

**Office of Fair Trading**

***Payday Lending: Consultation on a market investigation reference***

**A Response by Credit Action**

**Background**

Credit Action is a national financial capability charity (registered Charity in England & Wales No. 1106941) established in 1994.

Credit Action empowers people across the UK to build the skills, knowledge, attitudes and behaviours, to make the most of their money throughout their lives. It develops and delivers products and services which provide education, information and advice on money matters, in an appropriate way for young people and adults. Through its work Credit Action reaches approximately 500,000 UK citizens every year.

## **Introduction**

As an organisation, Credit Action is committed to helping people build their financial capability, and develop the skills necessary to manage their money effectively. In our view, fair and well-functioning markets are crucial to enabling consumers to make the best use of these skills, and to ensuring that they are able to make financial decisions in an informed and objective manner.

The UK's payday lending market is currently the subject of significant attention from policymakers and regulators, and recent research (including both the University of Bristol's study on *The impact on business and consumers of a cap on the total cost of credit* and the final report of the OFT's own Compliance Review of the sector) suggests that it is currently the source of significant consumer detriment.

While we recognise that payday loans can represent a valuable source of credit for those who have limited access to mainstream alternatives, this is no excuse for poor conduct. Therefore, the point raised by this consultation that "irresponsible lending ... may have its roots in the way competition works in this market" (paragraph 1.4) is concerning, and we understand the OFT's interest in consulting on whether to make a market investigation reference (MIR) to the Competition Commission. We set out our comments on this issue below.

## **Comments**

Overall, we support the OFT's provisional decision to make an MIR to the Competition Commission on the UK's payday lending sector.

Chapter 3 of the consultation highlights various aspects of the payday lending market which prospectively prevent, restrict or distort competition, specifically focusing on endemic poor compliance with regulation, lack of transparency around costs, price insensitivity amongst consumers, high switching costs particularly around roll overs, and market concentration and barriers to entry for new firms. We view each of these issues as potentially very serious and therefore believe they warrant further investigation by the Competition Commission, especially given the strength of the evidence that the OFT presents in making its case.

Furthermore, given the systematic nature of the failures that the OFT has identified, we recognise the difficulty that it faces in addressing these issues on a firm-by-firm basis. As noted in paragraphs 4.4 and 4.6, the industry-wide nature of the problems means that there is no guarantee that alternative approaches such as enforcement and compliance action, or undertakings in lieu of a reference, will provide effective resolution. Therefore, we agree with the OFT's judgement that this helps satisfy the reference test set out in Section 131 of the Enterprise Act 2002, and that an MIR is justified.

Ultimately, it is crucial that the payday lending industry is made to operate efficiently for consumers. This is particularly the case given that, as paragraph 3.12 points out, a significant proportion of its customers are vulnerable and can lack alternative sources of credit. Payday lending products can

help meet the needs of this severely underserved market, and we therefore feel that there remains a place for them. However, the situation faced by such consumers makes responsible conduct on the part of lenders all the more important, and on the basis of the case put forward by the OFT we would urge the Competition Commission to look carefully at the market and take whatever steps it deems necessary to ensure that this operates in the best interests of its users.

### **Contact**

For further information on any of the points made in this response, please contact John Davies at Credit Action, either by email at [johndavies@creditaction.org.uk](mailto:johndavies@creditaction.org.uk) or by telephone on 0207 380 3390.