

COMPETITION & MARKET AUTHORITY PAYDAY LENDING MARKET

INVESTIGATION

SUBMISSION ON BEHALF OF MEM CONSUMER FINANCE LIMITED, INSTANT CASH LOANS LTD AND EXPRESS FINANCE (BROMLEY) LTD IN RESPONSE TO THE CMA'S CONSULTATION ON AMENDMENTS TO ITS PROVISIONAL DECISION ON REMEDIES

1. Introduction

1.1 This Submission is made by DFC Global Corp ("DFC")¹ on behalf of MEM Consumer Finance Limited (MEM trading Payday UK), Express Finance (Bromley) Limited (Express Finance trading as Payday Express) and Instant Cash Loans Limited (ICL trading as The Money Shop) in response to the CMA's Consultation on amendments to the price comparison website and the statement of borrowing remedies published on 19 December 2014.

1.2 DFC has already provided its views on the CMA's Proposed Remedies by way of a Submission dated 8 July 2014, at a hearing with the CMA on 5 August 2014 and a further Submission dated 30 October 2014. DFC continues to rely upon the matters set out in those submissions and provides the comments below as a supplement to those submissions.

2. Response to proposed changes

2.1 The CMA has suggested changes to two of its proposed remedies namely:-

- (i) The price comparison website remedy (PCW remedy);
- (ii) The summary of the cost of borrowing remedy (the summary remedy).

2.2 DFC supports the principal change to the PCW remedy namely that the remedy should be implemented through the FCA's authorisation of credit brokers regime. DFC agrees that there are benefits which will accrue (including greater effectiveness and efficiency) as a result of a single regulatory framework being applied to PCWs by the FCA. In relation to the additional changes:

- (i) DFC also agrees that customers on a price comparison website should be able to view loans ranked on the basis of objective criteria and that

¹ References to DFC in this document should be taken to refer to MEM, Express Finance and ICL collectively as well as to DFC Global Corp.

the default ranking should be the price of the loan. However, DFC considers that in the event of different products having the same price, any secondary ranking should be on the basis of the normal commercial arrangements between the PCW and the PCW's customer.

- (ii) DFC agrees with the CMA that it is appropriate for retail lenders to be excluded from the order requiring participation in a PCW.
- (iii) In order to ensure that online lenders are not prohibited from supplying payday loans as a result of not being able to participate in a PCW, DFC agrees that the prohibition should not be applied where a lender has been unreasonably excluded from all authorised payday loan PCWs.

2.3 In relation to the second remedy, DFC repeats the submissions it made in its document of 30 October 2014. In DFC's view, the definition of the 12 month period should be amended to mean the 12 months immediately preceding the point at which a summary of borrowing is reviewed for the following reasons:

- (i) As illustrated by the CMA's analysis², a summary which relates to the twelve month period preceding access will enable borrowers to compare the cost of borrowing across multiple lenders more easily.
- (ii) Under the original proposal by the CMA, summaries provided by multiple lenders will only be comparable if all loans taken out by a borrower were subject to the same date for final repayment (which is unlikely to be the case).
- (iii) In addition, the original proposal by the CMA is likely to have very limited usefulness for a borrower in circumstances where a summary is not reviewed until 12 months after final repayment, in particular, where the terms and conditions applicable to the relevant payday loan have been amended in the interim period.
- (iv) In light of the significant limitations on the relevance of the summary under the original proposal, the costs implications of providing such a summary (as previously described by DFC), are disproportionate.

2.4 DFC also remains concerned that the requirement that the borrower confirms that they have reviewed the summary provided raises a number of issues particularly in the retail environment. DFC relies upon the matters previously set out in its submission of 30 October (see para 7.5 (v)). In the event that this obligation is to be retained for the retail sector, DFC requests that the obligation is framed such that DFC is required only to obtain confirmation from a borrower

² See para 66 of the Consultation on amendments to the price comparison website and the statement of borrowing remedies.

that he/she is aware of the availability of the summary and how best to access the summary.

3. **Timing**

- 3.1 As noted in the Submission of 30 October 2014, DFC considers that the implementation of this package remedy should be considered in the light of the significant changes to the market place and/or regulatory environment for all payday lenders. As a result of those developments DFC, as well as other payday lenders, is undertaking substantial changes in its strategic, commercial and internal operations including but not limited to the launch and modification of new and existing products. As such DFC requests that a reasonable period of time be given to implement this package of remedies. DFC would therefore request that a minimum of 12 months from the date of the order in relation to the summary remedy is given for implementation.

13 January 2015