

Findings

1. Introduction

Reference

- 1.1 On 20 December 2004, the OFT referred to the CC for investigation and report the supply of home credit in the UK.
- 1.2 The OFT made the reference to the CC after having:
- on 14 June 2004 received a supercomplaint from the NCC¹ under section 11 of the Enterprise Act 2002 (the Act) on the market for home credit;
 - on 10 September 2004 published its response to the supercomplaint and issued under section 169 of the Act a consultation paper on making a market reference to the CC. The consultation closed on 18 October 2004; and
 - considered the supercomplaint and the responses to its consultation.
- 1.3 The OFT made the reference under section 131 of the Act (which empowers it to make market investigation references). The CC is required, by virtue of section 137 of the Act, to prepare and publish its report within a period of two years, that is, by 19 December 2006.
- 1.4 The CC's terms of reference are set out in Appendix 1.1.
- 1.5 Under section 134 of the Act, the CC is required to investigate whether any feature, or combination of features, of each relevant market² prevents, restricts or distorts competition in connection with the supply or acquisition of any goods or services in the UK or a part of the UK. If there is such a feature or combination of features, there is said to be an 'adverse effect on competition' (AEC).³
- 1.6 If the CC decides that there is an AEC, it is required under section 134(4) of the Act to decide whether action should be taken by it, or whether it should recommend the taking of action by others, for the purpose of remedying, mitigating or preventing the AEC concerned or any detrimental effect on customers⁴ so far as it has resulted from, or may be expected to result from, the AEC; and, if so, what action should be taken and what is to be remedied, mitigated or prevented.

¹Although the NCC was not at the time formally designated as a supercomplainant, the OFT decided to treat the NCC's submission as a supercomplaint.

²For the purposes of the CC's investigation, 'relevant market' is defined in section 134(3) of the Act as a market in the UK for goods or services of a description specified in the reference concerned.

³The Act states (section 131(2)) that, for the purpose of a market investigation reference, a feature of a market in the UK shall be construed as:

- (a) the structure of the market concerned or any aspect of that structure;
- (b) any conduct (whether or not in the market concerned) of one or more than one person who supplies or acquires goods or services in the market concerned; or
- (c) any conduct relating to the market concerned of customers of any person who supplies or acquires goods or services.

⁴A detrimental effect on customers is defined in section 134(5) of the Act as one taking the form of:

- (a) higher prices, lower quality or less choice of goods or services in any market in the UK (whether or not the market to which the feature or features concerned relate); or
- (b) less innovation in relation to such goods or services.

Context

- 1.7 The home credit industry has been the subject of considerable public scrutiny for some time. Some of the attention, including that which culminated in the super-complaint, had focused on the price paid by home credit customers for what is, for many of them, one of few available sources of credit. We were fortunate at the outset of the investigation to benefit from an extensive body of academic research and applied market research bearing on sub-prime credit and relevant, either directly or indirectly, to home credit. Some of the key studies (conducted by people other than home credit lenders) of moneylending, indebtedness, financial exclusion and related issues since 1994 are discussed in our paper entitled *Review of Pre-existing Customer Research* which is published on our website.¹ We are grateful to the authors for work which clearly was not aimed at us but which nonetheless provided valuable background and context for our investigation. The direct relevance of some of these studies to home credit and to competition varies, as does the nature of the research that underpins them and the numbers of people who participated. We have been careful to place appropriate weight on their findings.
- 1.8 Since the outset of our investigation, we have been alive to the broader social and/or public policy issues beyond competition which arise in relation to home credit in particular, to financial inclusion and to consumer credit generally. We have observed that these issues give rise to continuing, sometimes intense, debate and periodic regulatory action. Appendix 1.2 summarizes significant developments (including, for example, Parliamentary, Government or regulatory activity) in related areas which either preceded, or have taken place alongside, our investigation.
- 1.9 Throughout our investigation, we have been offered evidence not only on competition within home credit but also on some of these wider issues. This has been useful in reminding us of the broader context within which we are conducting our investigation. We are well aware of, and understand, that context. Moreover, we recognize that any action of ours could have repercussions beyond the competition matters which we have investigated. Our terms of reference, however, require us to consider the competition aspects of the home credit market. We are neither remitted nor equipped to examine the place of home credit within social or public policy, still less financial inclusion or consumer credit generally. Our investigation therefore has necessarily had to focus on the nature, extent and effect of competition in the provision of home credit and on the impact of competition on home credit customers. On remedies (see Section 9), we have taken account, for example, of the possible impact of action on our part on financial exclusion and illegal lending. These factors formed part of our consideration but, as Section 9 shows, did not determine our thinking.
- 1.10 On the few occasions, in the course of our investigation, where we have found an issue which we think to be more properly the responsibility of others, we have brought it to the attention of the relevant authority.

Conduct of the investigation

- 1.11 In conducting our investigation we have had regard to the CC's published guidelines on market investigations² and other published guidance. Following the receipt of written submissions and other material from, and meetings with, parties affected by

¹www.competition-commission.org.uk.

²*Market Investigation References: Competition Guidelines*, CC3, June 2003—available on the CC's website.

the reference, we published on 18 April 2005 our Issues Statement. On 19 May 2005 we held an Open Meeting in Manchester, having previously placed advertisements in the local media (press and radio) inviting home credit customers to the meeting or to ring the CC on a freephone line. After the Open Meeting, posters were distributed via the Benefits Agency Publicity Register for display in suitable locations, again asking to hear from home credit customers. A summary of responses to the advertisements has been published on the CC website—see paragraphs 1.15 to 1.17 below. We also commissioned two major pieces of market research, a qualitative survey of home credit customers and agents by Andrew Irving Associates (the AIA survey) and a quantitative survey of home credit customers by NOP World (the NOP survey), and drew on market research performed by MORI Financial Services (MFS), including work on former customers, and by BMRB Target Group Index (TGI). The reports of all of these pieces of work are on our website.

- 1.12 In the light of submissions from parties on the Issues Statement, of views expressed at and relayed after the Open Meeting, of hearings with parties and of the results of the qualitative and quantitative research which we had commissioned, we published (on 27 October 2005) our Emerging Thinking. This, together with associated working papers, set out our then current thinking on the central issues of the inquiry that appeared to merit consideration. It was intended to assist the parties in understanding our concerns at that stage of the inquiry, to elicit reactions—and to aid transparency generally. It gave rise to further submissions from, and hearings with, parties. Taking these into account, we reassessed all the evidence provided to us and published for consultation (on 28 April 2006) our provisional findings and our Notice of possible remedies. These set out the findings which we were inclined to reach on the basis of evidence to date and outlined the remedies which seemed to us appropriate candidates for further consideration. We invited parties to respond within five weeks. The responses which we received were the basis of a further round of hearings. We refined the Notice of possible remedies first in our further thoughts on remedies circulated to those parties attending post-provisional findings hearings; and then in our proposed remedies published on 18 August 2006. This invited responses within three weeks.
- 1.13 This report, including its Decisions on remedies, takes account of our reassessment of all evidence received during the inquiry, including parties' comments and arguments put to us since publication of provisional findings and the Notice of possible remedies, including responses to the further thoughts on remedies and the proposed remedies. It amends where necessary both our provisional findings and our proposed remedies.
- 1.14 We received evidence from 54 home credit providers. Provident, the largest home credit provider, supplied us with a large number of submissions (more than all other providers combined) and was able to provide us with considerable volumes of data about its business. The frequency with which we refer to Provident, its views and evidence drawn from its business in this report should be taken to reflect its size, the volume of evidence it provided and our use of that evidence, rather than any undue focus on Provident to the exclusion of other providers.
- 1.15 In all, 107 companies and organizations (listed in Appendix 1.3) and 27 individuals have supplied substantive written or oral evidence to the investigation to date. Many other parties provided help by responding to our questionnaires. In addition to the Open Meeting noted in paragraph 1.11, we held 73 hearings. The Group of CC members conducting the investigation held 46 of these. A delegated Group member, or the staff team supporting the Group, held the others.

Publication

- 1.16 During this investigation to date, we published a considerable number of papers on the CC's website (www.competition-commission.org.uk/inquiries/current/homecredit/index.htm). These include evidence provided at different stages of the investigation, including non-sensitive versions of parties' written submissions and of their responses to our Remedies Notice, a transcript of the Open Meeting, our Issues Statement, the reports from the qualitative and quantitative research which we commissioned, our Emerging Thinking document and associated working papers, and further working papers prepared at later stages of the investigation. The full list of published material is at Appendix 1.4.
- 1.17 The working papers referred to in paragraph 1.16 reflect our consideration, up to the time of their publication, of topics relevant to our investigation, taking into account all evidence available at that stage. They do not, however, mark a position taken by us. Rather, they were the means of eliciting reactions and responses which are in turn taken into account as we worked towards a view, sometimes via publication of a further working paper. Our policy in this investigation has been to publish working papers in full (save for excision of material whose disclosure may be damaging to any party) as a basis for discussion and debate which will inform our further thinking. Publication of any working papers denoted work in progress as distinct from the conclusions which we subsequently reached. These conclusions take into account all the evidence put to us, including parties' comments on working papers and other published papers.
- 1.18 The Act requires us to have regard to the need to withhold disclosure of information where this could harm commercial or individual interests. Subject to that proviso, we have sought throughout the investigation to follow a policy of making as transparent as possible the material which we have issued and which we have received. In this way, we aim to stimulate open discussion and debate of the various issues that we have to consider.

Report

- 1.19 This document, together with its appendices, constitutes our report on the statutory questions that we have to decide under section 134 of the Act. It takes account of all the evidence received during the course of the investigation. It refers, where appropriate, to material not forming part of the document but published separately on the CC website. Parties studying the report may want from time to time to refer to the separately published material. The report, however, is self-contained and is designed to provide all material necessary for the understanding of our findings and decisions.
- 1.20 The rest of this document is structured as follows:
- Section 2 describes home credit, the regulatory environment in which it operates, and the characteristics of customers and lenders in the market. It aims to identify some of the peculiarities of home credit which we have borne in mind in our analysis.
 - Section 3 identifies the evidence of market outcomes which might lead us to believe that competition in home credit might be limited. It covers evidence relating to the level of prices, the profitability of home credit lenders, innovation and customer satisfaction.

- Section 4 assesses the competitive constraint on home credit from other forms of lending, and in doing so presents our conclusions on the definition of the relevant product market.
- Section 5 assesses the competitive constraint on home credit lenders from the threat or the reality of entry or expansion.
- Section 6 assesses the nature and intensity of competition, on price and other competitive variables, among home credit lenders.
- Section 7 draws together our analysis and presents our explanation for what we have found and our conclusions.
- Section 8 sets out our findings on features of the market.
- Section 9 sets out our decisions on remedies and our proposals for their implementation.