Payday lending market investigation
a case study in stakeholder management

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Background: basic facts about payday lending in the UK

- 10.2 million UK payday loans in 2012
- Total loan value £2.8 bn
- Revenue to lenders (total cost of credit) £1.1 bn
- 40% of loans made through “lead generators” (a form of broker)
- Proportion of repeat loans >80%
- 1.8 million customers; average loan £260
- Average customer takes ~6 loans p.a.
- ~4/10 customers used >1 provider
- Median net income of online customer £16,500; high-street customer £13,400; (UK average £17,500)
- 83% of customers have taken loan on-line; 29% on high street

- 3 largest lenders are Wonga, CashEuroNet and Dollar with over 70% market share

Market shares 2012
The CMA’s payday lending investigation


- Decisions made by 4 CMA Panel members, chaired by Simon Polito and advised by a multidisciplinary staff team (of up to 20 colleagues)

- Close cooperation with FCA (UK retail financial regulator)

- Parliament introduced obligation on FCA to introduce a price cap around 5 months into CMA investigation
Payday loan market outcomes

- Headline price changes infrequent
  - Price reductions have been particularly uncommon
- The three largest lenders’ returns were substantially above the cost of capital in most years
- Customer demand only responds weakly to prices
  - Lenders that offered substantially lower rates have not been particularly successful in attracting new business
  - Customers especially unresponsive to late payment charges
- Many customers have been taking out significantly more expensive loans than others that may be available to them.
- Significant limitations in the effectiveness of competition on price
  - Weak competitive constraints faced by lenders when setting prices
  - By contrast we observed some non-price competition (eg on speed of access to funds)
Adverse effect on competition (AEC)

- There are a number of features in the provision of payday loans in the UK which contribute to, and help to explain, the failure by many payday lenders to compete on price and which either alone or in combination give rise to an AEC
  - Structural and conduct features limit the extent to which demand is responsive to the price of loans and reduce the pressure for lenders to compete on price
  - These also weaken the competitive constraint that might otherwise be imposed by the prospect of new entry or expansion by smaller lenders

- The price cap will mitigate some of the harm to consumers but substantial price competition would still be achievable in a more competitive market
  - Some lenders’ costs would allow pricing below the cap in the short term
  - More effective competition should increase the pressure on lenders to compete for lower cost customers by pricing below the cap
  - In the longer term lenders costs should reduce – eg from efficiencies, lower lead costs and reduced impairment costs from real time data sharing. With effective price competition there would be pressure to pass these to customers.
The remedies package

- Measures to promote the use of effective price comparison websites
  - CMA order to require online lenders to publish details of their loans on an FCA authorised payday loan PCW
  - Recommendation to the FCA to raise the standards which apply to payday loan PCWs
- Recommendation to the FCA to require greater transparency about lead generators
- Recommendation to the FCA to ensure prominence of late fees / extra charges
- Recommendation to the FCA to encourage initiatives to make it easier for customers to shop around without damaging their credit rating.
- Recommendation to the FCA to continue to encourage the development and use of ‘real time’ data sharing
- A CMA order requiring on-line lenders to provide summary of total fees and charges of both their last payday loan and a 12 month running total of fees and charges before a customer can take out a further loan with them
Payday lending: a “stakeholder rich” environment
Consumers

We put a lot of effort into understanding the payday lending customer base:

- We carried out consumer surveys both to understand consumer behaviour and to ‘road test’ consumers’ response to possible remedies.
- We also observed consumer behaviour directly by building an analysing a database of transactions.
- Payday loan consumers had similar income profile on average to UK citizens generally, but are much more likely to have experienced debt problems recently.
- Little direct engagement by consumers in our investigation (eg in response to consultations). This is not unusual in markets work.

We also engaged actively with consumer and debt advice groups:

- We held two “on the record” roundtable meetings between our decision makers and consumer groups.
- Consumer groups responded to our consultations and commented publicly on the progress of the case.
- Needed to articulate early on how our investigation fitted in with other initiatives and in particular its competition focus. This was generally understood and accepted.

Possible lessons for future cases?

- It is always important to understand consumer behaviour and their likely response to possible interventions. Surveys and analysis of actual customer choices are a good way to do this rigorously.
- CMA currently exploring the scope for greater use of ‘digital engagement’ techniques with consumers across the range of its activities.
Providers

- We established constructive working-level relationships with the main providers
  - Initial ‘site visits’ and in depth ‘data meetings’ at the start of the case. These helped us understand providers’ businesses and what data providers hold and to scope information requests.
  - Very regular interactions – e.g. fact checking, chasing for responses - between the project management team and key contacts in the companies, or their advisers
  - Tailor the approach to recognise the difference in scale and resources of different providers.

- We also engaged formally with companies and their senior executive teams about the substantive issues raised by the case
  - We held 43 hearings in total, covering both competition findings and possible remedies.
  - We published 21 Working Papers for comment during the course of the investigation as well as formally consulting on provisional findings and provisional decisions on remedies.

- As the case developed, the role of other market participants became more prominent and new relationships needed to be managed.
  - The CMA amended the terms of reference to include lead generators.
  - Price comparison website operators and other intermediaries became important to remedies.

- Possible lessons for future cases?
  - Developing professional working relationships with parties is essential, particularly with tight timescales.
  - Providers value this, even when they do not agree with an investigation’s findings.
• Competition was by no means the only concern about UK payday lending at the time of our investigation
  - Also widespread concerns about irresponsible lending and business practices such as “rolling over” short-term loans multiple times and excessive use of “continuous payment authorities” to collect debt.
  - Political concerns about affordability of payday loans led to duty on the Financial Conduct Authority (FCA) to introduce price cap.

• We worked closely with the FCA on a number of levels
  - Sharing data provided to us by parties. We used “gateways” in UK competition law to share information with the FCA that helped them to specify the price cap. We let lenders that know we were doing this.
  - Very regular working-level contact, to minimise ‘surprises’ and ensure that (e.g.) the timescales for publication of key FCA and CMA documents fitted together coherently.
  - More formalised engagement in hearings between CMA decision makers and senior FCA executives.

• Most of our remedies take the form of recommendations to the FCA
  - We worked particularly closely with FCA colleagues to specify remedies. We held detailed discussions to determine how best to implement the necessary changes within the existing regulatory framework.

• Possible lessons for future cases?
  - In this case, we were able successfully to recognise and manage the many linkages between the two organisations, while retaining separate project teams and independent governance.
  - Other models of cooperation – eg joint project teams – may also make sense for different projects.
The UK payday lending market had a very high political profile throughout our investigation, for example:

- Politicians of all parties had very strong views about the causes and consequences of the rapid growth of the market and the way in which it was operating.
- Other public figures, including the Archbishop of Canterbury, joined the debate.
- There was a furore when a payday lender sponsored the shirts of a Premier League football club.
- The Scottish Government argued, when launching its own action plan, that it had taken too long for the UK administration to get a grip on the issues relating to this market.

We needed to be aware of the political context against which our investigation was taking place, while remaining independent and impartial

- We followed relevant developments closely – particularly leading up to Parliament’s price cap decision
- No contact between the project team or decision makers with Government Ministers or other MPs during the course of the investigation
- As an organisation we do have some contacts with politicians of all parties – eg payday lending came up when CMA Chief Executive, Alex Chisholm spoke to members of the Scottish Parliament. Our communications team kept MPs who had taken an active interest in touch with the progress of the case.

Possible lessons for future cases?

- It is important not to be naïve, but ultimately independence, political impartiality and the quality of the work are the key factors to carrying out reviews in politically sensitive markets.
Given the high public profile of payday lending, we worked very closely with our press office on the public presentation of the case.

- Our decision makers discussed the key messages they wanted to get across with our press officer and signed off the final versions of media releases.
- Media releases in markets that are important to consumers need to be faithful to the content of the report, but also need to be written in plain terms that do not seem excessively ‘academic’.
- The media (and the public!) are sometimes interested in different things from competition specialists!
- In this case, we found that there was a great amount of interest in the basic facts about the market (market size number of customers, typical prices etc.). We put lots of these into our media releases and they started to inform the wider public debate.

For a long running investigation, there is considerable value in generating media interest at intermediate milestones as well as the final report:

- The Chairman of the investigation (Simon Polito) gave TV and radio interviews on publication of our provisional findings and provisional decision on remedies as well as the final report.
- This helps retain public engagement with the investigation and can improve consultation responses. It also means that the final decision does not come as a shock.

Possible lessons for future cases?

- The CMA currently uses social media, but sparingly. It will be interesting to see how this evolves over the next 3-5 years.
Muchas gracias por su atención