

STORE CARDS MARKET INQUIRY

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

Introduction

1. On 18 March 2004, the Office of Fair Trading (OFT) referred the supply of the following services (the reference services) in the United Kingdom to the Competition Commission (CC) for investigation:

(a) store card credit services to retailers and services related thereto; and

(b) consumer credit through store cards.

The reference was made under the provisions of section 131 of the Enterprise Act 2002 (the Act). Following a period of consultation with interested parties, the OFT announced on 3 March 2005 that it had varied the terms of reference in accordance with section 135 of the Act. The varied terms of reference now refer to the supply of the following services:

(a) store card credit services to retailers and services, including insurance services related thereto; and

(b) consumer credit through store cards and insurance purchased in association with the provision and use of those store cards.

2. In its provisional findings on this reference published on 14 September 2005, the CC inquiry group (the Group) concluded that there was an adverse effect on competition (AEC) within the meaning of section 134(2) of the Act. The Group concluded that the combination of features of the relevant markets identified in section 9 of its provisional findings: (a) insulates consumer credit services provided through store cards from the competitive pressures that would otherwise be brought to bear on them from credit cards, including store-branded credit cards, which we regard as the closest potential substitutes for some store cards; and (b) insulates insurance purchased in association with the provision and use of store cards from the competitive pressures that would otherwise be brought to bear on it. That combination of features thus prevents, restricts or distorts competition in connection with the supply of (a) consumer credit through store cards in the UK; and (b) insurance purchased in association with the provision and use of store cards in the UK. Section 9 also identifies (in paragraph 9.6) 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 Group 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. No significance should be attached to the ordering of the measures set out in this notice.

Possible remedies on which views are sought

4. The various measures that are currently being considered by the Group as possible remedies to the AEC and the detrimental effects on customers identified in the provisional findings, and on which comments are invited, are set out below.

(a) Full information on statements

5. In its provisional findings the Group has reached the view that the features contributing to the AEC identified and the detrimental effects resulting from, or expected to result from, the AEC include the following:

- (a) Most store card providers do not provide adequate information on customers' monthly statements about APRs, late payment fees or insurance charges, or how these contribute to the current and ongoing costs of revolving credit on their store cards.
- (b) Most retailers' customers do not exert competitive pressure on APRs (either at the take-up stage or when they take credit) because their sensitivity to them is low.
- (c) Most retailers offering store cards do not exert competitive pressure on the level of, or the provider's policy in relation to, the levying of late payment fees.
- (d) Most retailers' customers do not exert competitive pressure on the level of late payment fees levied on store cards.
- (e) Most retailers' customers do not exert competitive pressure on premiums for insurance purchased in association with the provision and use of store cards because their sensitivity to the price of such insurance cover is low and they have a poor understanding of the terms of the cover they are purchasing.

The Group is therefore considering measures which seek to address these features by ensuring that all store card customers are consistently well placed to take informed decisions regarding use of store card credit and the extent of their store-card-related insurance.

6. In particular the Group is considering a requirement that every store card statement should prominently display:
- (a) the annual percentage rate (APR) applicable to outstanding balances;
 - (b) an estimate of interest payable in the event that the card holder only makes a minimum payment;
 - (c) the level of late payment fees;
 - (d) a 'wealth warning' outlining the consequences of only making minimum payments; and
 - (e) the level of insurance charges and type of insurance cover purchased, if applicable, and contact details for amending or cancelling cover.
7. The remedy would also require disclosure on the statement of:
- (a) the assumptions used in calculating the interest estimate;

(b) the policy for charging late payment fees; and

(c) the basis of insurance charges and cancellation rights in relation to insurance cover.

8. It is recognized that some store card schemes already provide some of the above information or plan to do so at some point in the future.

(b) 'APR warning notice' on store card statements

9. The Group is also considering a requirement that, where a store card APR exceeds a specified threshold level, the store card provider will be required to display a very prominent warning notice on each regular statement informing cardholders that the APR on the store card may be high compared to alternative sources of credit available to them. For illustration the wording might be expressed as:

The rate of interest charged on your xxxxx store card of xx per cent APR may be higher than other sources of credit available to you. It may be costly for you to leave balances owing on your store card after the end of the interest free period.

10. It is envisaged that the threshold level could be linked to base rate and this remedy would remain in force for a limited period. We currently have in mind that the OFT would review whether the threshold should remain in force after a period of around three years. Views are particularly sought on the appropriate level of the threshold and the period for which it should apply.

11. As in the 'Full information on statements' remedy above, this proposal would seek to address some of the features listed in paragraph 5 (and the resulting detrimental effects) by ensuring that all store card customers are consistently well placed to take informed decisions regarding use of store card credit. In addition, it seeks to address the feature that most retailers offering store cards do not exert competitive pressure on APRs by creating an incentive for retailers to negotiate lower APRs with providers in order to avoid any adverse reputational effects of the warning notice.

(c) Provide and prominently display facility to pay outstanding balances by direct debit

12. In its provisional findings, the Group has reached the view that one of the detrimental effects which has resulted from or may be expected to result from the AEC is that most store cardholders who take credit pay higher prices for store card credit than would be expected in a competitive market. The Group is therefore considering measures which aim to reduce the proportion of cardholders revolving credit inadvertently or through inertia as a result of a lack of awareness of APRs and payment terms. The Group is also seeking to address the absence of pressure from customers on store card APRs and late payment fees by providing an avenue by which customers can easily choose (fully or partly) to avoid incurring these costs.

13. The Group is therefore considering a requirement that all store cardholders should be given the option of paying outstanding balances in full or a fixed monetary limit¹, by direct debit and that this option should be prominently displayed on the first page of each regular statement and in initial contractual material when store cards are

¹As specified by the cardholder.

applied for. In many store card programmes a facility for paying by direct debit is currently available but its existence is not always readily apparent. The monetary amount on direct debits should also be capable of being varied easily at the cardholder's discretion.

(d) *Separate offer of payment, purchase and price protection insurance*

14. In its provisional findings, the Group has reached the view that the features contributing to the AEC identified and the detrimental effects resulting from, or expected to result from, the AEC include the following:

(a) Many store card credit providers combine different insurance products into packages (that is, payment protection insurance offered with purchase and/or price protection insurance) which they sell in association with store cards.

(b) Most retailers offering store cards do not exert competitive pressure on providers to lower their insurance premiums or to offer the components of PPI separately.

(c) Most retailers' customers do not exert competitive pressure on premiums for insurance purchased in association with the provision and use of store cards because their sensitivity to the price of such insurance cover is low and they have a poor understanding of the terms of the cover they are purchasing.

The Group is therefore considering measures aimed at providing greater choice for customers in selecting insurance products to match their needs and which would enable each element of the insurance package to be compared with competitor offerings.

15. The Group is considering a requirement that if providers offer 'packages' of two or more elements of payment, purchase and price protection insurance, they should offer each element to store card customers separately.

Other possible remedies

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

17. The Group has considered the imposition of a cap on store card APRs as a possible remedy. Such a cap could be imposed for a limited period in parallel with some of the remedies outlined above if it was felt that the measures set out above would not act sufficiently quickly or effectively on their own in addressing the identified AEC and resulting detrimental effects. The Group is not minded to pursue this possibility at present but may do so if it appears, from discussions with the parties to the inquiry and other interested persons, that other remedies are unlikely to be effective in addressing the identified AEC and detrimental effects in an appropriate timescale. The Group would, nevertheless, consider views on the possible imposition of a cap on store card APRs.

18. The Group has also considered the possibility of structural remedies, such as divestiture of store card contracts, but does not believe, that such remedies would be effective or proportionate in addressing the AEC or resulting detrimental effects it has identified.

Action by others

19. At this stage, the Group 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.

Criteria

20. In choosing appropriate remedial action, the Group will have regard to the need to achieve as comprehensive a solution as is reasonable and practicable to the AEC and any detrimental effects resulting from it as set out in section 134(6) of the Act. When deciding on what is an appropriate remedy, the Group 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 Group considers equally effective, it will choose that which imposes the least cost or restriction.

Relevant customer benefits

21. The Group 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 Group welcomes views on the nature, scale and likelihood of any such benefits.

Next steps

22. A copy of this notice will be posted on the CC's web site. 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 Group to consider, by 11 October 2005 (see note (a)).

Signed



Christopher Clarke
Group Chairman
14 September 2005

Note

- (a) This Notice of possible actions to remedy the AEC and any resulting detrimental effects is given having regard to the Group's provisional findings published on 14 September 2005. The parties to the inquiry or other interested persons have until 11 October 2005 to respond to those provisional findings. In the light of any responses by the parties, or by other interested persons, the Group's findings may alter and the Group may consider other possible remedies, if appropriate.