

HOME CREDIT LENDING:

RIGHTS AND OBLIGATIONS CREATED BY THE HOME CREDIT MARKET INVESTIGATION ORDER 2007 AND THE HOME CREDIT MARKET INVESTIGATION ORDER 2007 VARIATION ORDER 2011

1. The Home Credit Market Investigation Order 2007 ('the 2007 Order')¹ applies to **all** home credit lenders. The Order regulates the supply of both home collected credit money loans ('money loans') and home credit voucher loans ('voucher loans').
2. The 2007 Order was made by the Competition Commission following its investigation of the home credit market, which was concluded in 2007². On 24 February 2011, the CC published the Home Credit Market Investigation Order 2007 Variation Order 2011 ('the 2011 Order') to vary the 2007 Order to incorporate amendments to reflect the implementation of the Consumer Credit Directive (CCD)³. The amendments did not substantially alter the rights afforded to consumers by the Order. This note reflects the amendments made.
3. The purpose of the 2011 Order is to improve competition in the supply of home collected credit and, in particular, reduce prices for borrowers by:
 - requiring lenders to publish details of money loans on www.lenderscompared.org.uk where customers can compare prices and terms (This web site also includes details of credit union loans.)
 - in relation to money loans, requiring all lenders to include the above web site address in all advertisements and payment books and to indicate in advertisements delivered to individuals and payment books the right to free quarterly statements
 - requiring all lenders to ensure that those customers who repay money loans early (around a third of all customers) get more favourable terms than those required in the Consumer Credit (Early Settlement) Regulations 2004⁴
 - requiring large lenders to share data on customers' payment records in relation to both money loans and voucher loans.

Home credit comparison web site

4. Consumers can use the home credit comparison web site, www.lenderscompared.org.uk, to obtain comprehensive data on money loans as well as credit union loans available to them in their area. They can search for

¹ See http://www.offt.gov.uk/shared_offt/monopolies/Home_Credit_Order.pdf and Home Credit Market Investigation Order 2007 Variation Order 2011 <http://www.competition-commission.org.uk/inquiries/ref2010/Home%20Credit%20Review%20of%20Order/index.htm>.

² See <http://www.competition-commission.org.uk/inquiries/current/homecredit/index.htm>.

³ See OFT website for information on CCD <http://www.offt.gov.uk/about-the-offt/legal-powers/legal/cca/>

⁴ As amended by EU Directive Regulations: <http://www.legislation.gov.uk/2010?title=consumer%20credit%20EU>

loans available in their own post code area, making it easier to shop around and compare different lenders' offers.

5. All lenders must have published on the web site certain details, in addition to those required since implementation of the CCD, of all their money loans, except details of any class of loan where they have written less than 100 loans in the last 12 months⁵. The details to be published are as follows:
- length of the agreement (in months if the borrower is paying by monthly instalments) or in weeks in any other case
 - the total amount payable
 - the total charge for credit per £100 advanced
 - the frequency, number and amounts of repayments of credit per £100 advanced to be made by the customers
 - the representative APR⁶
 - the rate of interest⁷
 - whether charges are made for late payments or for home collection and, if so, what these are
 - whether there are limitations on the circumstances under which the lender is prepared to make loans, other than those relating to the customer's ability to pay, the area where they live or the maximum or minimum amount that can be lent.
 - whether, within each class of loans, there are differences in agreements and what these differences are.

⁵ See Article 16 of the Order at http://www.ofst.gov.uk/shared_ofst/monopolies/Home_Credit_Order.pdf and Home Credit Variation Order 2011 <http://www.competition-commission.org.uk/inquiries/ref2010/Home%20Credit%20Review%20of%20Order/index.htm>.

Lenders who are uncertain about whether they are required to put details of loans on www.lenderscompared.org.uk because they have only written a small number of them, can contact OFT for advice (see contact details in paragraph 15 below).

⁶ <http://www.ofst.gov.uk/about-the-ofst/legal-powers/legal/cca/guidance> The regulations provide that - if an advertisement includes an interest rate or any amount relating to the cost of the credit - this triggers a 'representative example' including a 'representative APR'. This must be representative of agreements expected to be entered into as a result of the advertisement, and at least 51 per cent of borrowers must be expected to get the advertised APR or better. The representative APR is also triggered by a non-status or comparative indication or incentive.

⁷ <http://www.ofst.gov.uk/about-the-ofst/legal-powers/legal/cca/guidance> The annual rate of interest, any non-interest charges required to be paid for the credit, and the amount of credit. In addition, where applicable, it must include the duration of credit, the total amount payable, the periodic instalments, and the cash price of goods or services financed by the credit. All of this information must be shown together and of equal prominence, and must be more prominent than any other cost information and any trigger.

- the lender's name, postal address and a non-premium rate UK telephone number where they can be contacted.
6. Data on money loans on offer should be sent direct to the web site by home credit lenders themselves: see www.lenderscompared.org.uk for details of how to do this. Lenders who do not have access to the internet should contact Mike Hart at the Consumer Credit Association on 01244 312044. He will assist with putting details on the web site. Data should not be sent to the OFT. Home credit lenders are not charged for putting their money loans data on the web site.

Further information to be provided by all home credit lenders

7. All lenders must:

- provide a free account statement for customers on request unless there has been a previous request in the preceding three months.
- on annual statements and statements provided on request, include the following wording⁸:

'You are entitled to request one free statement per quarter or one per loan (whichever allows for more requests). We are required to provide you with a statement free of charge within seven days of receiving your request. You can compare our loans with other home credit loans available in your area by accessing the website'

- in advertisements (excluding that on the web site itself and business cards) and payment books/ cards, include the following statement:⁹

'Compare the price of home collected and other cash loans available in your area at www.lenderscompared.org.uk'

- in documents for recording payments and advertisements delivered to customers, state the following:

'All home credit customers are entitled to a free detailed statement once every three months, just ask'

Duty to supply product information on request

8. Customers are entitled to make a request to a home credit loan business to be provided with particulars of the terms on which the supplier is willing to enter into home credit agreements. Information comprises the duration of the loans, the total charge for credit per £100 and the details of borrower repayments.

⁸ required by Article 12 of the Consumer Credit (Information Requirements and Duration of Licences and Charges) Regulations 2007

⁹ Articles 29, 30 and 31 of the Order refer

Early settlement of money loans

9. Part 5 of the Order affords consumers the following additional rights to those in the Consumer Credit (Early Settlement) Regulations 2004 ('the Regulations')¹⁰ by:
- shortening the period to 13 days from the 28 days specified in the Regulations after the date on which the borrower's notice is received by the lender as the basis for establishing the settlement date and the calculation of the sum to be paid by the borrower to settle the loan
 - requiring settlement to be calculated on the basis of the contractual repayment schedule rather than on the basis of the customers' actual repayments
 - requiring that, in calculating any rebate of charges for credit due to consumers, lenders ensure that any repayment of credit made at a time or a rate other than that provided for in the agreement is taken to have been made at the time or rate provided for
 - prohibiting lenders from deferring settlement dates on loans over a year long
10. Customers must be given an early settlement statement.

Sharing data on customers

11. Lenders with 60 or more agents and annual turnover in home credit of £2 million or more (as measured by the amount of interest they receive, not the value of loans provided) must do the following in relation to both money loans and voucher loans:
- share their customers' data with at least two credit reference agencies (CRAs).
 - in relation to all agreements entered into after 4 October 2007, the customer must have agreed to share data with CRAs.
 - in relation to all agreements entered into after 13 March 2008, the lender must generally have data-sharing contracts with at least two of the three CRAs named in the Order.

OFT responsibilities

12. Under section 162 of the Enterprise Act 2002, the OFT is responsible for monitoring and enforcing the 2011 Order.

¹⁰ As amended see <http://www.legislation.gov.uk/2010?title=consumer%20credit%20EU>
<http://www.legislation.gov.uk/2010?title=consumer%20credit%20amendment>
<http://www.legislation.gov.uk/2011?title=consumer%20credit>

Enquiries from lenders on web site operation, including data entry:

13. Lenders who have queries on operation of, or data entry on, www.lenderscompared.org.uk should contact the LendersCompared team by clicking on 'Contact us' at the bottom of any page of the web site. Alternatively, lenders should contact the Consumer Credit Association if they have been assisting with data entry.

Enquiries from consumers:

14. Consumers who have queries on the use of www.lenderscompared.org.uk should go to the FAQ section on the web site. More general queries on the operation of the Order should be sent to one or both of the Office of Fair Trading contacts listed below.

OFT contacts:

15. These are as follows:

Natalie Lam 020 7211 8129 natalie.lam@oft.gsi.gov.uk or

Bob MacDowall 020 7211 8574 bob.macdowall@oft.gsi.gov.uk

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