

HOME CREDIT MARKET INQUIRY

Notice of possible remedies under Rule 11 of the Competition Commission Rules of Procedure

Introduction

1. On 20 December 2004, the Office of Fair Trading (OFT) referred the supply of home credit in the United Kingdom ('the relevant market') to the Competition Commission (CC) for investigation. The reference was made under the provisions of section 131 of the Enterprise Act 2002 (the Act).
2. In its provisional findings on this reference published on **27 April 2006**, the CC has provisionally found that there are features of the relevant market, either alone or in combination with each other, that prevent, restrict or distort competition in connection with the supply of home credit in the UK. Hence, there is a provisional finding of an adverse effect on competition (AEC) within the meaning of section 134(2) of the Act. The provisional findings report identifies those features and the detrimental effects on customers which have resulted from or may be expected to result from the AEC.
3. This notice invites comments on the actions which the CC considers might be taken by the CC, or recommended for implementation by others, for the purpose of remedying, mitigating or preventing the AEC concerned or any resulting detrimental effect on customers.

Criteria

4. In choosing appropriate remedial action, the CC has a duty to achieve as comprehensive a solution as is reasonable and practicable to the AEC and any

detrimental effects on customers resulting from it as set out in section 134(6) of the Act.

5. The CC will consider the effectiveness of different possible remedies and their associated costs and will have regard to the principle of proportionality. Between two remedies which the CC considers equally effective, it will choose that which imposes the least cost or restriction. The CC is aware that the home credit product in its current form fulfils an important role for a significant number of customers and will consider the likely effect of remedies on the future supply of credit to such customers.
6. The CC will also have regard to the effects of any remedial action on any relevant customer benefits within the meaning of section 134 (8) of the Act arising from the feature or features of the market concerned. Such benefits comprise lower prices, higher quality or greater choice of goods or services or greater innovation in relation to such goods and services. The CC welcomes views on the nature, scale and likelihood of any such benefits and the potential impact on such benefits of possible remedies.

Possible remedies on which views are sought

7. The various measures, alone or in combination, that are currently being considered by the CC as possible remedies to the AEC and customer detriments that have been identified in the provisional findings report for the supply of home credit in the UK, and on which comments are invited,¹ are set out below.
8. These comprise (a) measures in relation to sharing of data, better pricing information for customers on a better basis of comparison and possible changes to canvassing regulations, which would be expected over time to reduce the advantages of

¹Part 4 of CC guidance CC 3 outlines the statutory questions which the CC has to answer if it has decided that there is an AEC.

incumbent suppliers and to improve awareness of prices amongst customers and suppliers; and (b) pricing measures, including a possible pricing cap, to give more immediate help to customers in the short term.

Data sharing

9. The CC has provisionally found that (a) the inability of customers to convey information (on which lenders can confidently rely) about their creditworthiness to lenders with whom they do not currently have a relationship; and (b) the asymmetry of information about customers' creditworthiness between lenders who have a relationship with the customer, and lenders who do not, result in information shortfalls. The effect of these information shortfalls is that once a customer has a loan with one lender, the customer will be more likely to borrow from that lender than to switch to another, even if the other offers better prices. The CC further found that the absence of data sharing among most home credit lenders contributes to the preservation of these information shortfalls and thus to incumbency advantages enjoyed by incumbent lenders. In particular, the CC has reached the view that these information shortfalls are structural features which result in an AEC.
10. The CC is considering a remedy that would be structural in effect, in removing a substantial part of these information shortfalls by requiring home credit companies to supply data regarding their current customers to one or more of the credit reference bureaux (CRBs) who are members of the Standing Committee of Reciprocity (SCOR)² in the UK. The CC is considering, and invites comments on, the following factors in relation to the supply of data to the CRBs:

²For a CRB to join SCOR it must:

- have a closed user group requiring members of that group to be supplying and accessing shared records;
- have a minimum 10 per cent of shared records. Current volumes of shared records are circa 250 million, therefore the current requirement is for a CRB to have 25 million shared records;
- at least 50 subscribers to shared data;
- independent audit of security;
- compliance with the Principles of Reciprocity;

- (a) which home credit suppliers should be required to supply data, for example, should this requirement only apply to companies which achieve an annual turnover in excess of a specified level, and if so what level would be appropriate;
- (b) the nature and extent of data to be supplied, in particular whether full data should be supplied as defined by the Principles of Reciprocity agreement (2005);³
- (c) whether past and current home credit repayment data is predictive of future repayment such that a lender can make practical use of such payment data;
- (d) whether all home credit data should be defined as a separate product under the Principles of Reciprocity agreement (2005), or whether the data should be combined with data held by the CRB relating to another current product such as credit cards;
- (e) the nature of the financial relationship between the home credit suppliers and the CRBs and the cost of the various data-sharing alternatives;
- (f) how best to ensure the integrity of the data supplied by home credit suppliers, for example whether the data should be audited periodically;
- (g) the extent to which any home credit suppliers which were not required to supply data may wish to participate in the data-sharing scheme;
- (h) how the agreement of customers to the sharing of data by home credit suppliers with CRBs might be secured (whether as a condition of granting a home credit loan, as is normal under current arrangements, or otherwise);
- (i) how credit searches as defined by the Principles of Reciprocity agreement (2005) for home credit should be recorded by the CRB;
- (j) any other measures that might be necessary in order to ensure the usefulness of the data to other credit suppliers and to customers; and
- (k) how quickly such a requirement could be implemented and the timeliness and extent of any effect on the AEC or customer detriment of such a requirement.

- compliant with the Data Protection Act 1998 and other relevant legislation; and
- a contribution on joining to SCOR funding.

Source: Principles of Reciprocity agreement (2005).
³Appendix 2.1 of the provisional findings report.

Price information

11. The CC has provisionally found that home credit customers appear to pay most attention first to availability, and then to the level of the weekly payment, and less to measures of value (or price) such as the annual percentage rate (APR) or the total cost of credit (TCC) and that customers' observed insensitivity to price changes is reinforced by their difficulty in assessing and comparing prices. The CC also found that price competition among suppliers is weak. The CC considers that the lack of price sensitivity and the lack of price competition result in an AEC.

12. The CC is therefore considering measures aimed at ensuring that home credit customers are better placed to make informed decisions regarding their use of home credit and home credit suppliers have a stronger incentive to price competitively.

13. Specifically the CC is considering requiring home credit suppliers to publish indicative prices for some or all of their products. In particular, the CC is considering the following in relation to the publication of indicative prices:
 - (a) whether indicative prices should be shown for all cash products;
 - (b) which home credit suppliers should be required to provide indicative prices;
 - (c) how best to publicize indicative prices to make them accessible for the customer (possible 'points of publication' might include citizens advice bureau, teletext, a central telephone service and a central website);
 - (d) what should be disclosed in the indicative price in order that customers have relevant comparators, for example the term of the loan, weekly payment, APR, rebate terms and TCC;
 - (e) whether the points of publication (in 13 (c)) should be mentioned in all advertising or marketing material produced by the companies;
 - (f) who would be responsible for monitoring and compiling any such points of publication, the likely costs involved and who would be responsible for the cost;

- (g) whether suppliers should additionally be obliged to provide (remotely) indicative prices to customers on request (over the telephone, by post or online);
- (h) whether any point of publication would also provide details of the home credit suppliers active in particular areas. Such a facility could, for example, allow customers to give their postcode and receive a list of suppliers serving their area together with the indicative prices; and
- (i) any other measures that might be necessary in order to ensure the usefulness of the indicative prices to customers.

Comparable products

14. The CC has provisionally found that customers' observed insensitivity to price is reinforced by their difficulty in assessing and comparing prices for home credit products. The CC also found that lenders do not offer loans on terms which make their prices easy to compare, especially given that the APR is an imperfect basis for comparison in this market. The CC considers it difficult for customers to compare prices effectively in such circumstances. The CC considers that the lack of comparability adds to customers' lack of price sensitivity, which generates an AEC. The CC is therefore considering measures aimed at ensuring that home credit loans are easier to compare and hence enable customers to make more informed decisions. These might include for example a requirement to provide loans which have a standard number of weeks. Any such measures might be necessary either alongside or in place of other measures.

Statements

15. The CC has provisionally found that the payment book was not a credible way for customers to convey information about their creditworthiness to lenders with whom they do not currently have a relationship. For example, a significant minority of home credit customers do not have, or cannot produce, a payment book; lenders are

unable to authenticate the accuracy of, or rely on, the payment book; and lenders who have remote lending models do not currently assess home credit payment books. The CC also found in the provisional findings that customers are insensitive to price (see paragraph 11). The CC has found that the customers' lack of price sensitivity and the information asymmetries in the market generate an AEC.

16. The CC is therefore considering the following measures, outlined in paragraphs 17 to 19, in relation to the provision of statements and default/arrear notices. The proposed measures seek to ensure that statements are provided in a form and at times that are most appropriate to the requirements of home credit customers. In particular, statements should be capable of conveying information regarding customers' creditworthiness to lenders with whom the customer does not currently have a relationship (ie they could be used as a 'customer credit certificate') and statements should provide details of the cost of loans in a form that will address the customer's lack of price sensitivity. The CC has noted that home credit suppliers are required to comply with section 77 of the Consumer Credit Act 1974 (under which customers can request a statement for the price of £1) and will be required to provide a statement annually when the relevant provisions of the Consumer Credit Act 2006 come into force.
17. Specifically, it is proposed that statements under section 77 and 77A⁴ should provide sufficient information to identify the home credit supplier and customer, price of the loan (expressed in TCC terms), the customers' current indebtedness, the customers' payment history and information on where the customer could find the prices for comparable products, for example the points of publication in paragraph 13(c). Views are also invited on the appropriate content and form of statement information

⁴To be inserted by section 6 of the Consumer Credit Act 2006.

18. Further, when complying with the notices of arrears and defaults provided under the Consumer Credit Act 2006, suppliers would have to provide the information as outlined in paragraph 17, plus information that might be necessary to ensure that the customer is adequately notified regarding any charge for default.
19. In addition the CC is considering:
 - (a) whether home credit customers should routinely receive statements outlined in paragraph 17 more often than once a year and whether all customers should receive a statement four to six weeks before the contractual end of the home credit loan; and
 - (b) whether home credit customers should have to pay £1 for any statements requested by them (see paragraph 16).

Canvassing

20. The CC has provisionally found that home credit suppliers have an incumbency advantage which is reinforced by the current regulatory restrictions on canvassing which inhibit lenders in competing directly for new customers. Though the CC is alert to the wider issues regarding consumer protection the CC is considering the following regarding the current requirement for a permission to call:
 - (a) whether there should be a removal of the requirement for a permission to call; or
 - (b) whether the permission to call requirement should be waived under certain circumstances, such as if the customer has requested a visit over the phone—for instance, in response to price information supplied under measures outlined in paragraphs 12 to 13 above, and this request has been recorded by the company.

Increasing the early settlement rebate (ESR)

21. The CC has provisionally found that the price paid by customers when they repay loans early, including when they renew loans, is high, as a result of the low level of

rebates paid when loans are settled early. Further, the CC found that lenders failed to compete on the level of the rebate. The CC considers that this has resulted in low rebates for customers. Further, the CC found that rebates paid were lower than the sum obtained by applying an actuarial calculation based on the APR and the actual settlement date. This is because a later date is treated as the settlement date for calculation purposes. The failure to compete on rebates has meant that customers have not got more than the statutory minimum.

22. The CC is therefore considering measures aimed at ensuring that home credit customers receive an improved rebate.

23. In particular the CC is considering:

(a) whether home credit suppliers should be required to give a higher ESR to customers than that based on the actuarial formula outlined in the Consumer Credit (Early Settlement) Regulations 2004;

(b) whether the higher ESR (outlined in 23(a)) should be based on the actuarial formula or whether it should be based on a straight line method of dividing the TCC into equal weekly amounts; and

(c) whether, if the ESR is to be based on the actuarial formula outlined in the 2004 regulations, home credit suppliers should be entitled to retain interest for any period after the actual settlement date.

Price caps

24. The CC has provisionally found that failure of lenders to compete on price together with the information shortfalls in the market have resulted in high prices for customers. The CC outlined a substantial customer detriment in section 7 of the provisional findings report.

25. The CC is minded to consider a price cap on home credit loans if it appeared likely that other less intrusive measures, such as those outlined in this Remedies Notice, would not adequately address the AEC and resulting customer detriments in a timely and effective manner. The CC would pursue such a measure with reluctance in view of the difficulties generally associated with price controls imposed for a lengthy period. With these considerations in mind the CC invites comments on:

- (a) which loans should be covered by any cap;
- (b) the length of time that any cap should remain in force (for example, for a minimum of three years);
- (c) whether such a cap should be based on the TCC⁵ but include some types of payment not included in the TCC such as late payment fees and charges;
- (d) what level(s) such a cap should be set at;
- (e) whether such a cap should be related to the term of the loan, so that longer loans have higher TCC caps;
- (f) whether, and to what extent, such a cap would reduce credit availability to certain customer segments;
- (g) whether, and to what extent, such a cap would impede the effectiveness of other remedy options;
- (h) whether such a cap would become a focal point for prices within the home credit industry; and
- (i) whether, and to what extent, such a cap would reduce the incentives for firms wishing to enter the home credit industry.

Other possible remedies

26. The CC is willing to consider any practical alternatives to the possible remedies outlined above that the parties to the inquiry or other persons would like to propose,

⁵The relative use of TCC as apposed to APR is discussed in section 3 of the provisional findings.

which they consider would appropriately address the identified AEC or resulting detrimental effects.

Options that the CC is not minded to pursue

27. The CC has considered measures that have been suggested to us that restrict or otherwise impact on agent behaviour. These include measures such as requiring all agents to possess a credit licence, regulating agent pay to provide agents with incentives to exhibit particular behaviour, banning agents from providing customers with renewal loans or otherwise regulating agents' conduct. The CC notes that section 38 of the Consumer Credit Act 2006 will give wide powers to the OFT if it is dissatisfied with any matter in connection with any business being carried on by a licensee or any other conduct of a licensee. These powers would clearly be available if the OFT were dissatisfied with the conduct of agents when acting on behalf of the licensee. In addition, given that the CCs provisional findings outlined no features, adverse effects on competition, or customer detriments that resulted from agent behaviour, the CC is not minded to pursue these possibilities.

28. The CC has also considered the possibility of remedies which would structurally change market shares, such as obliging Provident to make a divestment that would reduce its market share. However the CC has not found that Provident's national market share in itself gives rise to an AEC, and it believes that other measures would provide more appropriate responses to the AEC and resulting customer detriments, so it is not minded to pursue this possibility.

Action by others

29. At this stage, the CC considers it unlikely that it will recommend the taking of action by others for the purposes of remedying, mitigating or preventing the AEC or any detrimental effect on customers resulting, or expected to result from the AEC. The

exception to this is if the CC considers that the only, or the most appropriate, way of implementing a remedy outlined in this Remedies Notice would be for another party to implement it (for example where the remedy could only be achieved by primary legislation or by statutory instrument),

Next steps

30. A copy of this notice will be posted on the CC's website. The parties to this inquiry and any other interested persons are requested to provide any views in writing, including any additional or alternative remedies they wish the CC to consider, by **2 June 2006** (see note *below*).

A handwritten signature in black ink, appearing to read 'Peter Freeman', with a long horizontal stroke extending to the right.

Peter Freeman
Group Chairman
27 April 2006

Note

- (a) This Notice of possible actions to remedy the AEC and any resulting detrimental effects is given having regard to the CC's provisional findings published on **27 April 2006**. The parties to the inquiry or other interested persons have until **2 June 2006** to respond to those provisional findings. In the light of any responses by the parties, or by other interested persons, the CC's findings may alter and the CC may consider other possible remedies, if appropriate.