**

1. The CMA consulted in January on a proposed review of Part 3, article 29 and Part 1 of Schedule 4 of the Home Credit Market Investigation Order 2007 (the Order), concerning the operation, information for and management of a cash loan price comparison website [www.lenderscompared.org.uk](http://www.lenderscompared.org.uk) (the Comparison Website). The CMA has assessed the responses received and has decided to launch a review of these elements of the Order.
2. The review will assess the potential changes of circumstance relevant to the Comparison Website and whether the related elements of the Order remain appropriate or should be varied, superseded or revoked.

## **Introduction**

3. In line with its statutory duty under the Enterprise Act 2002, the CMA keeps its portfolio of undertakings and orders arising from its market and merger work under review, including through considering those undertakings and orders that should be reviewed where there are reasons to suspect that one or more changes in circumstance have taken place.
4. On 16 January 2024 the CMA published an Invitation to Comment (ITC), seeking stakeholder views on whether to launch a review of Part 3, Article 29 and Part 1 of Schedule 4 of the Order.
5. Following assessment of the responses, the CMA is now launching a review of those parts of the Order. This document sets out the reasoning for the decision to launch the review and invites stakeholders' views on the potential changes in circumstance that may mean that the relevant parts of the Order are no longer appropriate and, if such changes are identified, whether the relevant parts of the Order should be varied or revoked.

## Background

### *Legal framework*

6. The CMA has a statutory duty under sections 92 and 162 of the Enterprise Act 2002 to keep under review undertakings and orders.<sup>1</sup> From time to time, the CMA must consider whether, by reason of any change in circumstance:
  - (a) undertakings are no longer appropriate and need to be varied, superseded or released; or
  - (b) an order is no longer appropriate and needs to be varied or revoked.
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\*](#) sets out the process which the CMA will typically follow.

### *The Order*

8. 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 home credit providers themselves. This meant that borrowers paid higher prices for their loans than would be expected in a competitive market.
9. The Order that followed the market investigation established, as part of a package of remedies, the Comparison Website 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.
10. 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;

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<sup>1</sup> Where the CMA is addressing remedies, adopted under the earlier Fair Trading Act 1973, for which it is now responsible, it is acting under the provision made in Schedule 24 of the Enterprise Act 2002, and associated subordinate provision.

- (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.
11. 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***

12. 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.

### ***Reasons for proposing a review of the relevant parts of the Order***

13. 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 (Morses), which did so on 17 November 2023. The one remaining large lender is the Mutual Clothing & Supply Company Limited (Mutual).
14. As large lenders fund the Comparison Website in proportion to their home credit turnover as set out in the Order, Morses' entry into administration before it was due to pay its share of the costs of the Comparison Website in 2024, has left the Comparison Website with insufficient funds to operate throughout 2024.
15. The CMA is not reviewing the remaining aspects of the Order at this time as the CMA considers the protections they afford consumers still to be valuable, and also because a limited scope review will deliver an outcome more quickly.

### **Response to the ITC**

16. The CMA received three responses to its ITC, all of which supported the launch of a review.

### ***Consumer Credit Association (UK) Ltd (CCAUK)***

17. CCAUK supported the CMA's proposed review on the grounds that the reduction in the supply of home credit means that in many areas a consumer

will be unable to identify home credit lenders in their immediate area. CCAUK argued that for the same reasons there are significant doubts over whether or not the Comparison Website continues to function as an effective tool for consumers and, additionally, whether it is meeting its original objective.

### ***Consumer Credit Trade Association (CCTA)***

18. CCTA supported a review for the following reasons:

- The home credit market has contracted from a value of £1.2 billion in 2013 to around £200-£250 million today. In addition, 80-90 per cent of lenders have exited the market. In 2019, there were approximately 400 firms still operating in the home credit market, whereas currently about 160-170 lenders remain. Evidence obtained by CCTA from the Financial Conduct Authority (FCA) indicates that no new FCA authorised lenders entered the market between 2019 and 2022.
- The Comparison Website itself has seen a reduced number of visits.
- Given this decline in the market, it is questionable whether the Comparison Website is still required.
- It would be unfair and inappropriate for the one remaining lender of the six who were originally obliged to fund the Comparison Website to bear the full cost. The funding provisions of the Order are therefore no longer sustainable.
- Consumers are now protected by FCA price transparency regulations, so the impact of removing the Comparison Website would be relatively low.

### ***Mutual Clothing and Supply Co Ltd (Mutual)***

19. Mutual agreed with the CMA's assessment of potential changes in circumstances as set out in the ITC and agreed the CMA should carry out a review of the relevant parts of the Order. It also provided further evidence to support the CMA's assessment of that and of the appropriateness of the Comparison Website in general in now, addressing the original problems found by the Competition Commission.

20. In summary, Mutual considered that:

- The current funding mechanism required under the Order is no longer appropriate because having only one lender is not sustainable, and it is inappropriate to require one firm to bear the cost of the market failure of others.

- The Comparison Website may no longer be an appropriate tool for price comparison and improving price competition as the market has contracted, fewer consumers are using the site and it may no longer be functioning as an effective comparison tool due to the small numbers of lenders remaining. It also noted that price information is now available elsewhere.

## **Possible changes of circumstance**

21. The CMA considers there to be a realistic prospect that a review of Part 3, article 29 and Part 1 of Schedule 4 of the Order will identify one or more changes of circumstance relevant to these provisions of the Order. 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. The timing of Morses entering administration has created a specific problem whereby 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 with fewer home credit lenders – small and large - active on the 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.
22. Fewer 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 Website received around 3,300 visits per month, while in 2023, this had fallen to 1,400 per month.

## **Prioritisation**

23. 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 represents an administrative priority at the current time for the following reasons:
- (a) In relation to impact, the CMA considers that the Order provides important safeguards for consumers and competition within this sector, and it is therefore important to ensure that the Order remains appropriate in light of market development.
  - (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 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 is timely.
  - (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 or the Order revoked.
  - (d) The risk from the review appears low, and the information received from this Invitation to Comment and subsequent review will 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 is moderate and proportionate to the size of the sector and the complexity of relevant parts of the Order.

## **Decision to launch a review**

24. The CMA has decided to launch a review of Part 3, article 29 and Part 1 of Schedule 4 of the Order. In reaching this decision, the CMA has obtained sufficient evidence, through responses to its ITC and through its own research and analysis, to have established a realistic prospect of finding at least one relevant change in circumstance that may mean that the parts of the Order in question are no longer appropriate. Moreover, the CMA has assessed this review against its published prioritisation criteria and found this review to meet those criteria.

## Stakeholder views sought

25. The CMA is seeking views from interested parties on:
- potential changes in circumstance that may mean that the relevant parts of the Order are no longer appropriate, and
  - if such changes are identified, whether they mean that the relevant parts of the Order should be varied or revoked, and in the case of identifying the need to vary the Order, to set out the proposed changes that could be made.
26. Respondents should provide their views, supported with relevant evidence where possible, in writing to the CMA at:
- Email: [remedies.reviews@cma.gov.uk](mailto:remedies.reviews@cma.gov.uk) (Subject line: Home Credit Order)
27. The CMA intends to publish all submissions received. Please ensure any submission provided to the CMA that contains any confidential material is accompanied by a non-confidential version which the CMA will publish on its website at the time that its Provisional Decision is published for consultation.
28. Responses should be received by the CMA by **5pm on 22 March 2024**. Following this consultation period, the Group of Panel members appointed to make decisions regarding the review will assess the available evidence in order to make, and consult on, a Provisional Decision on whether to retain or vary the parts of the Order under review.