



**RESPONSE DOCUMENT
CMA NOTICE OF POSSIBLE
REMEDIES FOR PAYDAY
LENDING**

4th July 2014

EXECUTIVE SUMMARY OF OUR RESPONSE

The following memo consolidates GA's views and feedback on the proposed 5 remedies. At its highest level, our feedback can be summarized as follows:

- **Remedy 1: Price Comparison Website** – We are in broad support of enabling more informed customer decisions in the HCSTC market. That being said, building a ubiquitous price comparison website where customers can truly benefit from understanding the price of various products *available to them at the point of application* requires significant technology and brand building investments. We elaborate these challenges in the section below.
- **Remedy 2: Measures to Improve the Awareness of Additional Charges and Fees** – GA believes that current regulation ensures a robust amount of information and awareness of fees and additional default charges. Our primary concern in pursuing these additional measures is that it will only create more confusion for customers and lead to very busy website pages
- **Remedy 3: Measures to Help Customers Assess their own Credit-Worthiness** – We agree that
 - Customers can be better educated of the ramifications to their credit score in advance of pursuing a credit application
 - Real-time data updates of any new credit facility would be beneficial information to ensure good customer outcomes
 - The use of Quotation searches are beneficial for a customer who is shopping for the best and most suitable credit products available to them

That being said,

 - Prohibiting the visibility of credit searches to lenders, even within the context of real-time updates of credit facilities, will significantly and adversely affect customer outcomes due to an increase in poor lending decisions and fraudulent activity
 - Communicating to customers some level of initial eligibility or likelihood that a lender would grant credit would be difficult to put into a clear and useful metric that is standard across lenders and therefore valuable to a customer during her decision-making process.
- **Remedy 4: Periodic Statements of the Cost of Borrowing** – Similar to our views in Remedy 2, we believe current regulation provides adequate levels of communication on the costs of borrowing and that a remedy like this could end up causing far more confusion for the customer than benefit. Our customers have existing real-time access to the status of their accounts through our online account management system.
- **Remedy 5: Measures to Increase the Transparency of the Role of Lead Generators** – We believe brokers fulfill a vital function in the market by making customer acquisition more affordable for lenders. We are also in broad agreement on this remedy and feel increased enforcement of current FCA regulations will be beneficial to customers.

REMEDY 1: PRICE COMPARISON WEBSITE

26. Views are invited on the specification, effectiveness and proportionality of this remedy and, in particular, on the following:

(a) What are the main challenges in establishing an effective price comparison website in this market and how might these be overcome?

- a. Enabling risk-based pricing, sharing of application and Credit Reporting Agency (CRA) data and defining “level of eligibility”:
Price is a function of the credit quality of the underlying applicant. If the goal is to create an efficient market place with risk-based pricing so that customers can effectively shop for the best deals available to them, then the site needs to share application and CRA data with all participating lenders. If the goal is not to have lenders submit the best pricing based on application and CRA data, there needs to be another price measure by which all lenders need to abide. For example, price could be a function of the median interest rate offered to comparison site originated customers over some defined historical timeframe. The website would also need to standardize on a definition of “success rate” or “level of eligibility” should the customer decide to click through and access the lender’s offer. For example, many other checks around AML, debit card details and bank account details may result in the customer not getting final access to the credit offer.
- b. Price comparison should factor duration: The definition of price needs to be consistent so that it can be applied across products of different duration. In order to assist the customer in choosing the best product, a complete comparison matrix should be provided. For example, if Lender W presents the customer with a £100 loan that is one month in duration and Lender L presents a similarly-sized loan with six months in duration, we would recommend that monthly payments relative to the customer’s discretionary monthly income (income less expenses) be shown in addition to the total cost to borrow the amount.
- c. Methodology for ranking and filtering lenders must be established: The website will need to define a clear process for ranking and filtering search results. To the extent that lenders will not be given the necessary data to provide true risk-based pricing, then the operators of the comparison site will need to provide a methodology to rank and limit the number of lenders that show up in the first page of the search results. Showing too many lenders could be a problem and create confusion for the potential borrower,

(b) What features should a customer be able to specify when searching for a loan using the website? For example, should a customer be able to specify:

- (i) the duration and value of loan required
 - a. Yes

- (ii) the repayment structure of the loan (instalment loans vs traditional single repayment payday loans); and
 - a. All loan types should be included in order to provide the customer with their range of options and affordability. Since all instalment loans can be prepaid at any time with no prepayment penalty, the search functionality and related results, even for borrowers looking for a less than one month loan, need to include longer-term instalment loans. Otherwise, it is conceivable that lenders will create bespoke duration products solely for the purpose of bolstering search results.
 - (iii) inclusion of faster payment options, or the date on which customers wish cash to be received by; and
 - a. Yes
 - (iv) other characteristics of the loan or provider (and what those might be).
 - a. The site could include additional statistics with respect to historical participation in the comparison site, such as approval rate, number of loans / customers funded, number of years in business, number of FOS complaints in the last year, “Review Centre” ratings, and other important customer service features (hours of operation).
- (c) What is the best way of providing a comparative cost of a loan and how should the price of payday loans be disclosed for any given scenario – for example, should the total cost of credit and/or the total amount to be repaid be included?
- a. The total cost to borrow the given amount should be provided across all product structures. However, this must absolutely be paired with the payment schedule so that the customer can see repayment amounts to best manage their cash flows. For instalment loans, the cost of borrowing in the event of early repayment should also be included. It would also be important to show the number of customers that typically rollover their loans from a given provider. This way the typical total cost of credit to borrow from a single cycle lender with multiple rollovers can be compared to an instalment loan.
- (d) In which order should products be ranked (eg based on total cost of credit, or other metrics), and should customers be able to specify this ordering?
- a. Products could initially be ranked on price (e.g., monthly interest rate) offered to the customer by various lenders. Over time, the site could evolve to allow simple user-selected sorting based upon other criteria, including maximum loan amount offered, ratings, average amount of monthly payment, total cost of credit, interest rate, etc.

(e) How should repayment scenarios in which a borrower does not repay the loan on the originally agreed date be treated on the website – for example, should borrowers be informed of the possible cost of rolling over the loan, the costs associated with repaying the loan late and/or other scenarios in which additional fees or charges might apply?

a. Yes, rollover fees and late fees should be disclosed, and the typical number of times a borrower rolls over should be shown to demonstrate the true cost of borrowing.

(f) Which lenders and products should be included on the website? (i)

Should all authorised lenders be required to participate?

No lender should be required to participate

(ii) Should any non-payday lenders or products (for example, credit unions or instalment loans of longer than 12 months) be allowed to participate?

a. If the site is to be generally marketed as an unsecured loan comparison site, then we think it's very reasonable to allow non-payday lenders the ability to participate. If the site is meant to be a "payday loan" comparison website, then we think the site should be limited to providers of payday loans as defined by the FCA. Nonetheless, there needs to be some sort of indicator that allows price shopping customers reasonable assurance that they will ultimately receive funding if they are to click through an indicative offer based on pricing and/or amount.

(iii) Should lead generators or other intermediaries be excluded from being listed on the price comparison site?

a. Yes, there needs to be some minimum enforceable criteria for inclusion on the comparison site. A major concern here is one around customer privacy and data security. The criteria could be one of minimum historical lending revenue or portfolio balance. Ideally, lead generators would be encouraged to establish their own price comparison sites in order to compete against the site proposed by the CMA.

(g) How should the website be operated and governed?

Below we provide direct answers to the questions posed; however, if the CMA wants to change the method by which consumers find loans, then the rules for credit brokerage should be modified to eliminate the use of the "ping tree auction" model. The private sector should be actively competing for, creating, and pursuing this as a marketing opportunity. For example, the CMA could propose rules for concurrent auction of consumer loan application data and allow the consumer to judge what

product they want. This can be completely driven from the private sector.

Another alternative to the use of this remedy would be to require HCSTC lenders to perform a quotation search (at lower cost to the lender than currently offered by the CRAs) so that each customer get a specific approval and quotation that enables them to shop around. This moves the burden from creating a comparison site to an immediate ability to tell the customer if they would be approved through direction interaction with each lender at their respective web sites.

- (i) Who should maintain the website and make decisions about its ongoing development?
 - a. An independent, third party chosen by the CMA
- (ii) How should the website be funded (eg by payday lenders, and, if so, in what proportion)?
 - a. If the intention is to have a true price comparison site that serves as a catalyst for lower prices and improved competition, the entire website should be funded by the UK government

(h) How should the website be promoted?

- (i) Should lenders be required to include a link to the website on their own websites and in other communications with their customers? Should the website advertise through television and other offline channels?
 - a. Lenders should not be required to promote the comparison site, and instead should be allowed to promote the site as a sign of being a responsible, participating lender on the site
 - b. We think that brand building spend is likely an expensive proposition if the comparison site is 100% funded by the UK government, unless of course the UK government is able to receive heavily subsidized air time for what may be viewed as a public service announcement
- (ii) How could search engines be encouraged to display a link to the site when certain search terms are used?

Have the UK government require all major search providers provide a top of results link to the comparison site at no cost to the UK government. However, if over time the comparison site proved to be a useful and popular resource to a large percentage of consumers, the link would naturally appear prominently in search results, thereby validating the relevancy of the site to consumer needs.

- (iii) Should the website operator have a budget for advertising and promotion? How large a budget should be allocated for this purpose?

- a. This should be decided by the party or parties funding the website
- (i) What should be the relationship between this website and other relevant websites, offering independent information or advice about short-term loan products, such as lenderscompared.org.uk (which offers price comparisons for home credit products and certain other cash loans) and moneyadvice.service.org.uk (which offers general advice about using payday lenders)?
 - a. We do not have a specific opinion here. Perhaps there could be a relevant links page to these other sites, so long as the information provided does not cause additional confusion to customers.
- (j) What are the likely costs of this measure and how do they vary with the design of the remedy?
 - a. Without understanding the full scope of the website, it is extremely difficult to estimate the costs. A ceremonial but secure website that drives little traffic, such as lenderscompared.org, might cost £1 million to build and a couple hundred thousand pounds to operate annually. Adding in real-time price comparison functionality, advanced search functionality, and broad participation by lenders will require a significant technology investment and ongoing maintenance. Also, creating broad customer awareness will require significant spend. For example, to become a ubiquitous brand, 3 spent upwards of £15mm per year on marketing. A similar level of spending may be required in order to create the same level of awareness for customers.

REMEDY 2: MEASURES TO IMPROVE THE AWARENESS OF ADDITIONAL CHARGES AND FEES

34. Views are invited on the specification, effectiveness and proportionality of this remedy and, in particular, on the following:
- (a) Should additional fees and charges for late payment and/or rolling over of loans be made more prominent?
 - a. No. We believe these fees and charges, per the most recent FCA guidelines, are presented very prominently in all marketing material along with the new risk warning
 - (b) How and when should any notification of charges be presented in the borrowing process?
 - a. They are currently presented prior to application as well as part of legal documents
 - (c) Should fees and charges be demonstrated using one or more example scenarios? How should such scenarios be specified?
 - a. They are presented very clearly on the website as a total cost of borrowing as shown in the representative example

- (d) Should any information on fees for late payment or rolling over loans be included on any price comparison site, if one were created under Remedy 1?
- a. Yes
- (e) What are the likely costs of this measure and how do they vary with the design of the remedy?
- a. We see little incremental cost in the existing disclosure regime and would therefore see minimal costs in any new disclosures. However, it is possible that different lenders may implement these disclosures differently and may not comply with certain standards and give them an unfair advantage. We know that when customers apply online, they demand a smooth and simple user experience and when they don't get it, they will drop out of the process, and this makes additional process steps (including disclosures) more expensive to the lender. Disclosures are very important in the process, but must conform to uniform standards across all lenders.

REMEDY 3: MEASURES TO HELP CUSTOMERS ASSESS THEIR OWN CREDITWORTHINESS

40. Views are invited on the specification, effectiveness and proportionality of this remedy and, in particular, on the following:
- (a) Which of the above approaches, or which combination of approaches, is most likely to achieve the objectives of this remedy? Are there alternative approaches which would be more effective?
- a. The quotation search on a price comparison site is potentially the most effective means to achieve this. We agree that the following parts of the proposal could be very helpful:
 - i. Requiring lenders to state explicitly on their website and on any form requiring customers to enter their details whether they will undertake any form of credit check, and at what stage. This would ensure that customers would understand which applications submitted would have a potentially adverse impact on their credit score and/or ability to be approved by a given lenders since many lenders use credit inquiry information in their credit scoring and decision making
 - ii. Requiring lenders to provide CRAs with a real-time update of any new credit facility granted, while enabling lenders to have better visibility of actual loans taken out by customers
 - iii. Integrating an initial quotation/enquiry/eligibility check into a price comparison site (see Remedy 1).
 - b. This being said,

- i. Prohibiting the visibility of credit searches to lenders, even within the context of real-time updates of credit facilities, will significantly and adversely affect customer outcomes due to an increase in poor lending decisions and fraudulent activity
- ii. Communicating to customers some level of initial eligibility or likelihood that a lender would grant credit would be difficult to put into a clear and useful metric that is standard across lenders and therefore valuable to a customer during her decision-making process.

(b) To what extent are credit checks undertaken before the submission of a formal application for credit?

We use a variety of application consistency checks to the application such as checking against an internal list of good customers. We take such steps before submitting the application to the CRA for final data.

⁷ We understand that an enquiry/quotation search is currently used for establishing eligibility in mortgage lending and by insurance companies, whereas an application/credit search is undertaken at the point of formal application.

- (i) Where searches are made, are these typically quotation or application searches? What further benefit does an application search give to a lender over a quotation search?

We do not currently do quotation searches. That being said, a quotation search could have the benefit of encouraging the applicant to shop around. Quotation search fees at the bureau however must be dramatically reduced in order for this to be a viable method. For example today if we approve $X\%$ of applications with a per search cost of X GBP, and we were forced to do a search on every site visitor, it would cause our data costs to go up by X GBP / $X\% = X$ GBP per person lent to. This cost would be in addition to other costs already incurred by us in assessing acquiring the customer and assessing their affordability

- (ii) Would there be any benefit to the reference in the FCA's handbook on the ability of a customer to undertake a quotation search without affecting their ability to access credit being elevated in status from guidance to a rule?⁸

No

- (iii) Is there any benefit to other lenders and/or customers from searches leaving a footprint if a lender provides real-time CRA data updates of newly-issued loans?

As a lender, seeing the queries of other lenders is critical to help us understand the current customer behavior and appetite for credit. It is extremely valuable for creditworthiness, affordability and ability to repay. Furthermore, such information is critical to ensure fraudulent activity is minimized. Even in the backdrop of real-time data updates when a lender confirms credit to a customer, there will be a delay of hours to days between application of credit and the lender finally giving credit. During this delay, this information on credit search will be critical to ensuring the highest quality lending decisions are made and best customer outcomes are ensured

- (c) How can customers' understanding of which lenders would lend to them prior to the point of application be improved?

- (i) Where an initial eligibility check is performed by a lender and the customer is deemed 'eligible', should the lenders be required to ensure that all deemed eligible customers are approved should they make a formal application in the absence of evidence?

We could not guarantee that all eligible customers would be approved when they submit their final application. There could be changes in status, delays of different duration, and new information submitted on the final credit search. Separately, once a customer is "approved" after a full search or eligibility search, other checks such as AML, debit card / bank account details, fraud checks, etc. are performed. The failure of any one of these other checks may result in declining the customer

- (ii) Should lenders be required to present an indicative 'credit score'⁹ (from one or more CRAs) that a certain proportion (eg 90%) of their respective customers have at the point of application?

This could help a customer understand their chances of approval, but it would make comparison of their chances of approval across lenders difficult since it is possible each lender would report this metric differently.

- (d) To what extent are customers aware of and/or concerned about the possible impact of multiple credit searches on their ability to access credit?

We do not have direct data on this.

- (e) What are the practical challenges of integrating an eligibility check into a price comparison site?

The biggest challenge we see is obtaining permission from CRAs to participate given the number of lenders that might use a single data file to assess credit, where they might have sold many files prior to the site being launched. Similarly, it would not be fair to have a regulatory mandate create a windfall profit for the CRAs as a result of doing required searches for a large volume of consumers across many lenders

- (f) What are the likely costs of this measure and how do they vary with the design of the remedy?

Credit searches are typically application searches. A quotation search would give the lender just as much information as an application search. The difference is in the cost to the lender. With each quotation search costing around 1 GBP, too many people 'shopping around' would increase costs. Also, a lender is required to make an application search prior to extending credit even if a quotation search was done earlier. This doubles the cost of doing credit checks.

If applications searches are not allowed to be shown to lenders on credit files, the 'bad debt' incurred by lenders could increase by 20%.

REMEDY 4: PERIODIC STATEMENTS OF THE COST OF BORROWING

45. Views are invited on the specification, effectiveness and proportionality of this remedy and, in particular, on the following:

- (a) Should lenders be required to send a regular statement of borrowing costs to customers?

We are of the view that such information is already presented to customers while processing the loan in a very clear manner. Risk warnings, APR disclosures along with other information available in pre-contractual agreements make the risks associated with long term borrowing abundantly clear. As a result, we deem such steps unnecessary and potentially confusing to customers. Also, since customers tend to have loans with multiple lenders, receiving information in such a staggered manner may be unmanageable for customers. We think there should be general awareness programs reminding customers of the costs of long term borrowing. Such measure should be taken by the government.

- (b) The period of the statement (for example, quarterly, twice a year or annually), in light of the typical timescale of a payday lending relationship.

The statement can be made available to customers online on the website or through customer care at all times. We can send emails to customers every 2 months and physical statement can be sent every 6 months

- (c) Which customers should receive a statement and at what point and when should they cease to receive a statement?

Customers taking out more than 2 loans in a period of 6 months should receive such communication and should continue to get these for as long as this condition is true or the customers themselves want such communication to be stopped.

- (d) The method of distribution of the statement, for example by post, email, online or through other channels.

Should be largely online and email. Frequency for post contact should be limited to a maximum of once/twice a year since such communication is intrusive and also has higher costs associated with them.

- (e) The date on which the statement should be sent and whether this should be the same for all lenders.

Such communication can be triggered based on actions of customers.

- (f) What information should be included on the statement (for example, the number of loans, number of days that loans were taken out, total cost of interest, fees and charges over the period?)

Yes

- (f) What further material should be include with the statement – for example, where financial advice can be obtained or a link to a price comparison website should one be introduced under remedy 1?

Financial help – yes.

Price comparison website – we are of the view that lenders should not be required to market price comparison in any way. This would also ensure

that the price comparison site validate its relevancy and usefulness by organic metrics such as traffic and engagement. Lenders spend their marketing budget on acquiring these customers and it would be unfair for lenders to divert their hard earned traffic to another website. Moreover, this would go against the notion of free competitive markets and would be disincentive for lenders.

- (h) What are the likely costs of this measure and how do they vary with the design of the remedy?

REMEDY 5: MEASURES TO INCREASE THE TRANSPARENCY OF THE ROLE OF LEAD GENERATORS

57. Views are invited on the specification, effectiveness and proportionality of this remedy and, in particular, on the following:

- (a) Is existing regulation sufficient to ensure that clear information is provided to customers on the relationship between brokers and lenders?

We believe that the disclosures required under CONC 3.7.3 should effectively mandate all brokers to clearly state to customers that they are brokers and the relationship they have with other lenders. We also believe that making the guidance under CONC 3.7.4 mandatory for brokers to implement should further strengthen the disclosures required for brokers and should be enough to ensure fair practices from brokers.

- (b) Are there any additional compliance activities that the FCA should undertake?

Making 3.7.4 mandatory and providing strict and severe enforcement of rules on brokers

- (c) How should any such remedy be implemented?

All assets and practices of brokers in this regard should be audited from time to time to ensure compliance. This may even need to be done on a daily basis or multiple times per day.

- (d) Which classes of credit broker or other intermediary should any additional requirements apply to?

- (e) Should lead generators, affiliates and brokers be required to make a declaration as to the service they provide to customers and the relationship they have with lenders?

Yes

- (f) What content should the declaration include, for example:

- (i) the basis on which a customer is introduced to a lender (for example, by selling to the highest bidder in an auction process);

Yes

- (ii) what the cost of credit would be from the cheapest and most expensive lenders that the intermediary sells details to; and

Instead we would propose that customers be asked to select criteria important them in considering a loan, and then brokers should be allowed to match lenders meeting those criteria based on their discretion.

- (iii) an explicit statement that cheaper loans may be available from other lenders?

Yes

- (g) How should any declaration be enforced:

- (i) by requiring intermediaries to make a declaration; and/or

Yes

- (ii) by prohibiting lenders from using intermediaries that do not display an appropriate declaration?

Yes

- (h) How should the declaration be presented:

- (i) on a landing page or initial pop-up or frame; and

No

- (ii) at the point at which details are entered?

Yes

- (i) Should lenders be prohibited from selling or providing customer details to third parties?

No. We believe it helps customers find a loan at the time of their need.

- (j) Is there any risk that the business model of lead generators could be amended to avoid supervision by the FCA if any proposed remedy was implemented?
- (k) What are the likely costs of this measure and how do they vary with the design of the remedy?