

Consultation Response



Financial Conduct Authority Consultation Paper CP15/33: Consumer credit: proposals in response to the CMA's recommendations on high-cost short- term credit

Comments from StepChange Debt Charity

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We are an independent charity dedicated to overcoming problem debt. Our advice and solutions are effective, tailored and importantly, free. Foundation for Credit Counselling. Wade House, Merrion Centre, Leeds LS2 8NG. Company No 2757055. Charity No 1016630. www.stepchange.org

Introduction

StepChange Debt Charity is the largest specialist provider of free, independent debt advice operating across the UK. In 2015 more than half a million people contacted our free helpline or online debt remedy tool for advice, support and solutions to serious debt problems.

We welcome the improvements that have been made since the FCA took over regulation of the HCSTC sector in April 2014. We think this had had a significant impact as our data indicates:

- The proportion of clients we are seeing with payday loans has fallen significantly with 24% of our clients with a payday loan in the first half of 2014 and 16% with a payday loan in the first half of 2015.
- The average total amount owed on payday loans by clients has also fallen significantly as the average total payday loan debt per client in the first half of 2014 was £1,656 and it had fallen to £1,305 in the first half of 2015.

We do still have concerns about the HCSTC sector and we believe further improvements could be made, as our data shows:

- The average total payday loan debt of our clients is still 96% of the average monthly income of clients with one or more payday loans.
- Over a third of our clients with payday loan debt still have three or more payday loans.

We welcome this opportunity to respond to the FCA on their proposals in response to the CMA's recommendations on high-cost short-term credit (HCSTC). The key points from our response are:

- We are concerned that the FCA findings suggest poor conduct amongst PCWs and are therefore supportive of the FCA's proposals to improve PCWs conduct. We agree with proposals to introduce additional standards to present competitively neutral product information, enable search functions by loan amount and duration, requiring ranking results in order of TAP and requiring PCWs to disclose the names of lenders.
- We are not supportive of the FCA's approach of allowing credit brokers to feature on PCWs. We agree with the CMA that PCWs should only include loan products on their loan comparison tables and not include credit brokers or other intermediaries as having them on PCWs could undermine competitive neutrality and confuse consumers and lead to them making poor decisions.
- In order to address the continued issue of multiple lending in the HCSTC market, we call on the FCA to look again at both the need to mandate real-time data sharing and the way that firms use currently this data. This is essential to ensuring that loans are lent responsibly, based on full information about a customer's financial commitments.

Response to specific questions

Q1: Do you have any comments on the proposed application of our rules for PCWs comparing HCSTC products?

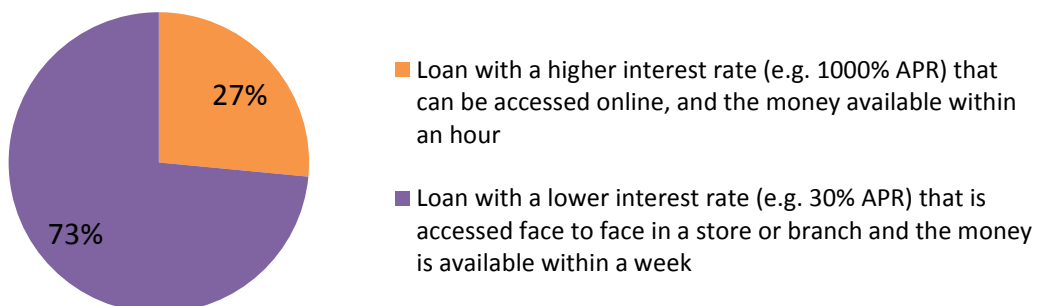
We welcome that the FCA has conducted a review of the practices of PCWs in the HCSTC market and undertaken consumer testing of the use of PCWs, in response to the CMA recommendations.

We are concerned that the FCA found evidence of poor conduct in their review of the current PCWs that compare HCSTC. These practices meant that certain practices were leading consumers to make poor decisions and not choose the cheapest loans to meet their needs. We would suggest that PCWs should not be recommended to consumers as the best way to shop around and get the best deal for HCSTC until these PCWs are meeting the minimum standards as set out in this consultation paper. As such, we welcome the FCA new rules to apply additional standards to PCWs in this market.

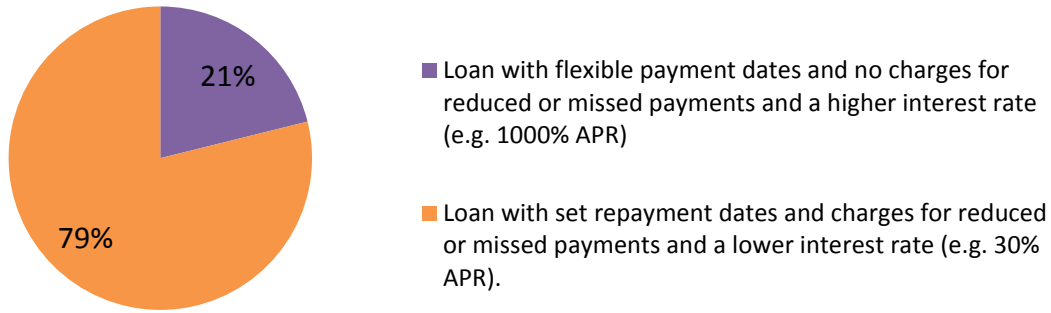
Q2: Do you agree with our proposal to prevent PCWs from displaying information about HCSTC products or including search results on the basis of commercial relationships?

We agree with the CMA and FCA that PCWs should present product information on a competitively neutral basis. The FCA consumer testing research shows clear evidence that the cheapest loan was not always chosen when PCWs showed featured products.

We have undertaken some research exploring credit preferences with our clients, although this was not specifically for the purpose of this consultation, it does present some relevant findings.¹ This research, as illustrated in the charts below, indicates that our clients would choose the low interest loans over other considerations. This suggests that when given a clear unambiguous choice, consumers are price sensitive and would choose the lower interest loans. When asked why they made most said this was because these loans would be cheaper, more manageable and easier to repay:



¹ We conducted a survey of StepChange Debt Charity clients to find out their credit preferences. The sample was 553 StepChange Debt Charity clients who came to the charity for advice in 2014-2015. The clients had all used some form of credit including payday loans and/or home credit. The survey was open from 5-23 October 2015.

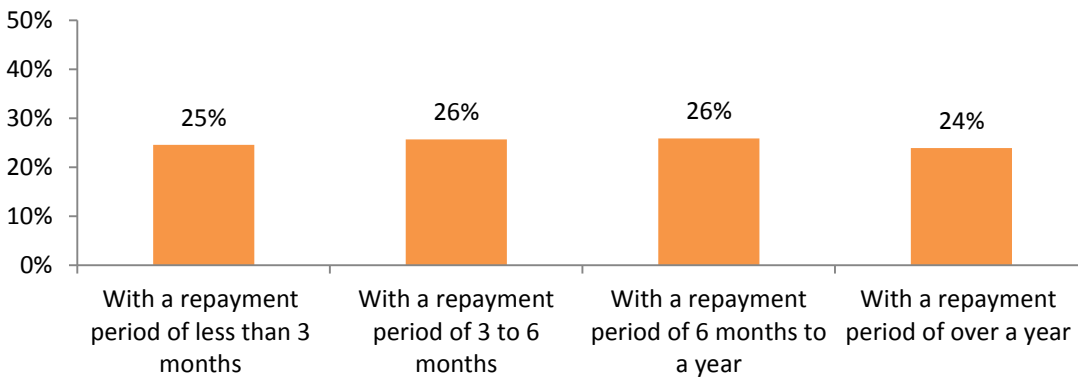


We therefore agree with the FCA that PCWs should be prevented from displaying information about HCSTC products on the basis of commercial relationships in order to ensure consumers are able to choose the cheapest and most suitable product for them.

Q3: Do you have any comments on our proposed rule that a PCW for HCSTC should enable customers to search for a specified loan amount and duration?

We are supportive of the proposed rule that PCWs for HCSTC should enable customers to search for a specified loan amount and duration. This will give customers the ability to find the most suitable loan for their needs and we welcome FCA consumer testing evidence that found consumers who were able to input their loan preferences were most likely to choose the cheapest and most appropriate loan.

Our research indicates clients had varied views on when they would prefer to repay a loan suggesting that they would value the option to search for different loan terms:



We also agree that PCWs should not have to include a search functionality of repayment structure (e.g. the number of instalments) of the loan as we agree that loan amount and loan term are sufficient. Although, we would suggest it may be useful for consumer understanding for PCWs to state where loan products have unusual repayment terms, including variable payments or balloon payments, in their product descriptions on PCWs.

Q4: Do you agree with our proposal to require HCSTC PCWs to rank the results of a consumer’s search in ascending order of price according to the Total Amount Payable?

We agree with the proposals to require ranking results in ascending order of price according to Total Amount Payable (TAP). It is essential that consumers have a clear understanding of the total amount the loan will cost them in order to not be confused or

mislead about the cost of the loan they are taking out. The FCA review of PCWs in the HCSTC market found that they tend to use representative APR as the primary measure of price. However, APR is a complicated concept and research has shown that consumers find APR confusing.² Therefore TAP is the most appropriate measure of price searches as it is easier to understand for consumers.

Q5: Do you agree with our proposals on additional advertising on a PCW that compares HCSTC?

We agree with the proposals on additional advertising on a PCW that compares HCSTC. It is important that consumers are not confused or misled by advertising and not distracted by featured products or sponsored links.

Q6: Do you agree with our proposed approach to clarify that PCWs must ensure that information concerning HCSTC products complies with the requirement to state prominently that they are a broker and not a lender?

We welcomed the introduction of the FCA's new rules on credit brokers (PS 14/18) that required all brokers to state that they are a broker and not a lender. However, we do not agree with the FCA proposed approach to credit brokers and PCWs. We agree with the CMA that PCWs should only include loan products on their loan comparison tables and not include credit brokers or other intermediaries. The lack of transparency and understanding about the nature of credit broker and lead generator services was highlighted by the CMA in their investigation of the payday lending market.³ That investigation also found that it would be difficult for brokers to display an accurate price for a specific loan on PCW and the CMA received no submissions favouring the inclusion of credit brokers on PCWs.⁴

There is also an issue about commercial neutrality as another of the CMA's findings were that many consumers approaching a lead generator or broker believed they were being matched with the best value loan but were being shown products ranked based on commercial incentives. This is important in light of the FCA findings that where consumers were only shown a sub-set of products, they were less likely to choose the cheapest loan.

Until evidence gathering from the FCA finds that credit brokers on PCWs are not leading to consumers making poor decisions and until there is an improved consumer understanding of broking services then we do not think these brokers should appear on PCWs. Therefore in order to ensure that consumers are able to make easy and quick comparison of multiple loan products and to ensure commercial neutrality on PCWs we agree with the CMA that brokers should not be included on a price comparison table.

Q7: Do you agree with our proposed approach to require PCWs to disclose the names of lenders they have on their website?

We agree with the FCA's proposed approach to require PCWs to disclose the names of lenders and to include guidance to ensure that making misleading claims about market

² Osborne, M (2013) *Is APR a Robust Measure of the Cost of Consumer Credit?* University of Sussex

³ CMA (2015) Payday lending market investigation: Final report

⁴ Ibid

coverage would breach the requirement for financial promotions to be clear, fair and not misleading.

As outlined in our response to question 8 below, we also believe that credit brokers should have to divulge to consumers the panel of lenders that the broker shares a consumer's personal data with.

Q8: Do you have any comments on the proposed start date?

We believe given the FCA findings of poor conduct in the HCSTC PCWs market that the improved additional standards for PCWs should be introduced as soon as possible.

Q9: Do you have any comments on our proposed approach to lead generators?

We welcomed the FCA introduction of rules on credit brokers/lead generators in PS14/18. We also welcome that the FCA has commissioned some work to analyse the wider credit broking market and understand the impact of these new rules on the market. The consultation paper (CP15/33) states that the FCA has evidence of a downward trend in consumer detriment in the credit broking market since the introduction of the new rules and some evidence that some firms are attempting to avoid the rules. We welcome the FCA further work to analyse the credit broking market and would be interested to see more detail on the evidence the FCA has to date.

In our response to CP15/6 we agreed that the rules in PS14/18 should be retained but we suggested the FCA could bring additional protections in this area:

- We stated that regulations could mandate that credit broking contracts be signed before the broker is authorised to commence a search for a loan and takes any payment from a consumer. This would ensure that authorisation cannot just be oral and that there is a clear paper trail providing evidence for consumers to seek redress.
- We also called for the broker to have to divulge to the consumer not just the name of the lender it has agreed a loan with (as PS14/18 requires) but also to divulge the panel of lenders with which it shares information. This would ensure that consumers know when they are consenting to sharing personal data via credit brokers and whom they are sharing data with.

Q10: In light of our findings, do you have any views on the effectiveness of disclosure about credit checks?

We agree with the FCA approach not to introduce any new disclosure requirements on credit checks due to the evidence presented that there is very high awareness of the existence and potential impact of credit checks amongst HCSTC consumers. We agree that quotation searches that promote more informed applications for credit may be a more effective way to facilitate consumers shopping around for loans more.

Q11: Do you wish to comment on the value of quotation searches in addressing the issues raised by the CMA? Are there specific issues or risks with the use of quotation searches across consumer credit markets?

We welcome the FCA's commitment in CP15/6 to look into how to promote and facilitate the use of quotation searches. We note the finding that consumers may not get the headline offer rate listed in price comparison sites and may be reluctant to seek a quotation for fear of damaging their credit rating. Our own research has found evidence that consumers' fear of damaging their credit rating can drive behaviour that causes longer term detriment. For example in a survey of StepChange Debt Charity clients, 53% said they were struggling with their debts for over a year before seeking advice. A quarter of these said that had not sought debt advice earlier because they were worried that it would affect their credit rating badly or reduce access to credit.

Q12: Do you have any comments on our approach to real-time data sharing?

We have concerns about continued irresponsible lending in the payday loan markets particular around multiple simultaneous payday loans where a borrower has credit commitments on more than one payday loan at a time. Many of our clients have multiple payday loan debts with over a third having three or more and 13% having five or more. Multiple payday loans can result in unsustainable repayment amounts and the average payday loan debt of our clients is higher than their average income. We believe the FCA should do more to tackle this irresponsible lending in the sector by looking again at the case for mandating a system of real-time data sharing and ensuring that firms are using this data responsibly. We are therefore disappointed that the FCA does not propose to consult on introducing requirements on this.

We welcome the fact that some lenders have said they will work towards real-time data sharing. However, as stated in CP14/16 not all lenders report data to more than one credit reference agency in real time. We believe real-time data sharing is essential to ensuring that loans are learnt responsibility, based on full information about a customer's financial commitments. Anything other than full participation in real-time data sharing, using an effective database, undermines these efforts, and will allow loans to be made which are unaffordable for consumers and likely to lead to more entrenched financial difficulty. Without real-time data sharing, the FCA is not able to give the frequent and intensive level of supervision to lending decisions that will be needed in the HCSTC market, and ensure that providers adhere to rules on this. We consider that the industry has been given sufficient notice to voluntarily sign up to real-time data sharing, and we would urge the FCA to act to ensure all lenders are signed up.

Q13: Do you have any comments on our proposed approach to disclosure of the cost of borrowing?

We have no comments on the proposed approach to disclosure of the cost of borrowing at this time.

Q14: Do you have any comments on our cost benefit analysis?

We have no comments on the cost benefit analysis. We would be keen to see some evaluation or further monitoring of the impact of the improvements to PCWs when the additional standards are introduced.

Q15: Do you agree with our assessment of the impacts of our proposals on the protected groups? Are there any other groups we should consider?

We agree with the assessment of the impact of the proposals on protected groups.