CCTA Response to the Payday Lending Market Investigation Order 2015

Consumer Credit Trade Association

Response to the provisional decision on the strategic review of CMA markets remedies

CCTA position

- CCTA supports the CMA's provisional decision to revoke the Payday Lending Market Investigation Order 2015 in full.

- The payday lending market and its regulatory framework have changed substantially since the Order was introduced. The number of active lenders and the volume of lending have reduced, while the market is now subject to extensive FCA regulation.

- The Order's price-comparison website and summary-of-borrowing requirements no longer provide a sufficient additional competition benefit to justify retaining a separate CMA remedy.

- Revocation would remove an outdated regulatory layer. It would not remove the FCA's price cap or its wider protections, including creditworthiness requirements and the Consumer Duty.

CCTA welcomes and supports the CMA's provisional decision to revoke the Payday Lending Market Investigation Order 2015 in full. This is consistent with the position set out in our response to the CMA's earlier consultation.

We continue to believe that the Order no longer reflects the structure of the market or the regulatory framework within which payday lenders now operate. Its remaining requirements do not provide sufficient additional benefit to consumers or competition to justify their continuation.

The market and regulatory framework have changed

The Order followed a market investigation begun in 2013, with findings published in 2015. Since then, the number of active payday lenders and lending volume have fallen substantially, and the availability of regulated high-cost short-term credit has contracted.

The regulatory framework has also developed significantly.
The FCA regulates consumer-credit firms, and high-cost short-term credit is subject to a specific price cap. Firms must also comply with detailed requirements covering creditworthiness, repeat lending, financial promotions, customer support and the Consumer Duty.

These changes mean that the competitive conditions and consumer-protection framework are materially different from those assessed when the Order was made.

The price comparison website remedy

The Order requires online payday lenders to publish details of their products on at least one FCA-authorised payday loan price-comparison website. The remedy was intended to make comparison easier and strengthen price competition.

The dedicated comparison market has not developed into a sustainable or effective mechanism capable of delivering the competitive benefits originally anticipated. This is particularly relevant in a much smaller market in which prices are constrained by the FCA cap.

Retaining the publication requirement cannot by itself create effective comparison or consumer choice where the underlying market and comparison infrastructure have changed. It instead preserves a product-specific process whose practical value has diminished.

The summary of borrowing requirement

The Order also requires online and high-street payday lenders to give existing customers a summary of their borrowing costs. This was introduced to improve transparency, particularly for customers who borrowed repeatedly.

Customers now have greater digital access to account and borrowing information. FCA disclosure requirements have strengthened, and the Consumer Duty requires firms to support customer understanding and deliver good outcomes. The separate CMA requirement should therefore be assessed against the protections and information already provided under the current regulatory framework.

CCTA does not believe this requirement still addresses a distinct competition problem that justifies retaining the Order.

Effectiveness and proportionality

A market investigation remedy should continue only where it remains effective and proportionate in addressing a current adverse effect on competition. A finding made in a materially different market should not become a permanent regulatory layer without clear evidence that the problem and the value of the remedy remain.

Maintaining requirements that no longer deliver their intended outcome adds operational complexity and cost without a corresponding benefit. In a market with fewer firms and reduced lending, unnecessary regulatory layering may also make entry and sustainable provision more difficult, weakening rather than strengthening competition.

Consumer protections would remain

Revocation of the Order would not deregulate payday lending. The FCA's high-cost short-term credit price cap would remain, together with its wider rules, principles and supervisory framework.

Firms would remain subject to requirements concerning creditworthiness, financial promotions, repeat lending, customers in financial difficulty and the Consumer Duty. Revocation would therefore remove a historic competition remedy without removing the consumer protections that now govern the market.

Conclusion

CCTA therefore supports complete revocation of the Payday Lending Market Investigation Order 2015 and encourages the CMA to confirm its provisional decision.

The market and regulatory framework have changed materially; the remaining remedies no longer provide sufficient additional competition benefit, and the FCA's consumer protections would remain in place.

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