


StepChange Debt Charity response to FCA Consultation Paper CP18/35: Rent-to-own and alternatives to high cost credit

January 2019

StepChange Debt Charity London Office
Floor 3, 27 Queen Anne's Gate, London SW1H 9BU
Policy Contact: Adam Butler
Tel: 0207 380 3394
Email: adam.butler2@stepchange.org



1. Do you agree with our assessment of harm to consumers from high prices?

We agree with the FCA's analysis that rent-to-own (RTO) consumers experience harm from high prices and that, in particular, highly vulnerable consumers are paying too much for household goods. CP18/35 indicates that the FCA's intervention is designed to curtail the upper range of prices paid by a small group of rent-to-own consumers. The FCA appears to expect its intervention to end RTO agreements through which customers pay three to four times the value of a product. We welcome the FCA's intervention as a significant step toward mitigating excessive costs. However, we note that the FCA also expects some rent-to-own consumers to continue to pay multiples of two to three times the base value of an item following its intervention. We remain of the view that this is an excessive price, particularly for those purchasing essential items, that requires a coordinated response from government and regulators to provide affordable alternatives and ensure RTO products are appropriate for financially vulnerable consumers. We note further in this response how the proposals could be amended to provide a framework that meets this aim.

2. Do you agree with our assessment that other measures will not be fully effective in reducing harm from high prices?

We agree that alternative measures could not directly address harm occurring to consumers from high prices. Disclosure remedies are unlikely to be effective due to the financial constraints and pressures experienced by RTO customers. We also agree that it is necessary to cap both the base price of goods and the cost of credit to effectively constrain the upper range of RTO prices: failing to restrict the base price of a product could invite further price inflation to compensate for restrictions on the cost of credit. We also see the promotion of alternatives to RTO as a complementary intervention rather than a potential alternative policy remedy to the harms the FCA has identified: the scale and penetration of alternatives to RTO is at present, and in the near future, unlikely to provide a realistic alternative for most RTO customers.

3. Do you agree with our approach to benchmarking the base price?

We agree broadly with the approach the FCA has set out but are concerned by several aspects of the proposed benchmarking arrangements. First, limiting the benchmarking requirement to three products will allow price outliers to lead to distortions from mainstream prices (within the requirement for each price used in the benchmark to be one a reasonable consumer would pay). We understand that retailers will routinely conduct price benchmarking exercises and we do not consider it overly burdensome to extend the number of products benchmarked. We would suggest this number is

increase to five to ensure RTO prices reflect mainstream prices and reduce the likelihood of 'gaming' of the benchmarking requirement.

We are not clear why the FCA has chosen to allow for one catalogue credit product in the proposed benchmarking arrangements. Catalogue credit prices are not necessarily a reasonable reference point for RTO: it is a substantially different product model, with a number of additional flexibilities in payment such as 'buy now, pay later', 0% instalment payments and, where credit is used, generally a significantly lower cost than RTO. Higher base prices in catalogue credit reflect these flexibilities among other factors and are closely related to a specific product model. The inclusion clouds what the FCA is trying to achieve in restricting the base price of RTO products: it is likely, in effect, to act as a multiplier. The inclusion of catalogue credit is also likely to create confusion for RTO customers who wish to hold firms to account for offering a fair price, who will find that the benchmarked price for RTO products is not a mainstream price but somewhere between the mainstream price and a catalogue credit alternative. Limiting prices to mainstream retailers and excluding retail revolving credit would be a simpler, more effective and transparent means of controlling the base price of RTO products.

We are also concerned that the FCA has chosen not to apply any price cap to second-hand products. We understand the FCA's reasoning that it is unlikely that second hand goods will be given a price higher than new goods or that RTO retailers would increase the price of second hand goods to compensate for the price cap. Neither point, however, explains why it would not be appropriate to reduce the harm from high prices that will apply equally to some second hand agreements that are of a similar cost and length to agreements for new goods. The FCA should establish a simple benchmarking model for second hand goods: this could operate in a number of ways: for example, firms will know what they paid for second hand goods and the base price could be limited to a standard mark up of this amount (based on the mark up of other RTO products), or a simple depreciation model could be applied.

Finally, we recognise the FCA's desire to ensure benchmarking arrangements are proportionate but are concerned that requiring RTO firms to update prices at a minimum of every 12 months will allow for prices to persist that are substantially above the mainstream level. The mainstream wholesale and retail prices of products can change quickly, with widespread discounting, for example, of electronic goods that are replaced by new models. It is likely RTO firms already gather near real-time information on the comparative cost of products to support price setting strategies and we consider it unlikely that once new processes are established benchmarking will itself be an excessively burdensome exercise. Given this and the importance of meeting the FCA's aim of addressing harm from high prices, we would suggest the FCA looks closely at how it can ensure benchmarking is responsive to significant shifts in market prices. We would suggest that firms should be required to update benchmarked prices not only if the price changes or every 12 months, but at the frequency necessary to ensure RTO prices reflect mainstream prices for the product. If the evidence needed to achieve this is not available in the short-term, the FCA should monitor to what extent benchmarked prices deviate from mainstream prices and set out an appropriate frequency as soon as possible.

It is in the interests of both consumers and firms to have a simple, effective and transparent benchmarking system. A system that appears less burdensome may prove problematic because it

leads to more confusion among customers, more disagreements and ambiguity and more formal complaints to the FSO. By tightening its proposed benchmarking requirements, the FCA can better meet its stated aim of reducing harm from high prices and put in place a sustainable system.

4. Do you agree with proposals for a total credit cap?

We agree with the proposals the FCA has set out for a total credit cap for RTO products and the level of the cap proposed. As we noted in our response to CP18/12, we believe that restrictions on default fees should be comparable to those applied to high cost short term credit and fall within the cap on the cost of credit. Continuing to allow for high default fees will continue to inflate the price that some people pay for RTO goods and create incentives for firms to lend irresponsibly. This latter issue is a particular challenge in the RTO sector where low weekly payments can easily create a misleading sense of affordability for long-term agreements. The right answer for firms to limit administrative costs from pursuing repayment is to lend responsibly. High cost short term lenders have largely adapted to the restriction on default fees and many commercial lenders do not charge default fees at all. We note the technical annex to Feedback Statement 17/02 suggests around five per cent of RTO agreements are subject to three or more arrears charges or default (though we note the situation is likely to have evolved since this data was collected in 2017). Default fees are likely to remain a significant source of costs for a small but significant proportion RTO customers and failing to restrict them could undermine the aim of reducing harm from high prices: they should therefore be included in the total credit cap.

5. Do you agree with our proposals on controlling the price of TAD cover?

We agree with the FCA's proposals to require firms to evidence that any increase in TAD cover is justified by a legitimate business need and welcome its commitment to monitor prices and intervene further if necessary. We would particularly welcome a focus on consumers with multiple RTO agreements who may benefit from better value cover. We note work among social landlords and the National Housing Federation to increase awareness of suitable insurance products for social tenants. The FCA should take into account this work when reviewing the price and suitability of TAD cover in future and consider whether it is necessary to alert people with multiple agreements of the poor value of product by product cover.

6. Do you agree with our approach to controlling the price of arrears charges?

As noted, we believe that the FCA should restrict arrears charges and include these in the total credit cost cap. However, if the FCA proceeds as proposed in the consultation document, we agree with the

FCA's proposals to require firms to evidence that any increase in charges is justified by a legitimate business need.

7. Do you have any views on the implementation timetable?

We agree broadly with the proposed implementation timetable. Given the nature of the FCA's proposals as a new intervention, we suggest that the FCA commit to an initial review following one year rather than two, on an interim basis if necessary, and clarify what metrics it will use to assess the impact of its interventions.

We do have some concern that a phased introduction is likely to lead to a potentially confusing period for consumers where some agreements are covered by the rules and some are not. Given the harm identified by the FCA and the benefit provided by the new rules to consumers, we also believe it is self-evident that the earlier consumers are protected the better. Given that firms must be prepared to implement the rules for new products from April 2019, we suggest the FCA look closely at the feasibility of extending the new rules to all products from April.

8. Do you agree with our assessment of the costs and benefits of these proposals?

N/A

9. Do you agree with our initial assessments of the impacts of our proposals on the protected groups? Are there any others we should consider?

N/A

