



Business, Innovation and Skills Committee

Oral evidence: [Payday Loan Companies](#), HC 789–i Tuesday 5 November 2013

Ordered by the House of Commons to be published on 5 November 2013.

Witnesses including written evidence where submitted:

At 9.15am:

- Henry Raine, Head of Regulatory and Public Affairs, **Wonga**
- Greg Stevens, Chief Executive, **Consumer Credit Trade Association**
- Adam Freeman, Chief Executive Officer, **Mr Lender**
- Russell Hamblin-Boone, Chief Executive, **Consumer Finance Association**
- Andy Lapointe, UK Public Affairs Manager, **QuickQuid**

At 10.15am:

- Gillian Guy, Chief Executive, **Citizens Advice**
- **Martin Lewis** (from moneysavingexpert.com)
- Peter Tutton, Head of Policy, **StepChange**
- Richard Lloyd, Executive Director, **Which?**

At 11.00am:

- **Jo Swinson MP**, Minister for Employment Relations and Consumer Affairs, Department for Business, Innovation and Skills
- Lesley Titcomb, Chief Operating Officer and Programme Sponsor of Consumer Credit, and Nadege Genetay, Head of Banking, Lending and Protection Policy, **Financial Conduct Authority**
- David Fisher, Anti Money Laundering and Consumer Credit, **Office of Fair Trading**

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Members present: Mr Adrian Bailey (Chair); Mr Brian Binley; Paul Blomfield; Katy Clark; Mike Crockart; Rebecca Harris; Ann McKechin; Mr Robin Walker; Nadhim Zahawi

Questions 1-167

Witnesses: **Henry Raine**, Head of Legal and Regulatory Affairs, Wonga, **Greg Stevens**, Chief Executive, Consumer Credit Trade Association, **Adam Freeman**, Chief Executive

Officer, Mr Lender, **Russell Hamblin-Boone**, Chief Executive, Consumer Finance Association, and **Andy Lapointe**, UK Public Affairs Manager, QuickQuid, gave evidence.

Q1 Chair: Good morning, and thank you for agreeing to appear before the Committee. Before we go into the questions, may I ask you to introduce yourselves for voice transcription purposes?

Henry Raine: I am Henry Raine. I am the Head of Legal and Regulatory Affairs at Wonga.

Greg Stevens: I am Greg Stevens. I am the Chief Executive of the CCTA.

Russell Hamblin-Boone: I am Russell Hamblin-Boone. I am Chief Executive of the Consumer Finance Association.

Adam Freeman: I am Adam Freeman; I am the CEO of Mr Lender

Andy Lapointe: I am Andy Lapointe. I am UK Public Affairs Manager for QuickQuid.

Q2 Chair: Before I open with the questions, can I emphasise that, with five of you, there is no need for every person to answer every question? We only have an hour with you, and we have a considerable number of questions. However, in saying that, if you disagree with a previous answer, or if you feel there is something you need to add to a previous answer, feel free to do so.

I am going to start with the industry charter. As you will know, this was introduced in November of last year. It was designed to ensure responsible lending. Since then, CAB, StepChange and OFT have reported that the reverse seems to have happened. There has been a significant increase in complaints about, and problems with, the industry. What is your reason for that? Who will lead on it? Can you give an explanation?

Greg Stevens: It is important to know what the Consumer Credit Trade Association is, in terms of its membership base. We have 373 members, which range from SMEs to large firms. Many of our members are community commercial lenders and many are second and third-generation businesses. They are, and always have been, attempting to do the best they can do with regard to their customers. We have 61 members who either partially or wholly provide payday-lending products, and that is reducing, because many members have moved away from payday lending over the course of the last 12 months. The amount of payday-lending members has decreased within the Consumer Credit Trade Association by 13%. Many of our members are coming out of this market, as I said. 70% of members are still in traditional credit granting.

The charter and the code of practice, which were introduced in November 2012, have changed things. We see it in the number of complaints that actually come through to us. The total number of complaints about payday lending for the year 2012 was 15. During the period we have measured in 2013, year to date, there have been 36 complaints, 19 of which came from one member. There is a reduction in terms of the overall number of complaints, because we have people who are doing more loans in those areas. The actual number of loans has increased, even though the number of our members has decreased to

an extent. The feedback that we have taken from members is that many things are changing. We do not believe that credit is being given in terms of the changes that have taken place and that continue to take place.

Coming back to the figures and assertions that are made, we would be very concerned if the statistics from Citizens Advice were found to be representative, accurate and up-to-date. We have asked for granularity; we have asked for clarity on the customers, including customer details and agreement numbers. These have not been forthcoming. When assertions about companies are made, we do need evidence in terms of case studies. We need those to take back to our members to understand what is deemed to have gone wrong, so that we can actually work with the members.

The Consumer Credit Trade Association is 122 years old. We have been working with regulators and legislators over that period to ensure best practice for consumers, and we continue to do that. We are doing regular training and compliance meetings with our members to ensure that they actually provide the best service.

Q3 Chair: May I follow up on that? You said that complaints had increased to 36, 19 of which were from one company. Can you give details of what those complaints are about?

Greg Stevens: No, I cannot. I do not have the breakdown.

Q4 Chair: With respect, you have just criticised others for a lack of granularity. It would appear that you are as deficient in that as they are.

The charter actually does outline that there should be affordability checks. A loan has to be suitable to be taken out, and it must take into account the circumstances of the individual. But the OFT report said that only 74% of lenders actually took affordability into account. 67% said they did not do so for every loan, and 23% said they did so for a rollover. That seems to conflict with the charter that the industry itself has set out. How do you explain that?

Henry Raine: Mr Chairman, I wonder if I could give some context—not on behalf of the industry, but on behalf of Wonga—on the background to this. One thing I would point out—this is not to decry any people on this panel or elsewhere—is that, not surprisingly, perhaps, the OFT found that compliance was better among the larger lenders, because, frankly, we have more sophisticated systems to do so.

I think that the charter was an important development. *[Interruption.]* The charter was an important development. According to the OFT, some 90% of the industry came together to agree those provisions. It will take time for some of the lenders to comply with them. I think actually, the picture is mixed. As far as Wonga is concerned, as people know, we have always done thorough credit-checking; we have always bought and returned data. You are seeing improvements across the sector.

The other thing to be borne in mind is that the OFT has done its own review of the sector. I believe they will tell you later that, of the 50 lenders they visited, 19 are no longer carrying on payday-loan activities. That has to be seen in the context of this process as

well. Because we do not have the granularity as to who has done what, we will have to bear that in mind as well.

I think that the charter has made some progress; I think it is absolutely right that people keep focusing on it and the commitments.

Q5 Paul Blomfield: Very specifically on this, I think it was reported earlier this year that Wonga had had a significant increase in the number of bad debts it was writing off. That does suggest a less than robust approach to affordability.

Henry Raine: That is not the case, actually.

Paul Blomfield: It was reported in the papers, was it not?

Henry Raine: I know. It was a mistake.

Paul Blomfield: The papers were wrong, were they?

Henry Raine: I think they took the wrong figure. I addressed this with the Public Accounts Committee. Because in our previous accounts we had not shown the amount of money we had lent, which was over £700 million, the comparison was made between £77 million and a lower number. The National Audit Office confirmed at that meeting that the correct comparison was to compare the write-off with the amount of money lent. That is roughly 9.7%; it has not changed. That was just a misreporting.

Q6 Mr Walker: £77 million of bad loans is still a substantial number. That is a substantial number of people, considering the average size of the loans that we are talking about, who are presumably left in a position where their credit rating is ruined and they are unable to repay a debt. That, surely, is a matter of concern if you are saying that you are rigorously assessing affordability criteria.

Henry Raine: I think, in one sense, any loan—Wonga's business is aimed to lend to people who can pay us back. That is how we make money. The vast majority of people pay us back on time. We freeze interest after 60 days. 25% of people pay us back early. So in one context, of course, any loan—but we are lending small-sum credit to vast numbers of people, and I think it is fair to say that those figures compare favourably with other lenders in the industry, including credit cards and banks.

We also have a very significant system, as you know, to help people in financial difficulty, including freezing interest after 60 days and allowing people to go online and do their own income-and-expenditure form and, effectively, have a proposal accepted. So we do everything we can to lessen the effect of bad debt.

Q7 Mr Walker: Just coming back on this 60-days point, a lot of your advertising will focus on much shorter periods of time, and argue that you have great cost transparency over 18 days, which a lot of your advertising focuses on. If people end up borrowing for 60 days because they are rolling over loans, they end up paying a lot more.

Henry Raine: To be clear, our average first time loan is £178 for 17 days. People cannot borrow for 60 days. If people cannot pay us back, then interest continues, but three days

before the due date, and 24 hours before the due date, they get reminders. They get text messages. They get numbers they can call if they are having financial difficulty. So very few people ever end up paying us that amount of money.

The point of introducing a cap was to differentiate ourselves from the credit-card market, where, as you know, the basic business model, I think, is to lend people money they cannot afford; they pay the minimum amount and they get into a debt spiral. That is why we do it like that.

Q8 Chair: Can you give us figures for how many people owe that amount of money?

Henry Raine: I think around 3% of loans go to that period, but I can confirm that.

Q9 Chair: How many would that be in numbers?

Henry Raine: I do not know. I would have to confirm that to you in writing. I do not know the exact numbers.

Adam Freeman: I can jump in there. It is probably about 2% or 3% with us, as well, who say they are going into financial difficulty.

Chair: I am trying to pin down how many people that involves, to get a picture.

Adam Freeman: It is pro rata. If it is 100,000 people or 10,000, it is always going to be a percentage of people. It depends.

Q10 Chair: The point is that there still could be an awful lot of people enduring an awful lot of hardship as a result of it.

Henry Raine: To come back on that, we and I am sure other lenders here do everything we possibly can to avoid that, not only by thorough credit-checking, but also by moderating the amount people are borrowing and giving them lots of warnings about the impact, both on our website and throughout the journey. Of course it is regrettable, and our job is to make that number as small as possible.

Q11 Chair: We shall be covering credit-checking in a moment, and I will bring Robin back in to deal with that, but may I go back to the charter for a moment? What sanctions are there for lenders that do not actually abide by the charter?

Greg Stevens: The charter and the addendum to our code of practice, which is the payday-lending addendum, lays down what members should do. We are not a regulator. I pointed this out to the then Minister, which was Norman Lamb, with regard to us being a trade association. We are there to ensure members adopt best practice. We monitor it in the same way that the OFT do: we look in terms of complaints. We take up the complaints with the companies. If we find there are regular complaints about an organisation, the sanctions are we work with them with regard to applying a best practice model, so somebody goes in and works with them. We can then suspend the member and, eventually, we can actually expel the member from the trade association.

Q12 Chair: Do you actually monitor whether the companies abide by the charter as opposed to just responding to complaints?

Greg Stevens: We do not directly monitor on a regular basis. We monitor when the company comes into the trade association. We do not know what takes place after that. We do not do regular monitoring.

Russell Hamblin-Boone: The larger lenders that I represent are independently monitored by an independent panel. We have incorporated the charter commitments into a wider code of practice, and introduced independent monitoring for that.

Henry Raine: In Wonga's case, we are a member of the FLA, which I think many of you know has been going for around 20 years. They have their own code, which we abide by, and of course they have independent monitoring; they do monitor us.

Q13 Chair: But the only sanctions are, basically, suspension from the membership of the association or organisation.

Greg Stevens: Or expelling.

Chair: It does not stop them trading.

Russell Hamblin-Boone: We would also expect, if someone was in breach of our code and had not corrected it given the opportunity, having been identified by the independent monitoring, we would expect them to be reported to the regulator. We would expect the independent panel to be able to make a statement to that effect and, ultimately, recommend to the Consumer Finance Association that the member be expelled from the trade association.

Q14 Nadhim Zahawi: Very quickly, to Russell and Greg, so how many people have you expelled in the last 12 months?

Russell Hamblin-Boone: Our independent panel has been in place since March and we have not expelled any members yet. They have all been seen to be compliant.

Nadhim Zahawi: Greg, you said you have been going for 120 years.

Greg Stevens: I will answer the question in terms of payday lending, which is what we are talking about. In terms of payday lending, we have expelled nobody. We have had many people who have exited the market because of the charter. We have had people who have left the trade association because they did not want to comply with the charter and the code of practice.

Nadhim Zahawi: But you have not expelled anyone.

Greg Stevens: They have expelled themselves, because they—

Nadhim Zahawi: You have not actually taken action and expelled anyone. That is my question: yes or no.

Greg Stevens: No, as I have said.

Q15 Nadhim Zahawi: Do you think either of your organisations are doing a good enough job in this market, or have you just gone native?

Greg Stevens: The answer is no, we have not gone native. I do not think enough credit is being given in terms of how the market has been tidied up, in terms of the work done by the OFT, by the charter and by the consumer groups. Many people have left the market. You also have to remember there are more companies that are not in trade associations than in trade associations, and many of those companies are the ones that create the problems in the market, certainly with regard to lead generation. There are other factors that play in this market. Many of the complaints that come in are about companies that are not under trade associations.

Q16 Nadhim Zahawi: But also it is a market that gravitates towards the very big guys, because they can afford the advertising. That is the model.

Greg Stevens: Yes.

Q17 Nadhim Zahawi: The market is concentrated in a handful of Wonga-type companies. Let me get this right, Mr Raine: what was your profitability last year on the £700 million of loans that you made?

Henry Raine: The most recent profitability was we lent £1.2 billion and we made a net income of £62.5 million, which is about £5 for every £100 lent.

Nadhim Zahawi: What was it before tax?

Henry Raine: I think it was £80-something million; I do not have an exact figure. We look at the net income.

Q18 Nadhim Zahawi: You said that 2% or 3% were people getting into real pain on your model.

Henry Raine: Around that, yes.

Nadhim Zahawi: It is the same for Mr Freeman, roughly?

Adam Freeman: Correct.

Nadhim Zahawi: You refused to give us an answer, but my calculation would be that there are around 123,000 people that you put in real pain.

Henry Raine: We have around 1.25 million customers, and 3% of that is a much lower number.

Nadhim Zahawi: I worked this out from £700 million. You said the average loan was £174, so I did the calculation. Why do you not just give me the number, instead of me trying to work it out?

Henry Raine: Absolutely. Well, I do not know the number. The average loan—

Nadhim Zahawi: You must know the number, Mr Raine, because you will have that number.

Henry Raine: The average loan across the portfolio is £272.

Q19 Nadhim Zahawi: I just want to know how many people you put in real pain—in a number, not in a percentage.

Henry Raine: I do not accept we put anybody in real pain. If you take 1.25 million customers and 3% of them is the number who, in your definition, have gone beyond 60 days, that will give you the number of customers you are looking for.

Chair: It is around about 40,000, is it not?

Nadhim Zahawi: Yes, it is about 40,000 people—not 125,000; I got it wrong.

Henry Raine: Respectfully, I think that is the way of looking at it, yes.

Q20 Nadhim Zahawi: Do you think that your charges are extortionate and that you are a rapacious organisation?

Henry Raine: No, of course we do not accept that. Indeed—this is an important point—when you look at the market that we are competing in, when the business was started, the aim was clearly to disrupt the financial services market and disrupt consumer credit. What we looked across at were people who were having to borrow fixed-term sums and who had no flexibility. With Wonga, as you know, the first thing you see as you come on to the website is the amount it is going to cost you; you choose how much to borrow for how long. The product actually is used moderately by most people.

Of course, the market that we have opened up is composed of those people traditionally using overdrafts and credit cards. All the surveys show—the research from Bristol rather confirmed this—that, for online customers, that is the market we are serving.

Q21 Nadhim Zahawi: I have had an overdraft. I ran a small business. What is your interest rate when someone goes over the period of time for the overdraft or equivalent in your world?

Henry Raine: If you borrow £100, my understanding—this is from Which?, who I think will be here later—is that the unauthorised overdraft charges for 30 days run up to between £80 and £115. If you borrow the same from Wonga, our most expensive loan for 30 days is £37. Those are some of the comparisons.

People also tell us, and there is evidence from the Friends Provident Foundation, that the vast majority of those people using credit cards are not, of course, paying their debt off every month, and therefore the cost to them of using a credit-card product is considerably higher.

Chair: We are still on our first question and there are a lot more to come. If you could make questions and answers brief, I would appreciate it.

Q22 Ann McKechin: This morning, Wonga admitted that they were one of the 50 companies investigated by the OFT, which covered 90% of the market. Can the other two companies here today confirm whether they were also on that list of 50? 19 of those 50 lenders have now left the market, according to the OFT. Can the trade associations confirm how many of those 19 were one of their members?

Adam Freeman: We had the OFT audit us at the beginning of the year.

Andy Lapointe: Yes, QuickQuid was also one of the 50.

Russell Hamblin-Boone: Of the 19, none of them were members of my trade association.

Greg Stevens: The 19 is a spurious figure. Many of those people were not in trade associations. From the 19, we had two, who have actually changed products. They are still trading as credit granters.

Ann McKechin: They are no longer in payday lending. Thank you for the clarification.

Q23 Mr Binley: I would like to pick up on something that Mr Stevens intimated. He intimated there were good payday lenders and there were bad payday lenders. Could you very briefly define who the bad payday lenders are?

Greg Stevens: I don't think I intimated good and bad. I think there are lenders and lead-generators who have been confusing the market. Their practices were probably not where they should have been.

Q24 Mr Binley: I admire your defence. May I go on? Are all the payday lenders on this panel members of your association?

Greg Stevens: No.

Q25 Mr Binley: Let me pick up a point. Mr Freeman, I shall come to you shortly. On the Mr Lender website, it says, "If, for whatever reason, I can't lend to you, then I will do my very best to ask around and recommend another friend of ours, who may be able to help you out. Providing you have consented I can do this."

On the surface, that sounds very good indeed, but who are the friends? Who do you think the friends are, Mr Stevens?

Adam Freeman: We—

Mr Binley: I will come to you, Mr Freeman. Who do you think the friends are, Mr Stevens?

Greg Stevens: I am sorry; could you repeat the question?

Mr Binley: I want to know who you think those other friends are who are operating in the business and clearly are not operating to the standards that Mr Freeman would want to operate to.

Greg Stevens: First of all, having 373 members, I cannot comment on one company. All lenders work with other companies with regard to people's special circumstances, because the underwriting criteria of most companies are different from everybody else's. There will be times when somebody would fit somebody else's underwriting criteria and might be better placed. The one thing that is not going away in all of this is the fact that people need that money. There is a need for small cash-sum loans. That need is there. People will direct them to a place that is more beneficial and more suitable for that consumer.

Q26 Mr Binley: I know the good side of your business, sir. I am concerned about the bad side. We have got enough reports of the bad side to know it exists. You, as the head of the association of payday lenders, need to help me define who the bad lenders are and who you think the "friends" are, as intimated on the Mr Lender website. Will you do that?

Adam Freeman: Can—

Mr Binley: I will come to you, Mr Freeman.

Greg Stevens: First of all, only 16% of our members are payday lenders, so it is not the payday-lending trade association. In terms of the good friends and the bad friends, that is a situation in terms of looking in terms of referral. Referral is a general practice for all financial institutions. It is nothing dissimilar to what other credit granters do.

Q27 Mr Binley: I find your defence unacceptable. Now let me come to Mr Freeman. What does "friends" mean?

Adam Freeman: It is a kind of branding for us. We hold a consumer credit licence with a broker licence and a lender licence. We probably facilitate one loan out of every 100 people that apply to us. We have very strict lending criteria. If we cannot lend to a customer, we will pass it to other lenders.

Q28 Mr Binley: And who are they?

Adam Freeman: It would be on a broker model, so we would actually give it to a broker to push through to other lenders.

Q29 Mr Binley: So we are not talking about those people who work in the shadows of your industry, then. Somebody considers them to be friends; you are saying it is not you.

Adam Freeman: I see your point.

Mr Binley: Oh good; I am glad about that. Now answer the question.

Adam Freeman: I see your point, and I see why you are making the point, but we are very strict at lending. We literally lend to one in 100 people.

Mr Binley: This is not about you; it is about your friends.

Adam Freeman: That is right. And my friends, or Mr Lender's friends, are obviously people that will facilitate people who are working part-time or are on benefits. We will not lend to people like that.

Q30 Ann McKechin: Do you receive commission for it?

Adam Freeman: Sometimes; sometimes not.

Mr Binley: This is the loophole.

Adam Freeman: Can I ask—can we ask—what am I missing?

Mr Binley: You do not ask the questions; we do.

Adam Freeman: Fair enough.

Q31 Mr Walker: Coming back to affordability, which is absolutely crucial, you all say, as companies, that you have rigorous affordability criteria. You have just said you only approve about one in 100 people, which seems extraordinary. I think Wonga have said that about 60% of people do not get through that particular—

Henry Raine: 80%.

Mr Walker: Thank you. The charter says you will “Carry out a sound, proper and appropriate affordability assessment and credit vetting for each loan application and before the loan is extended (rolled over)”. As the Chairman pointed out earlier, the OFT figures rather contradict that. May I ask the three businesses on this panel, do you do that on every loan and every rollover individually?

Adam Freeman: Yes. We have started to since the OFT investigation and since the charter.

Q32 Mr Walker: So you did not before the OFT investigation?

Adam Freeman: Yes, but it is a lot more intense now. We speak to every single customer that we will lend to. We will go through income and expenditure. There is one downside in it at the moment, which I am sure that we will come to: not knowing in real time. That is probably our biggest downside as a lender: not knowing in real time what other loans a customer will have at the time of applying with us.

Mr Walker: I want to come on to that.

Adam Freeman: I am sure you will.

Mr Walker: It is a very important point.

Adam Freeman: We do everything we can. If someone has an income of £1,500 and their expenses are £900, leaving £600 disposable income, we are not going to lend that customer £600. We would probably go up to a threshold of about 50% to 60%—maybe £300 to £350.

As a lender, what we do not know at the time is, “Have they just gone to QuickQuid or Wonga and got a loan with them?” I would love that information, because I like to lend to people who can afford to pay me back.

Q33 Mr Walker: I will come back to that, if I may. Mr Lapointe, does QuickQuid do individual assessments for every loan and rollover?

Andy Lapointe: QuickQuid does an affordability assessment and creditworthiness check with each and every loan and rollover. We do a credit report, an over-indebtedness report and we query a number of other databases. At the time of a rollover, a customer is going to be asked a series of questions to determine whether or not the rollover is suitable for them and nobody would be guaranteed to have access to any rollovers.

Q34 Mr Walker: In what circumstances would a rollover not be suitable? If someone cannot afford to pay back the principal, how would you then decide that the rollover was not suitable for them?

Andy Lapointe: If a customer went to roll over a loan and advised us that he had just lost his job, a rollover would not be suitable; a forbearance arrangement would be suitable at that point.

Q35 Mr Walker: How often does that happen?

Andy Lapointe: I think it happens fairly frequently.

Q36 Mr Walker: It would be interesting to see some figures on that. Coming back to Wonga on this, I saw that you were nodding in terms of saying that you do an assessment on every loan and every rollover.

Henry Raine: The way Wonga started was by doing everything online and buying as much data as we could. That was the differentiating factor in our model. Early on, we worked with Callcredit, in particular, and with other bureaux to devise as much data as we could. We buy all the raw data from the bureaux; we do not buy reports. We buy the raw data and crunch it ourselves.

We also look at lots of other factors. There is a lot of public data you can buy in the marketplace to assess people's affordability. Obviously, our algorithm has got better the more we have lent, because you learn about people. Without going into too much detail, we also look at how people interact with the sliders and how they interact on the screen in terms of whether they are appropriate for the loan.

In terms of rollovers, we have always checked. Less than one in 15 customers at Wonga ever rolls over a loan once. Rollovers have not been a big feature of our business. Indeed, when we started we did not offer extensions at all. Customers kept phoning up and saying, "It is my due date; can I extend for another five days?" and we had no mechanisms to do it, so we introduced the limited concept of extensions, whereby you could extend for how long you want, i.e. you do not have to extend the whole loan for the whole amount. You can extend £20 for 10 days. That is what we do.

Clearly, the big challenge for us, which is why a number of us here are working together on this with the bureaux, is to find the best method of getting all data from all lending on a real-time basis. For us, as I said, the majority of our customers are coming from bank products and credit-card products, so it is vital we understand their whole credit history, not just whether they borrowed from QuickQuid or Mr Lender. I think real progress is being made on that.

Given that they will be FCA-regulated, the CRAs give us a real opportunity to do something about that. Reciprocity is key, obviously—putting data in and getting it out.

Russell Hamblin-Boone: It is helpful to note, for context, that the OFT report was published some time ago. Since that point, lenders were given a 12-week window in which to put in some additional measures. We are still waiting on a response from that, but it included affordability checks.

We are already limiting the number of rollovers, putting in clear costs, reducing the use of continuous payment authority, putting clear costs in adverts, and working with debt-advice agencies referring people to free debt advice. All of those things have happened, and are happening, post the OFT report. While the OFT report is an important point of reference, the industry has moved a long way forward since that time.

We recently surveyed the customers of the businesses I represent using YouGov. 93% of them said that their lender asked them about their income, employment and other financial details before approving a loan. 90% felt they were offered a fair loan based on the employment and financial information they provided.

Q37 Mr Walker: There are still significant numbers of people, even in those surveys, who feel that they are not going through the assessment, and that is a matter of concern. Returning to the OFT figures that the Chairman spoke about earlier, only 23% of people responding to that survey said that they were reassessing at the time of rollover. That does seem a matter of concern. I accept that is in the past; it may have improved.

Russell Hamblin-Boone: What is going on behind the scenes is not necessarily transparent to the customer either. They just ask whether they can have a rollover.

Mr Walker: This was lenders giving information to the OFT, not customers.

Russell Hamblin-Boone: And their answers were based on the way that the question was phrased, and the lenders were being honest in the way that they were responding to some of those questions.

Q38 Mr Walker: Coming back to the point that Mr Freeman raised, which I think is very important, about the transparency of knowing whether people have borrowed, Wonga has said that you pay a lot of money for data, or you invest in data. Do you not think the industry should be able to pay for a sharing system or some form of database, which shows all the short-term loans that people have out there, so that you can get that greater picture of affordability?

Henry Raine: I think we are working on that. Obviously, far be it from me to dictate anything; I am not a member of the industry bodies. I think we are working with a number of industry players and Callcredit to develop a system with a recognised CRA.

As I said before, if I may pick up this point, it is more than a payday-lending database. It does not mean we should not do it, by the way, but the challenge is that what we are looking at here is a significant amount of people having other short-term financial products, which are causing them financial difficulty. We need to be able to get hold of as much data as we can, on a reciprocal basis. Obviously, for the larger lenders, there is a

downside: that we are putting more data in and getting less out. You may find a situation where, for some of the smaller lenders, the economics simply does not work for them and the technology does not work. Mr Stevens may have a view on that.

Andy Lapointe: I participated in a number of meetings with the credit-reporting agencies to get this built and to push it, so that it does happen. One of the advantages of using an actual credit-reporting agency is that you can take account of all types of credit. The United States has certain databases that only keep track of payday loans, and they do not keep track of log-book loans or pawn loans or instalment loans or anything else.

Q39 Mr Walker: I believe Canada has quite a developed system in terms of registering loans and sharing that information. Is that one that any of you have looked at?

Adam Freeman: There is one main credit reference agency that the vast majority of lenders use. I was in a meeting around a year and a half ago when this company was talking about real-time sharing. As I said before, the problem we have is that the data could be up to 60 days old, because if you are doing loans towards the end of the month and you have to report at the end of the next month, you basically have to wait 60 days back.

About a year ago, they identified payday loans as a product. It received its own code, which was “Advance Against Income” or AAI. This is specifically related to payday lending. So I know if a customer has settled payday-loan accounts before, and I know if they have any open payday-loan accounts. You can choose not to lend to that particular person with open payday loans, but the data is 30 or 60 days old. If I knew today that this customer has a loan with QuickQuid and Wonga, there is no way I would lend to them. As I said, I like to lend to people who can afford to pay me back. There might be a £50 or £100 loan, because they still have £200 disposable income, but if I had that information, I would be the first to share it and I would be the first to use it.

Q40 Mr Walker: Improving this information is clearly crucial in making sure that people are not being lent money if they cannot afford it, there are still concerns. One of the lines in the OFT report picked up on this. It said that even where bank accounts were being scrutinised and people could see from the bank accounts that borrowers were already making payments to payday lenders, they were still being given loans. Would you all accept that, from your business’s perspective, this should not happen?

Adam Freeman: If we knew within a few days that they had an open loan with another lender, we would never lend to them. That is not a good business model, because you are not going to get your money back.

Andy Lapointe: That is why we prefer using automated systems to using live people reviewing bank statements and documents.

Q41 Ann McKechin: If I may turn to the question of rollovers, gentlemen, the three companies before us today have all admitted that they were part of the OFT investigation. Could you confirm whether you were censured on the issue of rollovers?

Andy Lapointe: Yes, we were.

Ann McKechin: Mr Freeman?

Adam Freeman: What did you say?

Ann McKechin: Were you censured on the issue of rollovers by the OFT?

Adam Freeman: What do you mean? Are you asking whether we were doing anything wrong with them, or—?

Ann McKechin: Did they raise concerns with your company about the issue of rollovers?

Adam Freeman: No, they did not.¹

Ann McKechin: Mr Raine?

Henry Raine: I am happy to answer that: no. If I may say—it sounds rather pejorative—what the OFT did was, they investigated the 50 largest payday—

Ann McKechin: I will come back to that later; thank you very much, Mr Raine. I have—

Henry Raine: They investigated the largest payday lenders in the market.

Chair: Please do not interrupt a question.

Q42 Ann McKechin: May I follow up on an issue that Mr Freeman raised? You stated that you rejected a significant number of people who applied to you for a loan, but in turn, you referred a percentage of these to other lenders.

Adam Freeman: Correct.

Q43 Ann McKechin: I am just wondering to what extent that commission income is a percentage of your total turnover.

Adam Freeman: It is minimal. It would probably be less than 1%.

Q44 Ann McKechin: Is that practice known to any of the other gentlemen? Is this known amongst the trade members of the two associations, or to Mr Lapointe and Mr Raine?

Adam Freeman: May I intervene? We give this to a broker. We have contracts behind the scenes, where they make sure all of our lenders actually—

Ann McKechin: I am focusing on the issue about this particular type of trade where you are referring a borrower from one lender to the next and how that is regulated. I am just trying to clarify that.

Andy Lapointe: The OFT did say that we should change certain of our processes to make sure that we gave out less rollovers.

Ann McKechin: Okay, but you do offer the alternative of another lender to some of the people who apply.

¹ Note by witness: Witness subsequently amended this to “Yes, they did”.

Andy Lapointe: No.

Ann McKechin: Mr Raine?

Henry Raine: No.

Ann McKechin: Are either of the two trade associations aware of any of your members being people who refer people on to other lenders?

Greg Stevens: I have already said that it is a general model in the market. If someone does not fit their underwriting criteria, they will pass that person on. It is most prevalent in motor finance. Underwriting criteria vary massively; therefore, leads do move around.

Q45 Ann McKechin: Mr Hamblin-Boone, the Consumer Finance Association has introduced a limit of three rollovers for loans. Can you confirm that your members are currently 100% compliant?

Russell Hamblin-Boone: They are 100% compliant inasmuch as they are independently monitored. I cannot confirm this; nor could anybody. I imagine that even Marks & Spencer could not say that all of their staff were 100% compliant with something. But it is the policy. It is independently monitored. We do know that the average length of a loan of one of my members' customers is now 41 days, which suggests that they are not rolling over their loan anywhere near that amount.

Q46 Ann McKechin: If 40 days is the average, that implies that quite a number of people are well over that 40 days.

Russell Hamblin-Boone: 41 days is the average length.

Ann McKechin: Yes. If you are saying that the bulk pay on time within 30 days, and the average is 40 days, that would suggest it is much longer.

Russell Hamblin-Boone: 85% pay on the due date. Of the remaining 15%, two-thirds of them roll over their loan at least once. Based on the 41 days, the majority of them roll over just once.

Q47 Ann McKechin: In respect of when a borrower has missed a repayment, in their evidence the OFT said, "In our view, this should be prima facie evidence that the customer is in financial difficulties and the lending is unsustainable". Would that be a criterion of analysis for your independent monitoring?

Russell Hamblin-Boone: As Mr Raine said, when the original loan product first came to market, there was no ability to extend the loan. There are all sorts of reasons for rollovers. Whether this is due to late payments, people not getting the cheques through or people needing to delay their payments in order to pay other debts that are more priority debts, we need to have the flexibility to grant people at least one or two extensions.

Q48 Ann McKechin: The specific question I am asking is whether, if someone has missed a repayment, according to the OFT, that would be prima facie evidence that the lending is unsustainable.

Russell Hamblin-Boone: No, I disagree.

Q49 Ann McKechin: If someone comes to you and says, “I have missed a repayment,” would they automatically then be allowed to roll over?

Russell Hamblin-Boone: Not automatically; nobody is allowed to roll over automatically. It is important that there is some flexibility for a short-term loan, and that we do not immediately put someone into default, affect their credit score and not give them any options.

Q50 Ann McKechin: You are carrying out this independent analysis. Presumably, you have only just started, so the figures will not yet be available. But if you are starting it, presumably you will be able to find out on how many occasions, and for what percentage of people, loans are rolled over on the basis that a payment has been missed, so you will be able to provide those statistics in the public domain in the near future. Would that be the case?

Russell Hamblin-Boone: People missing a payment would be contacted by the lender.

Ann McKechin: No, I am asking that you reveal the actual figures of how many missed repayments then roll over, so we can have an indication of how many of these loans would be deemed, *prima facie*, to be unsustainable.

Russell Hamblin-Boone: If someone misses a payment and the lender makes contact with them, or they make contact with the lender and say, “My circumstances have changed,” “I have lost my job,” “My partner has left me,” or whatever it may be, that person is deemed to be in financial difficulty.

Q51 Ann McKechin: Okay, so you are not going to provide this evidence.

Russell Hamblin-Boone: That person is deemed to be in financial difficulty. In that circumstance, that definition does apply. We will immediately freeze the—

Ann McKechin: I am not asking how you deal with the process. I am asking how you record the process and how you are transparent about the process, Mr Hamblin-Boone. Thank you very much for that.

Russell Hamblin-Boone: You have asked me to define whether one rollover is someone in financial difficulty or not. In some circumstances, it absolutely is and we take action. In other circumstances, there is a reason they want to extend the loan that is not financial difficulty.

Q52 Ann McKechin: So you do not think the OFT can work out what is and is not financially unsustainable and what is and is not financial difficulty.

Russell Hamblin-Boone: The OFT report was some time ago.

Chair: May I intervene at this point? We are short of time. You will have the opportunity, if you feel that you need to add to any response you have given, to do it in the form of supplementary written evidence after this inquiry. It will be taken into consideration when we produce our Report.

Q53 Ann McKechin: According to the OFT, 17 lenders actively promoted rollovers in marketing material at the point of sale, and 15 proactively alerted customers to the rollover options prior to the loan due date. Do any of you support those practices? If not, how can that promotion be stopped effectively?

Andy Lapointe: QuickQuid does not promote rollovers, and our call-centre representatives are not allowed to present rollovers. We do quality assurance monitoring to make sure that they are not doing so.

Adam Freeman: Same here, with us. Before the OFT, we did actively promote them, but since the OFT review and audits, we do not actively promote them.

Henry Raine: Our practice has never been that. In monitoring, as Andy says, one of the key issues is looking at call-centre training—that is a challenge for all of us—as well as what is on the website. Of course, there is no one here from the storefront sector, so we do not know what goes on in terms of people going into stores.

Q54 Ann McKechin: What is your company's policy on limiting the number of rollovers?

Henry Raine: We have always had a limit of three², and as I say, less than one in 15 ever extend a Wonga loan once.

Q55 Mr Binley: Mr Stevens, we all want to get rid of the unsavoury element to your business, which we all know exists, and it seems to me the reference area that you referred to, saying that it was reasonably widespread, is a way of sort of operating outside of the charter for some people. Do you accept that particular point?

Greg Stevens: I think people who are—

Mr Binley: It is a simple question: yes or no?

Greg Stevens: Yes.

Q56 Mr Binley: You do accept the point. Then let me ask you this: if you do feel that there is a loophole here, where people are operating in a way that all of us, you included, would not want to happen, how might we close that loophole?

Greg Stevens: As an industry, we have been trying to close several loopholes, certainly with regard to lead-generators, who are not under the OFT. One of the problems is that the marketplace exists on the leads being generated. It depends on the acquisition of those leads to drive the business forward. I do not think enough credit is being given in terms of the work the OFT has done and the work that is going to be done by the FCA. Even the actual consultation report from the FCA will drive people from the business. You will get the thing you want.

Q57 Mr Binley: Fine; wonderful, but you have already admitted that the loophole exists. It is surely in the interests of the decent side of the business to close that loophole. It is

² Note by witness: This was amended to “We have had a limit of three for almost two years”

also within your area of action to ensure that your members do not operate in that way. I repeat my question: what will you do to ensure that the loophole that you say exists is closed from the perspective of your membership?

Greg Stevens: With regard to the worst cases, we have reported those organisations to the Ministry of Justice. It comes back to the fact that those companies are not regulated by a regulator that covers consumer credit. This is where a lot of the problems occur. If you go on to the internet, the first few pages of websites are lead-generators; they are not lenders. That is how consumers get confused.

Q58 Mr Binley: Why do you not simply get your members to outlaw the practice?

Greg Stevens: In what way do you mean?

Mr Binley: In terms of referrals. Why do you not simply say, “It is outside of the remit of this association; if you are a member of this association, we do not think you should be involved in that particular process”?

Greg Stevens: I am talking about acquisitions.

Mr Binley: I am talking about something else.

Greg Stevens: I am not talking about referrals.

Q59 Mr Binley: I want you to recognise that you are a trade body and have some role in policing the wellbeing of the trade. You have admitted that there is a loophole in terms of the referral system. Why do you not take action and ensure your members are not involved in any referrals, so that we know that the company we are dealing with does not pass information on to companies that do not act as credibly as your members do?

Greg Stevens: It happens in every market. This is not specifically about payday lending. I have already made the point twice: everybody has their own unique underwriting criteria.

Q60 Mr Binley: You are being very evasive. Why do you not simply say that you can or cannot act as a better regulator, as an association, in this respect?

Greg Stevens: As I have said before, we are not a regulator; we are a trade association.

Chair: I think we have probably pursued this line. We understand you are not taking responsibility for that, and we may wish to comment on that.

Q61 Nadhim Zahawi: You were asked by my colleague, Ann McKechin, about the OFT and censure. Only QuickQuid said that they had to change the criteria for rollover procedures. To Adam and Henry, have you had to change anything since the OFT investigation into your businesses?

Adam Freeman: We did change the rollover process after the OFT investigation.

Q62 Nadhim Zahawi: So the OFT investigation found that you were basically behaving badly and you had to change.

Adam Freeman: No, it was not badly. No one actually told us what to do at any point, so I would not say we behaved badly. We did what we did as a business. At the beginning, we were assessing people on affordability over two or three months, because that is what we were doing. The OFT came in and said, “You have to do it on your own merits. If someone wants to roll over, at the point of rolling over you have to assess their affordability then.”

We spent a lot of money on system changes and staff training, and we changed our process. One of the options is, “I am in financial difficulty and cannot afford to repay in full”. That is literally an option on a drop-down menu. As soon as that happens, we will not roll over that customer. We will put them on a frozen-interest payment plan and work with them over a month, three months, six months or a year—whatever works for them.

Q63 Nadhim Zahawi: Is that the only change you were asked to make by the OFT?

Adam Freeman: There were about 30. Some were tiny text changes. We had to make our representative APR slightly bigger. I have to say that I was surprised at the opening comment, because I think the OFT have done quite a good job. I have seen people exit the market that should exit the market. I am all for regulation.

Q64 Nadhim Zahawi: Could you let the Committee have those 30 things you have had to change?

Adam Freeman: Yes, of course, if I am allowed to share them.

Q65 Nadhim Zahawi: Henry, did you have to make any changes following the OFT report?

Henry Raine: Yes. Can I just make one comment?

Nadhim Zahawi: Before you make it, could you say whether you had to make any changes?

Henry Raine: Yes, we had to make a number of changes to our website.

Q66 Nadhim Zahawi: What were those changes?

Henry Raine: They were about more disclosure. There were some issues about the size of the APR on various pages. Most of the OFT work with us was more on the information-gathering side, i.e. they wanted to understand more about how we do certain things, which was very helpful.

Q67 Nadhim Zahawi: I understand what they wanted to understand, but what were the changes they asked you to make?

Henry Raine: We had to highlight risk factors slightly higher up on our home page, and other things like that.

Q68 Nadhim Zahawi: Will you let us have those changes that you made?

Chair: Could you submit, in written evidence, details of the changes that you had to make, arising from the OFT?

Henry Raine: Yes. Assuming that the OFT is happy with that, of course.

Q69 Paul Blomfield: Still on the issue of rollovers, Mr Raine, you described a rather benign process where you would not have dreamt of having rollovers if it was not for customer demand. There is a question here, is there not? Actually, at the point where people are unable to pay, you do not need to roll over their loan, doubling their interest and imposing a punitive penalty charge. You have an option of sitting down with them and saying, “You are clearly in financial difficulty. Shouldn’t we negotiate an affordable repayment plan?”

Henry Raine: First of all, we do not double their interest. People can choose to extend; we do not force them to extend and always credit-check them again before approving an extension. Less than one in 15 people ever do. In the majority of cases like that, people are able to reschedule their debt and make an online repayment. For some people, an extension suits them better. It may be that they are getting the money.

Q70 Paul Blomfield: In what way are they suited by having a penalty charge for rolling over their loan?

Henry Raine: It may be that we have people who are sole traders, who are getting the money next week, who would rather pay us and delay payment for a few days rather than go on to a repayment plan.

Q71 Paul Blomfield: Do you perhaps understand why people are more likely to listen to the OFT’s concern that a higher proportion of profitability in your business actually comes from rolled-over loans than those that are repaid within the original terms?

Henry Raine: I agree. One of the—the number of the—

Paul Blomfield: You agree with that.

Henry Raine: No. The OFT’s point was that in some cases 50% of revenue was derived from rollovers. In Wonga’s case, because only one in 15 ever roll over—

Paul Blomfield: Mr Raine, you keep trying to distinguish Wonga from the rest of the sector.

Henry Raine: I can only answer on behalf of Wonga.

Q72 Paul Blomfield: You certainly can. Why were you censured by the OFT as well, then?

Henry Raine: On rollovers? We were not.

Paul Blomfield: No, but in general, in terms of your business model and your conduct.

Henry Raine: We were not censured. No one has been censured by the OFT. We have been asked to make various changes. The 50 top lenders were all visited by the OFT. All of us have been asked to make changes. It is not a case of censure.

Q73 Paul Blomfield: No, but your practice was criticised.

Henry Raine: No, we were asked to make changes to various things.

Q74 Paul Blomfield: Presumably, that was because your practice was not sufficiently good, in terms of the OFT's assessment in the first place.

Henry Raine: That is an open issue that we still have with them. But many of the changes they recommended were not about censure; they were about making things clearer for customers.

Q75 Paul Blomfield: To go back to my original point, you are saying that rollovers are there to assist the customer. Would it not be of more assistance to a customer in financial crisis to sit down and say, "You are in difficulty; let's have an affordable repayment plan," rather than punitive additional interest and a penalty charge?

Henry Raine: Of course we agree with that, which is why we have a whole hardship plan.

Q76 Paul Blomfield: It is not what you do, is it?

Henry Raine: Less than one in 15 people ever get an extension from Wonga. The vast majority of people who cannot pay back their loan move on to a repayment plan. There are some people for whom an extension obviously works, and that is a small minority.

If I may say so, in terms of rollovers and extensions, Wonga is in a very different position from the rest of the sector. I cannot answer on behalf of the rest of the sector.

Adam Freeman: May I jump in? Just because someone rolls over a loan, it does not mean that they are in financial difficulties. It is circumstantial.

Q77 Paul Blomfield: Do you think they would voluntarily want to take on the punitive additional charges if they were able to afford to repay?

Adam Freeman: It is like a credit card. You get a credit card bill through for £500. In that month you have had to buy some food and clothes, so you cannot clear your credit card. You are going to pay £250 plus interest. Just because someone rolls over a loan, it does not mean that they are in financial difficulty.

This is on behalf of Mr Lender. If that customer is saying, "I cannot afford to pay this loan in full this month or next month, because I have lost my job," we are not going to roll over that loan. We are not going to charge any interest. There will be no more fees.

Q78 Paul Blomfield: What about Mr Lender's friends?

Adam Freeman: Exactly, yes.

Q79 Paul Blomfield: May I press all of you on the issue of rollovers? The FCA are proposing a limit of two rollovers. Do you agree with that: simply yes or no?

Adam Freeman: It is detrimental to the consumer. You need to give the consumer the option.

Q80 Paul Blomfield: Would the option of an affordable repayment plan not be better?

Adam Freeman: It is circumstantial and you cannot predict your circumstances in the future. They might need one, two or three months, where they are low on cash, to pay it back. Just because someone has rolled over, it does not mean they cannot pay capital towards their loan as well. They do not have to pay you the interest. They might say, “Mr Lender, we are going to pay you £50 capital and the pro rata interest.” It is not an additional charge; it is pro rata interest.

Q81 Paul Blomfield: If you roll over a £100 payday loan just three times, you are paying about £120 in interest alone. In what way is that in the interest of the consumer?

Adam Freeman: It is £75, actually. It is £25 per £100. If it is a good customer and they are our friends, it is £20—it is £20, £20, £20, which is £60.

Q82 Paul Blomfield: I have allowed you to distract me, Mr Freeman. My question is whether you each accepted the recommendation of the FCA for a two-rollover limit. Your answer was no, Mr Freeman. What do other members of the panel say?

Russell Hamblin-Boone: We are looking at the data of our members’ customers. As I said, the average loan there is 41 days. We have not reached a position yet, but there is an indication that two rollovers may be an option.

Greg Stevens: The figure is arbitrary; we do not know how they have arrived at it. Obviously, we are in the middle of the consultation-response period, and we are asking for more information. Our view has been the same right the way through: in certain cases, one rollover is too many. It is about looking at affordability. Affordability is the question that should be asked, not the number of rollovers.

Andy Lapointe: QuickQuid has a limit of two.

Henry Raine: This is not the big issue, frankly, in terms of how the industry needs to be regulated.

Q83 Paul Blomfield: If the limit of two is introduced, what guarantees can you give and what procedures will you put in place to ensure that debt that might otherwise be rolled over is not simply repackaged as a new loan?

Henry Raine: In Wonga’s case, you cannot get a new loan until you have paid off your old one. We will not be repackaging anything at all. You can check the website. Of course, the FCA will be able to investigate all of this so that it does not happen.

Andy Lapointe: The FCA’s guidance says that they are not just going to be a tick-box regulator. What they are saying is, “If the outcome is bad, it does not matter how good

your processes were.” That would fall into that bucket, and we would have to design our loan products accordingly.

Russell Hamblin-Boone: The consultation makes clear that this applies to rollovers and refinancing.

Q84 Mike Crockart: I would like to quote what the charter says about advertising, but it does not say anything about it at all. Could I have your views on whether there should be something about advertising in it?

Russell Hamblin-Boone: As I said, the charter commitments are incorporated into a broader code of practice that we use. It requires the lenders to comply with all of the marketing and advertising laws that exist. We work very closely with the Advertising Standards Authority, and we have just set up some workshops with them to work on how short-term lenders should be marketing and what their adverts should look like. Customers are in control of marketing, for example. They can opt out of marketing. We will not allow people to be spammed.

Mike Crockart: I will come on to marketing in a minute; I am talking about advertising.

Russell Hamblin-Boone: The other point to make about adverts is that nobody buys directly from an advert. An advert will direct you to a website, and there is a lot of information—all of the information you need.

Q85 Mike Crockart: You will be directed to a website, which the OFT has described like this: “Most websites made claims we consider potentially misleading”. The information on the website is not going to be the best.

Russell Hamblin-Boone: The OFT report was some time ago. As Mr Raine has pointed out, he has made changes to his website and, as the other lenders have pointed out, they have made changes to their website. They look very different to when that report was written.

Mike Crockart: There are no more examples of things like, “No credit checks,” or, “No credit, no problem,” or, “Loan guaranteed, no questions asked”.

Russell Hamblin-Boone: No.

Q86 Mike Crockart: None of you would have anything like that on your website. There are still things out there like that, are there not?

Russell Hamblin-Boone: There absolutely are. When we find them, we report them to the regulator.

Q87 Mike Crockart: I have had a look at particular websites this morning. The OFT talked about one of the most misleading things being the promise of money within a very short time, which effectively was a marketing ploy. All three of the companies represented today advertise, in quite prominent places on all three, the fact that loans can be made within five or 10 minutes.

Andy Lapointe: That is from approval. If someone comes in to apply for a loan and they require manual checking, it might take us three hours to clear them. The five minutes is indicating from the time that they are approved.

Mike Crockart: Absolutely, so let us look at the QuickQuid website, where, in the largest text, at the top, it says, “Cash sent within 10 minutes after approval” and there is a little strange symbol beside it. If we go down to the FlexCredit part, it says, “Get cash sent within 10 minutes of approval”, and there is the same strange symbol. It says, “Short-term loans, get cash sent within 10 minutes after approval”, and there is another symbol. You have to go right down to the bottom and look in really small text, in the midst of lots of other little symbols, to find out what that means. Is that a fair way of portraying things?

Andy Lapointe: Our responsibility is to do the credit checks. Some of the credit checks are done quickly; some customers have red flags in the approval process, which means they remain there for manual processing. This is something we have to do. It is accurate of our processes. I am not going to say the OFT approved that; it was one of the things that we changed in light of the OFT review.

Russell Hamblin-Boone: We are talking about speed of delivery there. When you are transferring money electronically, you can do it very quickly. If you apply for a credit card, the application process would be as long as if you were applying for a short-term loan. The difference would be that you have to wait a few weeks for your credit card to come through, as opposed to lenders, who are able to transfer money directly.

Q88 Mike Crockart: For all three of the companies represented here, which you are saying are at the better end of the scale of payday lenders, the speed of getting the money is a major selling point.

Russell Hamblin-Boone: That is the value of the product. In fact, the London Mutual credit union has just invested in technology in order to be able to get money into people’s accounts quickly, recognising that, if you need to get your washing machine repaired or you need a short-term loan urgently, you do not want to wait to apply for a credit card, because you need the money now. It is what the circumstances demand, and that is why even the credit unions are recognising that this is a need of the customer and a value of the loan.

Chair: It is completely misleading to make a comparison with credit unions, where you have to be a member and there will be some record of that person’s creditworthiness and credit history, compared to the approach that is used by payday lenders.

Russell Hamblin-Boone: No. Credit unions do not do the level of checks that we do. Some of them do have longer-term relationships with customers, but, with respect, Mr Chairman, I was not making that point. I was making the point that the process of delivery of the product, based on speed, is something the credit unions—

Chair: With respect to you, I do not think the process of delivery is really the issue at stake. It is the lack of examination of creditworthiness there and the use of this that is made in marketing.

Russell Hamblin-Boone: The question was, “How quickly after approval can the money go into the account?” That is what the lenders advertise.

Adam Freeman: When the OFT came to us earlier in the year, this was one of the main things they said. I would not say it was their recommendation, but everything forward-facing was being audited. We have got to a place where we have been told that this is what we are allowed to put across. We are only doing what we are allowed to do.

Q89 Mike Crockart: We are running over quite a bit. I will try to keep my questions short, but if you could keep your answers even shorter, that would be great.

Obviously, with using the speed of getting the money as a tool to draw people in comes the recommendation or regulation that you have to promote the APR as prominently as you possibly can. Looking at Wonga’s website this morning, it is there: 5,853% APR. Mr Lender, you manage to beat that with 4,849% APR. Interestingly, QuickQuid, you need to have a serious look at your website, because the page which launches and fills the window is not actually the full page. To get to the point where you see the APR, you have to resize.

Andy Lapointe: What is the system of that device that you are using?

Mike Crockart: It is an iPad. It is a fairly well-used thing you might have heard of.

Russell Hamblin-Boone: You have not asked the lenders how much the customer has to pay, because I think that is probably more important than the APR.

Mike Crockart: The regulation is to do with the promotion of the APR, so that is what I am dealing with at the moment.

Andy Lapointe: Our intention with putting it on the side there is that it would be easy for the customer to see, because there are devices that cut off the bottom. If you put it on the bottom, people do not see it. That was placed there for prominence.

Q90 Mike Crockart: It is not, then, a deliberate attempt to hide it from customers.

Andy Lapointe: No. Every time that I have seen that screen, that is right there, rather than having to pan down to the bottom, which is more common, especially on handheld devices.

Mike Crockart: Perhaps I can show you this afterwards and you can take it away and deal with it.

Andy Lapointe: No, I trust what you are saying.

Q91 Mike Crockart: If we can turn then to the calling that you do, which is a particular interest of mine, first of all looking at existing customers, do you follow any guidelines? You have the right to phone them. You have a relationship with them. It is a first-party consent that you will have received from them. Do you have any guidelines about the way in which you contact them, the number of calls that you make over a period of time, or where you phone them? We have heard some fairly horrendous stories about people being

hounded by large numbers of calls, sometimes made to places of work. Do you have guidelines that you follow about the contact that you have with your customers?

Adam Freeman: Again, since the OFT—we were quite good beforehand—if we phone a customer and the customer says, “Do not phone me at work,” we will not phone the customer at work again—period. We are not allowed to. It is treating the customer fairly. If a customer says, “Do not call me at work,” we will say, “Do you have an alternative number?” or an e-mail address or something, but we are not allowed to contact that customer at work again.

Q92 Mike Crockart: What about the number of calls that you would make to them?

Adam Freeman: We would only need to say that once, would we not?

Mike Crockart: No, I mean generally, not about phoning them at work.

Adam Freeman: You would only need to say it once to the customer, so I do not know how many times they have to phone. It is probably once or twice; I do not know.

Q93 Mike Crockart: Again, we had some fairly horrendous stories about people being phoned 10 times a day to be chased for payments.

Adam Freeman: Yes, but we would not phone someone 10 times a day.

Q94 Mike Crockart: That is why I am asking. Do you have any guidelines?

Adam Freeman: Yes, treating the customer fairly. That is not fair, so we would not do that.

Q95 Mike Crockart: Treating the customer fairly can be taken to mean a number of different things. Do you have guidelines?

Adam Freeman: Yes, we have policies and guidelines³ in place, of course. I can send those to you as well afterwards, because I think they will be quite helpful.

Mike Crockart: That is great.

Henry Raine: We do not have people’s employment details. We do not have a way of contacting them at work. There are regulations, which I am afraid I am not entirely on top of, that we follow about when you can call people, what times during the day you can call them, and what happens. The vast majority of our interaction is online with customers, because that is how they have come to us, so we do not have a lot of phone contact.

Q96 Mike Crockart: When you say that there are guidelines, are you talking about your guidelines or the guidelines of someone else?

Henry Raine: No, the debt collection guidance of the OFT, which we all follow. I am afraid I do not know it, but it is all part of our systems, and I suspect the other lenders’ too. That stipulates how you can contact people and how often, and also, I think, only in certain hours of the day. If people are being contacted by lenders or by representatives

³ Note by witness: Witness subsequently amended this to remove the word “guidelines”

outside those hours, then it is clearly in breach of the OFT guidelines, but, as I say, we do not do it.

Q97 Mike Crockart: If I can turn to generating new customers, what do you do in terms of cold-calling? Do any of your organisations cold-call to find new customers?

Henry Raine: No.

Andy Lapointe: No.

Q98 Mike Crockart: Do you use lead-generators to come up with new customers?

Adam Freeman: Yes.

Q99 Mike Crockart: You cold-call by proxy, then, effectively.

Adam Freeman: No, we never cold-call. We never cold-call new business.

Q100 Mike Crockart: If you are using lead-generators, you are effectively cold-calling, but getting somebody else to do the hard work.

Adam Freeman: No, not at all. This is all online. Sorry, maybe there is confusion. This is online lead generations, where someone has gone to a broker's website and applied for a loan, and we have purchased that lead. That customer knows they are a Mr Lender customer. It is not a cold call. We know that they are a customer. We can facilitate them.

Q101 Chair: May I just suggest, where you have guidelines, can you send them to the Committee for them to examine, and we can make a judgment on them?

Adam Freeman: Definitely.

Mr Binley: Sorry, Mr Chairman, may I add: we do not want your rules; we want your talk guides as they appear on the screen and we want continuation lines.

Adam Freeman: Yes, of course.

Chair: If we are not satisfied with what they cover, then we will come back to you.

Q102 Mike Crockart: Do you use texts in your marketing, to new or existing customers?

Adam Freeman: We would never randomly text somebody, "Do you need a loan? Come to Mr Lender." No, we have never purchased lists or done anything like that.

Henry Raine: We do not text people as a way of getting business. The day before payment date, we will use a text to text them to say, "Just to remind you that your money is due," so it is not a PPI-type situation where we are all getting texts the whole time. We do not do any of that.

Andy Lapointe: You would have to opt in to receive texts from us.

Q103 Chair: On that issue, you will know that, on “Newsnight” last night, there was an example of somebody, I think, being texted for a loan during the course of an evening. Are you saying that that does not apply to Wonga?

Henry Raine: Yes. I am sorry; I did not see “Newsnight” but no, as far as I am aware—if I am wrong, I will confirm to the Committee—we do not do text-marketing.

Chair: I think that needs to be clarified, and if you could send evidence that would clarify that, I think the Committee would be grateful.

Henry Raine: I can confirm it or not.

Q104 Rebecca Harris: I just want to talk about what the current industry practice is around continuous payment authorities. We had a bit of a discussion earlier on about the 3% who default and whether they were the people who were caused real pain. Some of the evidence we have seen is that it is people who have money taken through continuous payment authority who suffer the real pain and who have, therefore, defaulted on their mortgage or been unable to pay a utility bill. My first question is: why do you use continuous payment authorities rather than other forms of payment?

Andy Lapointe: The simple answer is that, with a continuous payment authority, if a customer has a failed payment, they do not have any penalty. Their bank is not going to charge them a fee. If you use a BACS payment or a cheque, and that is returned, the customer is charged a fee. That is the primary reason why a continuous payment authority is a good thing for the customer for collections.

Q105 Rebecca Harris: Are you aware of any better alternatives to a continuous payment authority?

Adam Freeman: I do not think there is. If you do it properly, it is a good way and it works. I think it is the best way.

Q106 Rebecca Harris: For the lenders or for the customer?

Adam Freeman: Both—for the consumer. I think there is a massive misunderstanding about CPA. There is a technical issue there, going back to the roots of Visa. You cannot just dip into someone’s account and take 50 lots of £5 to get £250 from them on a day when the loan is not due, so I think there is a big misunderstanding or misconception of what CPA actually is. It is a date where you agree with the customer to take a payment from them. As long as you are transparent with that, it is perfect for the product, and both the consumer and the lender, if used properly.

Andy Lapointe: You can cancel a CPA at any time. We have a 24/7 call centre, which is open 365 days a year. You can call them up and they will cancel it at your demand. You can also cancel it by e-mail at our company, so it is not something where people are just stuck or trapped using it. They do receive a notice ahead of time that we are going to be debiting, so it should not be a surprise and it does give them the option to cancel.

Q107 Rebecca Harris: Are you confident that customers are pre-notified, do know when money is going to be taken and have an opportunity to contact you?

Adam Freeman: I do not think it is about the CPA; it is about the transparency. This is going to be a bit of a problem with the FCA as well, because I think they are preliminarily saying you can have two CPAs. Personally, I think that is detrimental to the borrower, because you do not know when a borrower is going to get paid their money. They might say that, on 31 October, they are going to earn an income of £1,500. You do not know whether that company is going to pay them at 1 o'clock in the morning or 3 o'clock in the morning; you do not know. If you try to take that money from the customer at, say, 1 o'clock in the morning and it fails, you cannot then, with what the FCA are putting out there initially, try to get that money from the customer, so that customer is now going to become a defaulting customer because you cannot take the money from the customer.

This is why there is confusion with the CPA. If I tried 10 times that day to get £250 from that customer as £250, what is the difference to the customer? There is no detrimental effect to them. It is not costing them anything. It is not costing us. I have said, 'On this date, 31 October, I am going to take £250 from you.' Why should it be that they are the ones that cop out from that because the FCA have said you only get one attempt, and I try at 3 in the morning? A percentage of our customers will not get paid until the following day, because they work for a small company with one person on payroll who is off ill. They are now a defaulting customer. Do we report them to the credit reference agencies as a default? There is a large grey area. We will never—and never have done—go into an account and take seven lots of £50. We will take £350 or we will take the interest amount. I think that is an area that really needs to be looked upon and studied properly, because it is more detrimental to the consumer than the lender.

Russell Hamblin-Boone: If there are insufficient funds for priority debts like mortgages or rent or council tax, or things like that, the lender will not go into the account. If they do go into the account and it has caused somebody difficulty like that, there is the option to refund. If it is proven that it has put someone in financial difficulty, they will refund the money immediately.

Q108 Chair: Has that happened?

Rebecca Harris: Yes, has that happened in practice?

Russell Hamblin-Boone: Yes, that happens in practice. We asked customers a slightly different question to recent surveys. We asked them, "Did the lender explain to you how your bank details would be used to take the money from your account?" 85% of those people said that that was a clear explanation.

Q109 Paul Blomfield: Very quickly, on the Chair's point, the industry's code says very clearly that if people do get into financial difficulties as a result of a CPA, you will refund them. You said that happens. Would it be possible for you all to furnish the Committee with detailed information of how often that happens? We have all, in our constituency surgeries, had lots of examples of people who have presented with problems as a result of CPA administration. If you could all give us full details of how often you have refunded customers and how often your members have refunded customers as a result of financial difficulties they have created.

Henry Raine: Of course. I think the issue there also is about them contacting the lender. Clearly, that is the other thing, which is why we work very closely with a lot of the debt-advice charities, because they have to make contact with the lender to establish that.

Q110 Chair: We will be talking to them. May I thank you for answering our questions? May I just emphasise that we could probably have spent three hours on this session? We have been constrained by time. It is almost certain that we will want to table supplementary questions to you, and we would welcome your responses and we will take them into account before we do our Report with its recommendations. Equally, I am conscious of the fact that you may feel that you have not had the opportunity to answer in full every question that has been put to you; feel free to submit anything in terms of supplementary evidence. I would say, anyway, that you can do this but I would emphasise that a number of issues have been raised where we have not felt that you have had the evidence that this Committee would require to come to a robust conclusion, and we would expect you to provide that evidence as we requested.

Examination of Witnesses

Witnesses: **Gillian Guy**, Chief Executive, Citizens Advice, **Martin Lewis**, moneysavingexpert.com, **Peter Tutton**, Head of Policy, StepChange, and **Richard Lloyd**, Executive Director, Which?, gave evidence.

Q111 Chair: Good morning, and thank you for agreeing to address the Committee's questions. I apologise for having you in rather later than intended, but I felt it was important to explore some of the issues with the previous panel. Could I just, first of all, ask you to introduce yourself for voice transcription purposes, starting with you, Gillian?

Gillian Guy: Gillian Guy, Chief Executive of Citizens Advice.

Martin Lewis: Martin Lewis of moneysavingexpert.com.

Peter Tutton: Peter Tutton, Head of Policy at StepChange Debt Charity.

Richard Lloyd: Richard Lloyd, Executive Director of Which?

Q112 Chair: We are short of time, so do not feel that all of you have to answer every question, if you feel that the issue has been covered by another speaker. I am going to start with a general principle: are you against payday loans in principle or just the way they work? Who would like to lead on that?

Richard Lloyd: I am happy to kick off on that, if colleagues agree. I am not against people having access to short-term emergency loans that are provided on the basis of proper affordability checks and where the cost of that is absolutely clear and fair. People do need and often say to us that they sometimes are in need of that kind of credit. They are

sometimes able to manage that credit properly and it is not a problem. It is for the vast majority of people for whom payday lending is a problem—in our surveys, half—

Q113 Chair: Okay. I just wanted to establish your general position on this. You will get plenty of chance to elaborate.

Gillian Guy: I absolutely agree with Richard, but what we do not agree with is that people are force-fed this opportunity when it is not necessarily the solution to their problems, and they should be directed towards debt advice.

Chair: Thank you, but you agree that there is a place in the market for them.

Martin Lewis: They struggle to have a place. The advertising, marketing, operational structures, cost and the inappropriate way they are sold are all problems for me. People often say, “There is a time for a payday loan.” I find that very difficult when there are not alternative, cheaper forms of credit. There are two big problems, if we divide it this way: first of all, there are many people who take payday loans when they do not know how they will repay them in a month. If you do not know how you will repay it in a month, it is not for you, so let us wipe those people out first of all, or get rid of those; that is quite easy.

Point No. 2: the people who take payday loans and can repay them in a month. My suggestion—forgive me sounding a bit daytime television, but that is what I do—is you get a credit card, even a horrible 56% interest credit card. You put it in a bowl of water and put it in your freezer. Then, when you need it, you are going to have to smash it open, and if you pay that back in a month, which is what payday lenders want, you do not pay any interest on it, so it is interest-free. So when you ask me to answer, on a nerdy basis, “On what occasions is a payday loan the right choice for someone?” I struggle to give you a right answer. So do we really need them? I think we would all be a lot better off without them, and maybe it is worth the sacrifice for the small number of people who do find them rather convenient.

Richard Lloyd: Could I just add, Chair, there are some credit unions that are now offering payday loans, so we need to be focused on the product—not necessarily the institution but the behaviour of the different kinds of lenders that are offering short-term, high-cost credit.

Q114 Chair: There are a variety of opinions there but, in effect, Richard, there is a role for them but the process is what is wrong. Would that be a reasonable summary?

Martin Lewis: If you take 100 people who get payday loans—and I am making the number up—I would suspect 99% of them would find a cheaper and better alternative doing something else or not doing them. The problem is they are used by far too many people and they are not fit for the purpose they are being used for.

Q115 Chair: There has been concern raised about the increasing number of people seeking debt advice after taking out payday loans. What does this reflect, do you think? Is it just the increase in the number of people seeking them, changes within the industry, failure of the charter that the industry introduced, or what? Who would like to lead on that?

Peter Tutton: We have seen really explosive growth in the number of people seeking help, who have got payday loans amongst their other debts as well. It is not just about the growth of the market. According to the OFT figures, the market has grown about double in the last four years; the number of people we are seeing with payday loan debts has grown eightfold, so we are seeing a much bigger growth in the problem than just the growth of the market. As well as that, we are seeing more people with multiple payday loan debts, and the size of their payday loan debts getting bigger. The average payday loan debt of a StepChange Debt Charity client is now £16,000. Their average income is £12,000. The problem is irresponsible lending and ineffective affordability checking.

Q116 Chair: You have partly answered my question. You said that, in effect, debts have increased hugely, but so has the number of people applying. How far would you say, in rough terms, that is a change in the increasing levels of poverty, or the marketing of payday loans companies? Could you give any sort of weighting to that?

Peter Tutton: It is hard to disentangle the two. Certainly, the people we are seeing are poorer, and lots of households are struggling. The question there, to turn it a bit, is, “Is the payday lending industry, in a sense, taking advantage of people who are struggling and in financial difficulty?” Our evidence suggests that they are. For instance, people we see with payday loan debts are more likely to have debts with council tax, rent arrears and fuel bills. So, far from being emergency cash to get people through a period of financial difficulty, what we are seeing is that payday loans put people on a cycle of using high-cost credit to make ends meet. It makes the problem worse and worse and worse. In a sense, people are in a hole, and a payday loan is helping them dig that hole deeper.

Q117 Mr Binley: Very briefly, I want to know whether you think there is a connection between payday loans and the more unsavoury area of business, and whether that connection operates through what they call “friends.” We know, on one website, they talk about, “If we cannot service you, we have friends who might be able to”. Does that connection disturb you, or should we not bother too much about it?

Gillian Guy: I think we have to bother about any situation that is exploiting people’s difficulty. At Citizens Advice, we have seen a tenfold growth in the number of people coming to us in the last four years with payday-lending issues. Just to hark back to the previous point, that is people who are already in debt, so they are topping up their debt. They are trying to pay off their debt by further credit, as opposed to getting advice to manage that. We do have concerns about people laying off details to others. If the risk is too high for one company, it may be that they lay them off elsewhere, and then the concern we have is exacerbated about how those people are treated, because they then fall under the radar and we are not necessarily monitoring how those people are doing.

Q118 Mr Binley: That is my concern. Is there a connection with loan sharking in given localities?

Martin Lewis: I am not sure any of us necessarily have that data, but the problem that we have here is that we have a desert of regulation. When you have a desert of regulation, and when it is so easy to get a licence to do this and set up a one-man band to do it, then the slippage—the read-across towards loan sharks—is not that far away. Of course, we are not

talking here about the big, high-budget advertising companies that you have probably just taken evidence from. They have their own raft of problems, but we are talking about the one-man-band lack of regulation. We have been given a glass of water in the form of what the FCA is doing next April. It should be welcomed, but it is a glass of water, not an oasis, to continue my analogy. We need a lot more.

Q119 Nadhim Zahawi: Just picking up on that, and taking it in a direction back to the people we took evidence from—some of the bigger players—this question is really for the whole panel, but Martin is an entrepreneur and understands some of these business models. They claim that they do everything in their power to try to ensure people are not effectively borrowing from different sources, and be as rigorous as possible at the moment in the process, and the reason that they claim that is that it is not in their interest to have the 3% of people who are in pain, who end up failing to pay. Would you say that claim is legitimate? Can I put it to you that actually it is part of their business model and they do not really care that much about that 2% or 3%, and therefore that model still churns out lots of profit, lots of cash, even though they get a number—whatever it was we had them admit; 40,000, in Wonga’s terms—of people who do get in real difficulty and real pain? Are they being serious about their intention, or is it just part of the business model anyway, that they take this on?

Martin Lewis: We have to differentiate between wanting to lend to people who will not repay you, and wanting to lend to people who cannot afford to repay you but will repay you. That is the subtle difference. Yes, I fundamentally believe they do not want to lend to people who will not pay them their money back. That would be a very stupid thing for them to do, and I believe that they do their best to ensure that that does not happen.

I am not convinced of the ethics of the model. You called me an entrepreneur; I might have to clean myself afterwards, having been put in an analogy with that type of entrepreneurship. It is not something I would ever dream of doing. I am not sure of the ethics of that model, and saying, “We do everything we can,” is a bit like me saying I will do everything I can in a fight against Mike Tyson to beat him. I know I will not. I know the information is not out there. I will say, “I will do what I can, in this nice easy marketplace where credit scoring is not being done and we do not have real-time data. We are not able to find out where you have borrowed through somebody else, and we do not have that much detail on you, but I will find out what I can.” I think it is a nice, easy answer to say, “We are doing what we can”, and I suspect they are within that bracket.

Gillian Guy: I would like to take some difference with that, in a sense, because I do not think that we can sustain an argument that these people are doing what they can. They are not in the art of the possible. They are doing what they feel they want to do in order to make their business model work. Our evidence comes from a tracker survey that we carried out of 3,000 people to date, and that was from when the voluntary code came into being. According to that—where, incidentally, we think 76% of those people had a case for a complaint with the Financial Services Ombudsman—over 60% of those people did not have adequate affordability checks for their first loan, and when they sought extensions and rollovers, or had them forced upon them, 94% of them did not then have affordability checks. To say, as we have heard on numerous occasions, that they have to fill in boxes online and therefore say whether they can afford it or not is not all that they can do. They can do a lot more.

Q120 Rebecca Harris: We had quite a bit of discussion about rollovers and whether they should be limited, and the industry were quite keen to tell us that sometimes a rollover could be a very sensible, rational decision by a borrower in terms of their temporary ongoing need. What sort of information do you think we could provide that would distinguish between what was a rational decision by a borrower to take a rollover, and what was a sign that someone is in really serious debt problems?

Richard Lloyd: That would be a more credible assertion for them to make if they were doing proper affordability checks at the outset. From our survey—we have all done a lot of surveys on this—half the people that we have surveyed who have taken out payday loans said that they have taken out credit that they could not afford to repay. Now, if they are not carrying out proper affordability checks, you have got to question whether, at the time at which someone requests a rollover, they are not simply compounding the problem. As Martin said, there is no real-time data sharing between high-cost credit lenders, and I think it just is not credible to suggest that they as lenders are somehow acting responsibly to allow people to roll over their loans. This is where the FCA are absolutely right to limit that number, because the lenders have just proved with their behaviour—both at the beginning of the term and at the time that people are requesting a rollover—that they are not properly checking whether people can afford to manage that ongoing loan.

Martin Lewis: The follow-up to what you are asking fits in with what you said before. If you ask me to run a business and say, “How am I going to do this effectively to ensure that it is a rational consumer decision?” I am going to need to get on the phone with you or sit down and have a long conversation, like Citizens Advice or StepChange would do, about your affordability criteria and about the fact that you have £2,000 definitely coming in, and you have a letter to prove it, so you are going to be able to repay it. That does not fit the business model of payday loans. They are never going to do that. That is just never going to work. It would not make financial sense with the amounts that we are talking about, so there is a real problem there. Yes, there is a point where you could decide whether it is reasonable to do a rollover, but how you do that within the business models that they have got—I am not sure I could see a way around it without increasing the cost drastically.

Gillian Guy: While we are talking about business models, bear in mind that a large amount of the revenue comes from rollover. It would be counter-intuitive to stop rollovers. Again, from the same survey of those 3,000 people, 70% of them said they were under pressure to take an extension or a rollover, as opposed to trying to find a way to perhaps go and get some advice and manage that debt out of being. We do not think, from our evidence, that the incentive is there at all. Indeed, there is pressure to take on more debt, and no consideration as to whether the person can afford that. We have an example of someone who took out £100 last Christmas, for example, and every month took a rollover until such time as £700 was taken out of their account on a continuous payment authority. They cannot pay their rent, they cannot pay their council tax, and they have just come to see us.

Peter Tutton: We have heard about affordability checks, but we see a gap between that and the reality. We heard that the average payday loan debt in the market was about £250, but for our clients—who, on average, have about £10,000 of other debts as well—the

average they owe on an individual payday loan is over £500. What we are seeing is that the people in the most financial difficulty are being lent more to, rather than being checked. That is because those loans are getting bigger because of rollovers, fees and charges, and multiple loans. Of the people we see with payday loans, nearly half have three or more payday loans. How, therefore, is there affordable checking going on consistently?

Chair: May I interrupt? We are moving into areas that other questions are on. I would like the questioners to take the answers they have already received into account, but equally, when answering, could you not repeat it subsequently, because we are very short of time?

Q121 Rebecca Harris: We were talking about the industry model and what is in their interest. In your experience—you have seen people with debt problems, and we get them as MPs as well—do you think this is across the board in the industry, or are some companies or groups of companies better than others? I do not want you to mention any names, but are some doing a better job than others?

Peter Tutton: Both things are going on. What you see—and this is typical in this and other credit industries, which often focus on people in financial difficulty—is problems right across the market, problems like multiple loans, lack of affordability checking, and people having money taken from their account through a CPA, leaving them not enough to live on. These are right across the sector. It is true that there is a tail in the industry where there are really egregious practices, where we see default charges massively inflate debts and debt collection practices that we thought we had got rid of 10 years ago. This is something that we see across credit markets, and it is one of the problems with regulation not working well. It is a systematic problem, but also, particularly in the tail of the market, there are some really roguish practices that have been allowed to go on for too long.

Martin Lewis: The answer to your question is yes: there are some lenders who are better than others. I have a guide on my site to payday loans. It basically details all the things you should do rather than getting a payday loan, and at the end, we have a section that I refuse to call “best buys.” We call it “least worst lenders”; it is the “least worst” section, and there are six lenders in there. We judge them on a number of criteria. Again, this is “least worst”: I do not want anyone to get them, and the whole article is actually designed to try to put people off getting them. It is a decision tree, if you like. “Are they registered with the OFT?” We hope so. “Have they signed up to the good practice charter?” It is not perfect, it is not fully working, but it is better than nothing. “Do they do a credit check?” We have got six lenders in there that do that. Some of the bigger lenders, if you are going to do it, are not as bad as some of the nearly criminal lenders out there, but I still would not touch it. I will not swear, but in an industry of baskets, some baskets are a little worse than the other baskets.

Q122 Mr Walker: We have touched on affordability in a lot of the questions, but I would like to ask the panel: having seen what the FCA is proposing, having seen the various regulations and approaches from the OFT in the pipeline, are there other affordability criteria that you think are essential to be taken into account? I will come back to the question of multiple loans, because I think that is very important, but is there anything else in terms of

the affordability of the loans that you would like to see as a check before people are allowed to take them out?

Richard Lloyd: It would not be impossible. There is no reason why the lenders cannot do real-time data sharing to check people's credit backgrounds. Martin was talking about whether lenders do a credit check; there are lenders that today, on their websites, are promoting their service as not requiring a credit check. It is extraordinary. As a minimum, we need to know the behaviour that is going on. If the industry wants to demonstrate that it can behave responsibly, it needs to get itself in a position where in real-time, or at least in quick-time, it can do checks on whether people have got loans with other players within the industry. That would be a minimum. The FCA's plan, more broadly, is welcomed, but we want the FCA to go further. What is the proof that is being got of affordability, and particularly on the income side? Now, of course, this will slow down the granting of a loan, but surely that is the point. This needs to be done based on credible evidence that people can afford to repay it.

Peter Tutton: I agree. We are looking at the FCA rules, and there are many that copy over from what the OFT have done. Now, these are the responsible lending things that are very high-level, and repeatedly we see in credit markets that high-level lending rules have not worked. You give firms some guidance, and then come back and look later. As well as real-time data sharing, because these products have got such a short-term duration and the risk can build up so quickly, maybe the regulator also needs to be getting its data in real time so it can spot wrongdoing as it is happening and intervene, rather than coming back months or years later.

The other thing is looking at how these products work. If the average income of our clients with a payday loan is about £1,250, can they afford to repay £500? That is nearly 50% of your net household income a month. How is that affordable? If you have got people offering up to £1,000, there is a question of how the regulator will ensure that those products are not unsuitable from the start, because they are such an amount of people's income that people will never comfortably be able to repay it.

Martin Lewis: I am not sure it quite counts within affordability, but one of my greatest concerns about payday lending is that people often think of this as a financial play. When the Archbishop came out and said we will have credit unions in churches, that is a wonderful thing, but it is not the same thing. This is a technology play, in many cases; this is instantaneous mobile phone technology. This allows you, while you are pissed and want to gamble at 11.30 at night, to get a loan in half an hour. For me, within affordability is actually the personal responsibility of affordability. It just needs to be slower. It needs to be slower to allow time to reconsider, and while there is a cooling-off period you pay interest if you decide to change your mind, so you are effectively still getting the loan. Within affordability, you have the controls that need to be put on the lender, but then, to allow the individual to take some more control of their own affordability, the instantaneous, high-technology nature of the way these operate is very dangerous. It is a feeding mechanism, very close and akin to gambling, and there are many people who use them for gambling. I do not know whether that counts within your question.

Q123 Mr Walker: I think it is a useful point. Did you want to add anything from the CAB?

Gillian Guy: I was just going to reinforce the point about proof. We have heard a lot about being able to tick boxes in technological ways of applying for loans, and they are never checked. People are almost encouraged to put the right answer in the box in order to get a loan. The business model itself, which preys on rollover and the unaffordability inherent in that, needs much more focus from the regulator on just how secure those checks are. The other point in the business model is that it is competition on speed. It is not competition on price or on any of the other points, and that really has to be taken out of that product.

Q124 Mr Walker: I strongly agree with that. Coming back to this point about multiple loans, I think, StepChange, you said that a third of your people who are coming to you about payday loans have three or more, which is an extraordinarily high proportion. Surely, that can be relatively straightforwardly dealt with through a central database of loans. We had a little bit of theological debate in the previous session as to whether it needs to be a central database of payday loans or all loans. Surely, that is something that a relatively small charge on this sector could pay for, to be run by a regulator. Do you think that might be the way forward?

Peter Tutton: It seems a sensible way forward. I remember, about two years ago, representatives of payday lenders and consumer groups met with BIS across the road, and this was discussed. Now, there has been no movement since then, so I think that for a while, the argument has been, “How do you know what other loans and other payday loans people have got? Surely you should have real-time data.” The industry, as you heard earlier, is moving extremely slowly towards that. I guess what we need now is something to make them move much, much more quickly.

Q125 Mr Walker: We heard evidence in the last session that some in the industry are spending a lot of money on credit data. Surely, if they are spending that individually, it would perhaps be more efficient to spend it together as an industry and get that transparency across the board.

Gillian Guy: It depends on motivation, does it not? If the motivation is to take the problems out of the industry and not put people into spiralling debt and situations that they cannot afford, then how hard can it be?

Q126 Katy Clark: We shall come on to advertising later, but as you say, this is competition about speed. If you look at the advertising, it is very much how quickly you can get money that is the selling point for a lot of these operations. Obviously, a lot of people that are looking to get a payday loan feel desperate, and they are not necessarily looking properly at all the information about interest rates, which perhaps could be more prominent. However, even if we regulated to make it more prominent, it still will not necessarily be the main thing that people will look at. Do you think we need to regulate interest rates, and do you think we need to have a maximum interest rate, which is something they do in other countries?

Martin Lewis: I am not a fan of an interest-rate cap. I always use the example that if we were in a pub and I said, “I will lend you 20 quid, but you buy me a pint next week,” and the pint cost £3, that is 143,000% APR. That shows that, on short-term loans, APRs are not that relevant. The one thing I like about APRs on payday loans is that it is the one thing that puts people off. I quite like that it is there, even though it is irrelevant, if I am

really honest, and I admit the logical inconsistency in that. I like it because it puts people off. I am in favour of a total-cost cap.

Q127 Chair: Just following up that point, if they were capped at a lower level, do you actually think there might be an increase in take-up of payday loans?

Martin Lewis: I do not think it is about interest rates, and that is why I think you have to protect people from the cost. I am in favour of a total-cost cap. In very simple terms—and I am not setting a number—if I borrow £100 in total, including rollovers, fees, charges, everything, I should not have to pay more than £150. That is an explanation of the structure, not the actual cost I am looking to be set. I have not got that far yet, to be honest. That is a market-condition thing.

Q128 Katy Clark: In effect, that is regulating interest rates. It may not be a maximum cap.

Martin Lewis: Technically, it is not. It is regulating cost. If you regulate interest rates and say, “100% interest rate”, what you are actually doing is regulating the term of the loan. Therefore, you cannot lend over one day and ask people to pay back the next day, but you can lend over a month, so you would actually elongate the loan terms if you did it that way. It is a subtle difference, but it is not quite the same thing.

Chair: I think we understand.

Richard Lloyd: Chair, I have got a slightly different point of view on this to Martin, and it is a nuance on what he has said. We think what gets people into difficulty the most is the fees and charges—that half of people that are borrowing, who I talked about earlier, that find that they cannot afford to repay the original loan, are then late with a payment and get charged £25, and that gets added on and on and on. We think that cycle is the biggest part of the problem in terms of affordability and the spiral into debt. Our view is to put a cap on the cost of the fees and charges that people are being hit with first. The evidence about what would happen to the market if there were a cap on the total cost of credit is inconclusive, and we were talking earlier about the linkages between payday lending and other forms of high-cost credit and illegal lending. I think we have got to be really careful here. In our view, the FCA—and it has the powers—should attack the thing that we have identified is most often getting people into the most difficulty. It is the fees and charges, not necessarily the total cost, although I would not rule that out.

Gillian Guy: May I add that there should be some charges that are looked at in terms of a ban? When we are looking at total cost, that means things like charging for failed continuous payment authorities on a continuous basis.

Chair: We are going to talk about those in a second.

Q129 Mr Binley: Mr Lewis, you mentioned the connection with gambling. Do you know what percentage of payday loans are related to that? That is an interesting point.

Martin Lewis: There is no way to know.

Q130 Mr Binley: Are there any checks on those people who have two, three, four, or even five payday loans and are doing treasury accounting by doing that? Every time they get a loan, they pay off the other loan, so from the loan-giver's point of view, it is a self-fulfilling increase.

Peter Tutton: Yes, and that goes back to when we are thinking about default rates and things like that. We saw this before in the past, with credit cards, and the issue of only looking at people who have actually fallen over and not looking at people whose problems are getting bigger and bigger. What we see with credit cards and some of the mainstream credit is that they pay much more attention to looking at information suggesting that people may be in more financial difficulty. That is clearly not happening with payday lenders.

Richard Lloyd: Our research suggests that a quarter of payday-loan borrowers are using those loans to repay other credit.

Q131 Mr Walker: Is there any way of the debt-advice charities represented here alerting credit reference agencies when they are coming across these multiple payday loans? Do you have any process for contacting the appropriate reference agencies and making them aware of this, or would you welcome such a process, if it could be made available?

Gillian Guy: The difficulty there is that that is about personal information that is brought to us on a confidential basis to help people out of a situation, so it is quite difficult to do that. We have to have generic information that we then would pass on, and we are very open to passing on data to show where the problems arise.

Peter Tutton: More particularly, of course, by the time they come to us, people are coming for help with serious debt problems. What we need to do is prevent those serious debt problems. By the time they come to us, it is trying to remedy a bad situation. The lenders have to be doing this earlier to prevent people taking out unaffordable loans, rather than us being informed when people have a problem.

Gillian Guy: To be fair, given the amount of surveys that we have done and the amount of data and evidence that we have got, we have passed on a lot that would say this business model needs re-looking at and the practice needs to be changed.

Q132 Ann McKechin: We have spoken quite a bit about rollovers today, but I just wanted your views on the FCA proposals to limit the number of rollovers to two per loan. Do you agree with the limit, and if not, what would you like to see in its place?

Gillian Guy: It is good to have a limit, because we see people getting into that spiral, and it has no end. I have got cases here with 11 or 12, and they just keep going and going and then, as I say, finding the money taken; they just have not got it in their account, but it is not in isolation, really. Those people cannot be left to be told, "There is no solution for you," because they may go to other places that are even less salubrious, or get into worse and worse situations. So they must be signposted to get some help, advice and support to get them out of the situation.

Q133 Ann McKechin: Does anyone have any alternative views?

Richard Lloyd: We think a limit of two is a sensible place to start, but we think probably the FCA would need to move to one. In our view, one rollover is reasonable. You might need to take out a payday loan because of some unexpected expense one month, and the same may happen again. We should look very hard at whether two is effective and is tackling the problem properly, but two is a good place to start.

Martin Lewis: I am with one as well, but I do worry about the rollover loophole: “We will give you another loan to repay the first loan that you had with us,” and—you were discussing it before—what I call the collective rollover, where you effectively roll over with another firm or another operator by doing the same thing, and there are no data checks. I am not sure how effective it really will be in practical terms for an individual.

Q134 Ann McKechin: Do you have quite a bit of experience of people taking existing loans and putting them into an alternative package?

Martin Lewis: That 25% figure is, effectively, that.

Richard Lloyd: That is what we have had.

Peter Tutton: That is what we are seeing with people, spinning round and round and round and round.

Q135 Ann McKechin: So it is repackaging that is going on?

Peter Tutton: Yes. A limit of one makes sense to us, but there is also this point about dealing with multiples. The FCA has to have a package that deals with the whole thing of people getting stuck in this spiral.

Q136 Mike Crockart: What restrictions on advertising do you think should be introduced to stop inappropriate lending?

Gillian Guy: I think we need to look at a whole raft of things on advertising, and an analysis of exactly what the market segment is that companies are targeting. We do hear that they are not targeting the people that we are talking about, and yet they are on daytime television; they use cartoons; they put it at times when people that we see with multiple debts might be at home, because they are unemployed. It is that kind of targeting. There is no clarity in them about what the consequence of taking it on is. It all looks like a good thing, a quick fix, and something that is attractive. To be honest, it reminds me of the old days of cigarette advertising, where it was all very sexy and a good thing to be doing, and we did not worry about health warnings. There are no health warnings on these adverts. There is nothing about the dangers that they could present, or, indeed, that they are not the solution to all things and there might be some other way out of a debt situation, rather than more debt.

Martin Lewis: We are in danger of grooming a new generation towards this type of borrowing. If you think we have got problems now, you wait until 10 years’ time. Grooming is the right term. We are talking about a market that did not exist five years ago, and you have had people in arguing that this is how people like to use it. They have

created the demand, they have created the operational structure, and now they are saying it is what people want. It is deliberately contrived and controlled.

Let me give you some stats that we are coming out with today. 14% of parents of under-10s, when they have said, “No, you cannot have your toy,” or whatever they have asked for, have had a payday loan company quoted to borrow the money from. 30% of under-10s, in a poll of their parents that we have done on the website, are joking about these slogans, and laughing and repeating slogans of payday lenders. We have normalised this. This niche lending of last resort has become normalised to a mainstream form of credit by the use of advertising. I would have a blanket ban. These adverts go on children’s television channels and children’s television programmes.

Where would I start? A full ban on any children’s TV and advertising. It is a disgrace, and I use the term “grooming” quite deliberately. Once we have done that, we need to look at the style and nature of the advert. There are cartoon puppets that make it seem fun, and deliberately fly in the face of the messages we know we want to get out there. They say, “It is easy;” they deliberately try and say, “The other messages you are hearing are wrong.” It is inappropriate propaganda. We need, when these adverts come on, all the health warnings that we are saying today to be part of those adverts. I am close to saying that I would just ban the whole lot of them, but that is not a market economy, and we have to accept that we do not do that. They have to be far more responsible.

Q137 Chair: Have you any figures for the percentage of those who have payday loans, grouped by age?

Martin Lewis: No, I do not.

Peter Tutton: We can dig that out, with the people that we see who have come to us for help.

Chair: Could you provide us with that evidence?

Peter Tutton: Yes. Another thing is that I agree with what Martin said there. Particularly, from our point of view, there is a normalisation of using high-cost credit as a way of dealing with financial difficulties. As I said before, we see people using payday loans in a way that makes their financial difficulties worse. One part of advertising, which was talked about in the previous session, is unsolicited marketing. We did some polling a couple of weeks ago, and I think something like 1.2 million people said they had been tempted to take out a payday loan by unsolicited contact.

Our clients tell us they are being bombarded by texts and phone calls. These are people who are at their lowest ebb; they are massively financially vulnerable. They do not know how they are going to get through the end of the month; they are completely stumped, cash-stressed. Then people are contacting them saying, “We have got the solution to your problem; here is a high-cost loan.” We know that, very often, those loans make the problem worse. So why is it that unsolicited marketing of what can be a very high-risk product is allowed? We do not argue for banning many things, but one of the things that maybe the FCA should consider is a ban on unsolicited marketing of payday lending.

Gillian Guy: One of the things that we have to bear in mind, as well, is that we are now increasing the market for these adverts. With the costs of living going up and people being unable to meet their priority debts, they are looking for solutions, and they are right in front of their eyes. In a way, there is a more vulnerable situation that we have to deal with here. We look at welfare reform, and we see monthly budgeting coming in and people being unable to manage on that basis. What is the answer to that? A quick fix, a quick loan, and there is your advert waiting for you.

Richard Lloyd: On the demographic question, Chair, our research suggests that across the board, 4% of households take out a payday loan each month. For 18 to 29-year-olds, that is nearly double, 7%. Martin is quite right: there is clearly a growing problem here in terms of younger people being engaged with this market at an increasing rate, relative to the others. The other thing I would do with advertising is make it really plain what the cost of a loan is, and I would express that in pounds per £100 borrowed, rather than in APR. People, we know, tend not to understand APR, tend not to be able to engage with that metric. I would force the lenders to explain much more clearly the costs, and as Gillian said, the consequences of default in terms of cost as well.

Q138 Mike Crockett: May I ask for a bit more detail? I am a big supporter of the “Got Their Number” campaign that was launched last week, and, of course, “Calling Time”, that Which? have been running for nuisance calls. What is the evidence that you have on who is making these calls? I questioned the big players that were here just a minute ago, and they are adamant: “We are not doing any of this.” If they are not doing it, who is? There seem to be so many of them.

Peter Tutton: It is a good question. One of the difficulties is that people are not often sure, because there are lead-generating firms. There is a shadow market of consumer data, so part of the thing about passing it to your friends is that if a consumer contacts a website, does that consumer know who their details are being passed to? People are being rung up, and they do not know who they are being called by. That opens people up not only to perhaps taking an inappropriate payday loan, but also to fraud. We see types of advance-fee fraud that are based on cold-calling. There is a problem, because people do not necessarily really know who their data is being passed to and who is ringing them up, and it is very hard for us to trace that back again. People tell us they are bombarded by calls and texts. We are getting people to send us those texts, and we can find out who is doing it, but it is very hard. That is part of the problem: there is little control, and there seems to be massive non-compliance with things like the data protection legislation. It is hard for consumers to know where their details are going and who is contacting them.

Chair: I think we get the point. If there is anybody who wishes to submit any further evidence on that, feel free to do so.

Q139 Paul Blomfield: We are all deeply aware of the problems with the use of continuous payment authorities. The FCA are proposing a limit of two unsuccessful applications of a CPA. Is that enough to tackle the problem that you have experienced, and if not, what would you do?

Gillian Guy: I do not think it is just about how CPAs are administered. People do not, in the first instance, understand either that they have signed up to a CPA, which is very often

the case, or how it differs from a direct debit, or that it does differ. They do not get notice when a payment is about to be taken out, and the timing in people's accounts is extremely important when they are living hand-to-mouth and if they have priority debts coming in. None of that is taken into account. We have had some struggle, as well, to make it clear to people that they can stop those CPAs, and it is within their rights to do so. That has not been made clear enough.

Martin Lewis: To follow up from that, the real struggle is, since November 2009, you have had a right to go to your bank and cancel a CPA, but you call up the bank and the bank staff do not know that, and they tell you that you cannot. People are right to say, "I cannot cancel it," because they try to cancel, and they do not. We have a real problem—not just within payday loans; CPA is an issue right across the board—of being unable to cancel that type of payment. Sometimes the public are right: you cannot cancel it, even though you have a right to.

Q140 Nadhim Zahawi: Briefly, on that one, we heard from the panel previous to you—from Mr Lender—that CPAs can be a really good thing for the customer. It took me about 30 seconds to get something up here from the Consumer Action Group: "I currently have a loan with Mr Lender. Anyway, that aside, I was recently made redundant; rang, e-mailed NatWest to cancel CPA, cancel my bank card; told Mr Lender I had been made redundant. They of course asked for £75 to set up a repayment plan, which I refused. Mr Lender has still managed to take one payment, £75, and another payment, £145. May I add, my bank was already overdrawn before Mr Lender's payments. These show up on my statements. The bank account I have with NatWest has no overdraft on it, and is £252 overdrawn. Where do I go from here?" Is this typical of what is happening in the industry?

Martin Lewis: It is certainly not shocking or surprising. I think "typical" is perhaps too strong a term. Interestingly, if that money has come out, this person has a right to go to the Financial Ombudsman and ask the bank to pay it back, because they should not have allowed it to come out. This all flicks back to your earlier question to me, about the difference between trying to do everything to make sure people do not repay, and being willing to lend to people you are going to get to repay when they cannot afford it. If you have got the CPAs working in the right way, and people have £10 in their bank account and every day you are doing a CPA for £10 on a fishing expedition, people are going to repay. It does not mean they can afford to repay, but they are going to repay. That is the subtle difference in the language that we are hearing: "Will I get my money back?" If it is a "no", they do not want it, but if they will, regardless of the moral concerns of whether it is right to get it back, that is where they are pushing.

Richard Lloyd: This must be about giving people control over their finances, and the way to do that is to require the lenders to give you notice that they are going to use a CPA. If they do not do that, you are not in control.

Peter Tutton: It is also about not pushing people further into difficulty. Charging £75 to set up a repayment plan is not good, responsible lending. It is taking someone who is clearly in financial difficulty and taking another fee out of them. How can that be justifiable? The thing with CPA is that we would expect lenders to start thinking, if CPA fails once, "Okay, why has that failed? What should we do as a lender to try to make sure, if this person is in financial difficulty, we are not making it worse?" rather than, "If we

have not heard from them, we will just take the money anyway and maybe we will add some more charges.”

Chair: I have got to finish here. We have got the Minister here, and other bodies; we need to question them. If you feel that you have not had the opportunity to answer a question as fully as you like, please submit it in written form as supplementary evidence, and it will be fully considered in our report. Equally, we may well have further questions that we would like to ask you, and we would be grateful for your responses. Thank you very much.

Examination of Witnesses

Witnesses: **Jo Swinson MP**, Minister for Employment Relations and Consumer Affairs, Department for Business, Innovation and Skills, **Lesley Titcomb**, Chief Operating Officer and Programme Sponsor of Consumer Credit, Financial Conduct Authority, **Nadege Genetay**, Head of Banking, Lending and Protection Policy, Financial Conduct Authority, and **David Fisher**, Anti Money Laundering, Consumer Credit and Consumer Direct, Office of Fair Trading, gave evidence.

Q141 Chair: Thank you for agreeing to answer our questions, and in particular, Minister, can I thank you? I think this is the first time I have ever known a Minister actually ask to attend a Select Committee inquiry, and I do apologise for having you in rather later. I hate doing that, but as you can understand, the scale of the issues there provoked such a lot of questions that it was very difficult to manage within the time scale available. However, we have you now. Could I just ask you to introduce yourselves for voice transcription purposes, starting with you, Minister?

Jo Swinson: I am Jo Swinson. I am the Minister for consumer affairs, and am very pleased that the Select Committee is returning to this important issue.

Lesley Titcomb: I am Lesley Titcomb. I am the Chief Operating Officer of the Financial Conduct Authority, and the executive responsible for the transition of consumer credit regulation to us.

Nadege Genetay: I am Nadege Genetay. I am the Head of Banking, Lending and Protection Policy at the Financial Conduct Authority.

David Fisher: I am David Fisher. I am the senior director responsible for consumer credit and anti-money laundering at the Office of Fair Trading.

Q142 Chair: I will open with a fairly general question. The industry has produced its own customer service charter. How do you think the undertakings there match up with the compliance review that you published earlier this year? I gather, Minister, you wish to respond.

Jo Swinson: Absolutely. It was helpful that the industry indicated that they wanted to clean up their act and have their own charter, which they created last summer, and that

came into force last November. Unfortunately, we did not find that the compliance with the industry's own charter was what we would have expected. Initially, the industry had committed that they would review their own compliance on that, but when it came to the crunch, unfortunately, not all of the industry was prepared to undertake that review. As the Department, we initiated our own surveys to try to test the extent to which there was compliance with the industry's voluntary codes, and what we found was pretty disappointing in terms of compliance. One in five customers reported that the lender did not ask about their finances when they were taking out a loan, and this rose to 60% when they were actually rolling over that loan.

In terms of CPA, which I know you heard about in previous sessions, again, one in three customers reported it was not clearly explained, and nearly 60% of people were not told how to cancel a CPA. So our surveys were a snapshot in time, but certainly gave us significant cause for concern about the levels of compliance, which is why I was so delighted to see really tough rules proposed by the FCA, given that I think the industry has had a significant chance to get its own house in order and has failed in that challenge. That is why the regulators will be able to make sure that that is indeed what happens.

Q143 Chair: Minister, could I just extract one element of your answer there? You implied that there was actually resistance from sectors of the industry. My next question was, "Is this a result of a quickly expanding market, or are there deep-seated problems?" Would you agree that that seems to point to the latter?

Jo Swinson: I think so. There are four main trade bodies within the industry, one of whom had basically said that they would undertake the compliance review as they had all signed up to do. So at least in one part of the industry, they had indicated that willingness, but it was very disappointing that the rest of the industry did not do likewise or indicate that they would do, despite having previously agreed that that is what would happen.

Q144 Chair: Would it be fair to say that there were at least some elements within the industry that looked at its own charter as, if you like, a smokescreen?

Jo Swinson: I certainly think that it was not taken as seriously as it should have been, because the customer experience backed up that it was not properly being delivered. At the end of the day, it is the customer experience that is most important. Actually, the issue about whether or not the industry wanted to review their compliance might not have mattered had we found, when we tested it, that the customers were saying that there was compliance. But the combination of a lack of interest in charting whether that code had been complied with and the fact that customers were then reporting significant problems certainly suggests, very strongly, that the industry was not taking it anything like as seriously as it should have been, in general terms.

Q145 Ann McKechin: I have a couple of questions for Mr Fisher. You have the power to revoke licences in extreme cases. How many licences have you revoked following your compliance review?

David Fisher: Since the compliance review, we have revoked the licences of three consumer-credit companies, and we have a further two investigations that are at quite an advanced stage at the moment, so I would expect more would follow.

Q146 Ann McKechin: Thank you for that. Given the number of failings that have been highlighted in your review—very extensive failings, right across all sectors of the industry—what other sanctions are available to you, and have you used any of them since the publication of that report?

David Fisher: “Sanction” is perhaps not quite the right word. The work that we have done putting pressure on the 50 leading lenders that have been referred to earlier, accounting for 90% of the market, is not formal enforcement action, but we gave each of those lenders a very, very detailed dossier of their failings. Let us be frank: that is exactly what they were—failings. We gave each of them a 12-week period in which to satisfy us that, in short, they had put their house right. We have been following up on that since. That has had a direct effect on the market, in that, as has already been mentioned, 19 of the payday lenders chose to exit the market. So you can say that it is not formal enforcement action or a sanction, but the pressure we have put on the payday lenders has resulted in some of the more undesirable ones leaving immediately.

Q147 Ann McKechin: Yes, but 19 out of 50 is actually removing competition. There is less competition in the market as a consequence of that particular endeavour. I am sure we do not criticise you for it, but that is an inevitable consequence.

David Fisher: Indeed. Obviously, we are the UK’s leading competition authority as well, but you must remember that it is not competition for its own sake. Our motto is about making markets work well for consumers. We have had real concerns about how competition operates in this market, very fundamental concerns, which led us to make a reference to the Competition Commission in the summer.

Q148 Ann McKechin: Can I ask you one point? You stated that if a borrower has to roll over a loan because of a missed payment, it is prima facie evidence that it is financially unsustainable. Today, when we took evidence from the industry, they appeared to find great difficulty in defining what was financially unsustainable. Do you consider that still remains a problem with the industry?

David Fisher: Yes, it does. Absolutely, it remains a problem. May I just make a point that we do not have the power to make rules, but we do issue guidance, and we were very clear about this in our debt-collection guidance. It is not the use of continuous payment authority that has bothered us; it is the misuse of it. It seemed to us that if you have made one or two attempts to recover a loan, and the person just simply does not have the money in their account to repay it, then you should stop and ask, “What is going on?” You should assume that there is a problem there.

Q149 Ann McKechin: I am just going to very quickly ask the rest of the panel whether they agree with the OFT’s analysis.

Lesley Titcomb: Yes, and that is why we have made the rules we have, or are proposing to make the rules we have around rollovers, CPAs and so on. However, it is also important to understand that as the FCA, we will have available to us tools that the OFT has not had—authorisation supervision and so on.

Ann McKechin: We will come to that later on.

Q150 Mr Binley: May I ask the panel what the reasons are for your referral of the industry to the Competition Commission? What were the most specific reasons that you really wanted to get down to?

David Fisher: The compliance review that we conducted—and you have referred to it, and you have obviously been drawing on our report when preparing for this—showed non-compliance across all parts of the industry. We did not find that there was a long tail of people who were failing to comply with the law and the OFT’s guidance; we found non-compliance across all payday lenders. That is not what you would expect to see in a properly working market. You would, in a properly working market, naturally expect to find some people who were not complying with the law; that is just the way the world works, but you would expect to find the majority broadly compliant. We did not find that. That was the big trigger that said to us that there was something wrong with this market.

We were concerned that, actually, non-compliance is a competitive tool in this market. It gives a competitive edge. We were concerned about the lack of transparency that has been discussed in earlier sessions: do consumers actually understand what they are getting into with a payday loan? Does the consumer understand the implications of a rollover? Does the consumer understand what a continuous payment authority is? We were concerned about low price sensitivity. As one of the previous witnesses said quite clearly, and I agree, these people compete on speed and convenience; they do not compete on price, so there is low price sensitivity on the consumers. We were concerned about barriers to switching from one lender to another, and high concentration: we estimate that the three leading payday lenders account for about 70% of the market. Those were the core reasons for referring to the Competition Commission.

Q151 Mr Binley: We heard earlier from the professional body organisers that they did not seem too concerned about the interface between the legal and credible part of the business and the illegal, and often incredible, black area of the business. Do you see that as a real concern—that blurred dividing line between what we consider to be not only indecent, but often illegal, and what the companies consider to be legal? It seems that there is an interplay there that we are not getting hold of.

David Fisher: There is a clear distinction between that which is legal and that which is illegal. There is the law on illegal moneylending; for example, you do have to be regulated in order to provide a loan. There is a clear distinction between what is illegal and legal. What we were concerned about was not so much what is legal, as how the law is being interpreted and applied. There you have a broad range of business practices, some of which are not illegal but are highly undesirable.

Q152 Mr Binley: What about references to “friends”?

David Fisher: Yes, I was struck by the reference to a “friend”. The friend in question, of course, would be another provider of short-term, high-cost credit. If I am such a lender, and I decide that you are not a good credit risk but I refer you to a friend, what do you think they are going to charge you? To call them a “friend” is a clear misnomer. It would be another payday lender.

Q153 Paul Blomfield: We are all concerned to get both regulation and enforcement right. It was clear from our exchange with the industry earlier that both were not right at the moment. Self-regulation had failed and there was no effective enforcement. Now, within the proposals that the FCA has published—or alongside those proposals—what are your views on enforcement, and in particular, on the sanctions that can be taken? You talked about the new tools at your disposal.

Lesley Titcomb: I will kick off on that. We all tend to think of the enforcement and the sanctions that tend to grab the headlines, but it is important to understand the whole regulatory process and the range of tools available to us. First of all, there is the authorisation gateway. Firms that want to continue in this sector will have to go through the full FCA authorisation process. There is then ongoing supervision and monitoring, which will be tailored to the level of risk posed by the particular type of firm that we are talking about, and payday lenders are high-risk and therefore can expect an increased supervisory focus. They will have to submit data to us, etc. Then, of course, where we do have the offenders, there is a much wider range of enforcement sanctions available to us than there has been to the OFT. We, for example, could instruct a firm to stop doing certain types of business or to not take on new business. We can fine them. We can, in certain cases, tackle the individuals who are responsible for the firms. We can ban certain adverts—that type of thing—and also, of course, we can ultimately take away a firm's authorisation.

Jo Swinson: I would echo some of what Lesley said, but say that I think it is really important to recognise that the OFT has taken enforcement action that has led to the exodus of 25 firms from the market, through a combination of voluntary leaving and licences being revoked. However, they did not have the strength of powers that it has become clear are needed within this industry to tackle some of the very significant non-compliance. That is why the Government have made sure we have given the FCA, as the new regulator from next April, very significant and robust powers. Lesley has outlined the whole process, and whether it is fines, which of course can be unlimited, or whether it is banning products or getting redress for consumers, these really are much, much more significant powers. This means that the FCA will be a regulator with—dare I say it?—perhaps more teeth than the OFT was equipped with, to be able to clamp down on payday lenders and any unscrupulous lending behaviour.

Q154 Mr Walker: Just following on from Paul's question, it is very reassuring to hear about the extra powers and the extra enforcement that we can expect to see from the FCA. I have heard some worrying suggestions that the EU consumer finance directive and the creation of a common market in consumer credit could mean, though, that companies operating outside the UK regulatory system would be able to sell products into the UK. Do you have powers to address that, and make sure that UK consumers are protected from that type of approach?

Lesley Titcomb: We have faced this situation already in a number of areas. We do have a certain number of powers, but they are limited, obviously. We are left with host country powers, effectively, so inevitably it is more difficult. In any case where this type of business is mobile, it can move offshore, either to other parts of the EU or even outside the EU as well. That is an issue, it is more difficult for us, and we are more limited in what we can do.

Jo Swinson: On the consumer credit directive specifically, while it can be helpful in some cases to have EU-wide regulation, which can mean uniformity of protection across the EU, one of the issues that my officials are exploring with the Commission at the moment is that of how information can be provided. For very sensible reasons, the consumer credit directive says that credit has to be expressed in APR, but I know that this Committee in its previous Report has highlighted some of the failings of APR in helping consumers to understand the costs of taking out a short-term loan. Obviously, when a borrower gets to the stage of taking out a loan, we can also require the total cost of credit to be provided, in pounds.

The maximum harmonisation nature of the directive means that there is perhaps more of a grey area about whether that can be required in advertising, or whether it can be as prominent as the APR. That is an issue that we recognise is probably an unintended consequence of the consumer credit directive. I have written to the Commission, and that is something that we are currently very engaged with the Commission on, to try to get some clarity on that so that the regulators know exactly what they are able to demand of lenders without falling foul of the European law. If that ultimately does need to be changed, then I would hope the Commission would look positively at that, for this new type of credit that perhaps was not envisaged when the initial rules on APR were put together.

Q155 Mr Walker: I do think it is an important area to engage, and to try to make sure that we have as much control as possible to protect UK consumers. Just moving on from that, we have talked a lot today about affordability, and obviously the sector's charter itself talks a good game on affordability but it is not something that appears, particularly from the OFT investigation, to actually be checked as often as it should be. The figures were disappointingly low for initial loans, and even lower for rollovers. What difference will the new regulations make, in terms of making sure that affordability really is put front and centre?

Lesley Titcomb: You have come, really, to the crux of the proposals in our consultation paper, which are to ensure proper affordability checking and that loans are only made to those who can afford to repay them. What we are looking at here is a package of measures to drive that. There is obviously the proper assessment of affordability—what are people's incomings, outgoings, etc.—but there are measures on top of that, such as limiting the number of CPA attempts that can be made. The CPA is, in our view, one of the incentives that drives firms not to carry out proper affordability assessments: they have no need to, because they know they can dip into a bank account to recover their money. That is why you have to think of it as a proposal. The key thing, from our point of view, is that we can make rules on this, whereas the OFT has only been able to make guidance underneath the principles that we have that people should be treating their customers fairly, anyway. We are also able to devote more resources to monitoring against those rules, and taking enforcement action where appropriate.

Q156 Mr Walker: In terms of the monitoring, real-time data collection and shared information around credit would obviously make a huge difference here. This is something that we have heard from the debt charities that they would like to see. Do you think that is

something that is achievable, either on the basis of the industry working together or something that you as a regulator should be looking into bringing about?

Nadege Genetay: Clearly, this is an area where we have said we have an interest. We will be looking to the industry; that would be a good reason for the industry to develop real-time data sharing amongst them. We will also be looking at the results of the Competition Commission investigation into the structure of the market. If we find that we are the people who would be best placed to mandate in this area, that is something we would be prepared to look at.

Jo Swinson: May I add to that? Obviously, this is an area that works quite well already within the rest of the credit market. We are all familiar with the likes of Experian, Equifax and Callcredit, and the fact that when you apply for a credit product, normally you will go through a credit checking procedure. It is set up by an industry committee, called the Steering Committee on Reciprocity, or SCOR. Now, it would be great if they were able to embrace the need for much more dynamic data and information under this very different type of lending, and, as I say, they have got a good track record in other parts of the industry. Last autumn, BIS officials convened a round table on that matter with different people from industry, but it is probably fair to say that there has not been the kind of progress and speed that we might have wanted from the industry on this issue. It is definitely something I am pleased that the FCA is going to look very seriously at, and if it transpired that the FCA was in need of any further powers in order to mandate that, then obviously, Government would be very sympathetic to any powers that the independent regulator needed that they feel that they do not have currently.

Q157 Mr Walker: I am glad to hear you say that, Minister. We did hear from StepChange earlier that they had lobbied your predecessor in your role about this, and felt that there had not been enough progress, so it is certainly something we would like to see more rapid action on. There is a debate, I understand, as to whether the existing credit reference agencies can actually achieve this, and whether the industry can achieve this without regulatory intervention, but I am reassured to hear the regulator say that they will consider stepping in if necessary. It would be useful—and perhaps this is something that could be followed up in written evidence—to hear about what sort of timeline you see for when that would be needed. Have we looked at other jurisdictions that are looking at using real-time data? Canada, I think, is one example; Florida is another one where this has been achieved. Have you made any analysis of what that does to the market, and how it helps to improve?

Nadege Genetay: We are certainly looking at the experience in other countries. Indeed, we are making contact with the regulators in those other jurisdictions. There is a variety of mechanisms, including enforcement databases as opposed to real-time data sharing between lenders, and we are interested in understanding those where they exist.

Q158 Mr Walker: Just one final question: we heard a lot of evidence from the debt-advice charities about the problems of people with multiple payday loans, and the fact that that puts people in a completely unsustainable position. If this information were available—if we had real-time data sharing, and you could see whether people already had a loan—would you support actually banning payday loans being made to someone who already had a payday loan out?

Lesley Titcomb: Again, what we say is it has to be a proper affordability assessment. We hear that people's individual circumstances can vary hugely. Certainly, multiple loans are a problem. It is difficult to see how the second or third loan to somebody who is already having trouble repaying the first is really being lent to someone who can afford to repay. It is certainly a very, very strong indicator that the person is in trouble. So, should they be going there? I would very strongly doubt it.

Q159 Mr Binley: Good morning, Minister. The OFT found that 28 of the 40 lenders using continuous payment authority failed to explain how it operated, or that borrowers have the right to cancel. Given this evidence, should the continuous payment authority mechanism be stopped?

Jo Swinson: It obviously very much backs up, or is backed up by, the BIS research that we undertook as well in our consumer surveys; what was supposed to be happening, in terms of information for consumers about CPA, was not happening. As an initial step, I was very pleased to see the FCA getting the banks around the table to make it very clear, so that they understand that if a consumer rings the bank to cancel, then that is one way of doing it. I think the continuous payment authority is at the crux of many of the problems within this market. Lesley has already outlined the link to the issues of affordability, which has basically given many payday lenders much less of an incentive to be thorough in their affordability checks, because they have had that ability to dip into customers' bank accounts and get paid first, almost like a preferred creditor.

I think that the proposal that the FCA have put forward is a very welcome one, because by limiting it to two CPA attempts over the course of the whole loan and it having to be the full amount of the loan that is requested, that rather removes the word "continuous" from "continuous payment authority". It is still a payment authority but it is suddenly much more like a direct debit or a one-off payment, because the lender is then incentivised to make sure that they know that there will be enough to repay that when they take that payment. When you couple that with the limits on rollovers, so that they cannot have a loan that is going on ad infinitum and building up interest charges, suddenly the business model that some payday lenders have been working on is very much changed indeed. Obviously, the Competition Commission might have more to say on that business-model point. I think the CPA restrictions, as proposed, are incredibly welcome.

Q160 Mr Binley: The real concern, of course, is that this industry has proved very difficult to control, has it not? One of the problems is that we are always behind the curve. Will you do more with regard to regulation, to ensure that we get closer to the curve?

Jo Swinson: It is a really important point that you are making. It is a very fast-moving industry. It has grown hugely in the last few years, and one of the difficulties around the sometimes cumbersome nature of putting legislation in place is the time that it takes from the consultation point to actually getting legislation in place. That is why, by having giving very strong, robust powers to the FCA, they are much better placed to respond quickly to any changes within the marketplace. They can introduce new rules, if necessary, much more quickly than we could introduce legislation. That gives us a much more flexible way of dealing with the industry.

Q161 Mr Binley: I take the point about regulation, but it also needs policing. Are you sure that the policing powers or resources are in place to ensure that we are closer to that curve, as I said?

Jo Swinson: I am very confident that, in the FCA, we have a robust regulator with the resources and the tools and the powers that it needs in order to make sure they are on top of this industry. Further to that, obviously, Government wants the independent regulator to be very successful, so if the FCA were to come and say, “We feel that we would need an extra power in this area or that area,” then clearly that is something that Government would be very positive about.

Mr Binley: So we have really got a regulator that regulates. That is a novel and welcome thought.

Q162 Paul Blomfield: I wonder if I could briefly follow up on that question of CPAs. The proposals that the FCA are making are very welcome. When we had a debate back in July, the Minister also made the point that it would be helpful if there was a requirement for three days’ notice of CPAs, and if, at that time, an awareness of the right to cancel was drawn to the attention of borrowers. It would be helpful if that ended up in the FCA rules. Are you planning to do that?

Lesley Titcomb: We have not made a specific proposal to that effect at the moment. Obviously, it is out for consultation, and that is one of the things that I know a number of bodies have different tweaks on, that they would like to see. That is one that we have heard, for example. We will have to weigh those up. We absolutely understand that there is a need to make it clearer to people that they have a right to cancel these, and the point that was picked up earlier about the bank’s staff then acting on that. Also, there are various triggers we have put in our rules where the lenders have to refer people for debt advice as well, and also we are very clear that they have to be up-front with people about how the CPA is likely to work and when it is likely to be withdrawn, but we have not put the three-day specific point in yet. Do you want to elaborate on that?

Nadege Genetay: We have certainly carried forward the idea that there needs to be transparency around when the firm is going to take a payment from the consumer. The specific right to cancel is not a prominent tool, apart from the broader transparency point.

Q163 Paul Blomfield: The one point I will make on rollovers—there were a number that I could have made—is that we heard concern from the consumer and debt organisations about the way in which the industry repackages debt into new loans. The representatives of the industry that we spoke to denied that that happened at all. What measures will you take from the FCA to ensure that that does not happen in the future? Clearly, there is widespread concern. It is all very well to limit rollovers to two, but if that debt is then simply repackaged, you have solved nothing.

Lesley Titcomb: We are very clear as a regulator that there are always people who can and will game the rules that we make, and seek to get around them in precisely that sort of way. That is why we recognise that ongoing monitoring and supervision is so important. We will be making aspects of what we have heard about today a supervisory priority when we take on regulation next April; for example, concern has been expressed around fees

and charges as well. We recognise that the rule itself is not the answer here. It has to be accompanied by strong supervision, monitoring and enforcement where that is necessary. What I can offer you is increased resources and focus on the supervision and monitoring of those rules to prevent precisely that sort of thing.

Q164 Mr Binley: The FCA proposes that all advertisements and other promotions must be clear, fair and not misleading. How will this be monitored, policed, evaluated and enforced?

Lesley Titcomb: I will hand over to Nadege on part of this, but may I also say that we are also proposing that there has to be a risk warning on adverts, as well.

Q165 Mr Binley: So a sort of cigarette warning notice?

Lesley Titcomb: Absolutely, which starts, “Think: Is this loan right for you?” That is specifically because the research has shown us that when people are watching these ads, thinking of taking a loan, they are not thinking about their ability to repay in the longer term. They are just thinking about the here and now. That is why we really want to focus them at that particular point.

Mr Binley: Particularly as we have heard that some of these loans are offered to people in casinos, with the money received in quarter of an hour.

Lesley Titcomb: Yes, that was a new one.

Q166 Mr Binley: That seems frightening to me, quite frankly. Can I go on to ask a supplementary? Martin Lewis suggested restrictions on advertising, such as banning adverts on children’s TV. What is the rationale for advertising on children’s TV? I do not understand that one. I understand the casino one, but not the children’s television one.

Lesley Titcomb: I am speculating here—

Mr Binley: You are the expert. I am looking for advice.

Lesley Titcomb: I am speculating here that there are two reasons. One is that mothers will be watching with their children, and the other is the one that Martin quoted, which is pressure from the children on the parents.

Mr Binley: Thank you for that. That is interesting.

Q167 Chair: I need to finish now. I was going to ask the question, “The OFT highlighted a number of phrases that it considered misleading; how will the use of such phrases be monitored?” and also include in that the context of text messages. I think this could be answered in a written form. Obviously, that is directed at the OFT, but if others have opinions on that, that would be welcome.

On that note, I am conscious of the fact that there are a lot of frustrated questioners, and you may well feel frustrated that you have not been able to have full opportunity to answer everything. Of course, please feel free to submit further written evidence. Equally, if we realise that there are questions that we should have asked but did not, we will write to you

and ask for a response. Can I thank you very much? That is very helpful, and we will report as soon as we can on this. Thank you.