Evidence

Use of Continuous Payment Authority by Payday Lenders

A response from Citizens Advice to the Office of Fair Trading

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Introduction

Citizens Advice welcome the opportunity to provide further information and evidence on the way in which continuous payment authority (CPA) is being used by the payday lending industry.

The Citizens Advice service provides free, independent, confidential and impartial advice to everyone on their rights and responsibilities. It values diversity, promotes equality and challenges discrimination.

The service aims:

- to provide the advice people need for the problems they face
- to improve the policies and practices that affect people's lives.

The Citizens Advice service is a network of nearly 400 independent advice centres that provide free, impartial advice from more than 3,500 locations in England and Wales, including GPs' surgeries, hospitals, community centres, county courts and magistrates courts, and mobile services both in rural areas and to serve particular dispersed groups.

In 2011/12 the Citizens Advice service in England and Wales advised 2 million people on nearly 7 million problems. Debt and welfare benefits were the two largest topics on which advice was given.

Use of continuous payment authority by the payday lending industry

Citizens Advice made a detailed submission to Office of Fair Trading (OFT) supplementary consultation on Debt Collection Guidance's section on the mis-use of continuous payment authorities[1]. We will not reiterate this here. However Citizens Advice continues to see problems with the use of Continuous Payment Authorities (CPAs) by the Payday Lending industry and we believe urgent action must be taken by both the OFT and the FSA to ensure that payday lenders stop mis-using consumers' debit and credit cards.

We remain concerned about lenders' continued reliance on the use of CPAs to collect loans, seemingly regardless of the financial situation of the client or whether the client has been in contact with the lender to request an alternative repayment method or plan. The evidence provided here relates to incidents occurring in 2012, many of them in the last three months.

The problem of the misuse of CPAs is compounded by banks continuing refuse to cancel CPAs (we will also be providing evidence directly to the FSA on this).

[1]http://www.citizensadvice.org.uk/index/policy/policy_publications/er_credit/cr_creditanddebt/debt_collection.htm

In April 2012 a CAB in the South East saw a man who had payday loan debts of more than £3000, having taken out his first payday loan in June 2011. The client was advised to contact the companies concerned to offer token payments and ask for interest and charges to be frozen while he sorted his finances out. His bank told him they were unable to cancel continuous payment authorities. Three of the lenders told him they would not take payments but two lenders had said they would still try and take the money then, if unsuccessful, would negotiate a repayment plan.

The reliance on CPAs by payday lenders has the effect of making payday loans priority debts as payments are taken without regard for any other debts (priority or non-priority) often leaving the consumer without any funds for priority debts or essential living expenses.

In February 2012 a Bureau in the North East saw a woman who had been using payday loans to maintain outgoings. She had reached the stage of owing more on her payday than she was due to receive in wages. The client had tried to contact the lenders about her financial difficulties but was told by one lender that no one was available to open her letter until after they had requested her payment using the CPA and that they would deal only with debt management companies, not a CAB. There were insufficient funds in the client's account for the full payment to be made so the lender applied for other small amounts until the client's account was empty, leaving the client and her family facing eviction and with no money to buy food.

The use of CPAs by payday lenders can also leave consumers without any control over their own finances which can have significant consequences

In August 2012 a Bureau in the South West saw a client who had had debt problems for some time and therefore had a basic bank account with a debit card. She used the debit card to take out payday loans and the payday loan companies were using the CPA to debit her bank account as soon as she was paid each month. In one case she believes the company took more than she actually owed them. The client had multiple debts and had been visited by bailiffs. She paid £120 immediately and agreed to pay £115 on the first of the month from June 2012. However, she could not pay the July instalment because the payday loan companies took their payments from her bank account as soon as her salary was paid at the end of June. She was left with only £66 to live on during July. The bailiffs were about to seize her car to recover the debt.

Problems also occur where consumers have attempted to set up repayment plans, which lenders have apparently agreed to, only for the lender to subsequently recover the full amount.

In July 2012 a Bureau in the Midlands reported the case of a client who had taken out a payday loan for £300. She had failed to make the specified repayment and subsequently contacted the lender by telephone. She agreed verbally to pay off the £640 owing at £55 per month. The client was shocked to see that the lender took the entire £640 in one go, leaving her with only £320 from her monthly net salary of £1000. The client telephoned the company but they said that as the debt had been cleared and no written agreement could be found about the repayment agreement, the matter was closed as far as they were concerned.

In June 2012 a Bureau in London saw a woman who had around £900 of payday loans. The client was repaying her other debts in instalments but the payday lenders had refused to allow her to do this and were taking an amount lower than the loan each month from her account to ensure they obtained some payment. The money was being taken out of her account before the client had a chance to pay her priority debts. As a result the client is suffering financial hardship and is struggling to feed her children.

The way in which CPAs are used by lenders also continue to cause problems for consumers. Payments are often taken without notice and for seemingly random amounts – ranging from numerous small amounts to a significant sum – which cause significant problems particularly when the payments empty a consumer's bank account, the money was earmarked for some other purpose or leave the consumer without the money to meet essential expenses.

In June 2012 a Bureau in the Midlands saw a young woman who had been working and had got a payday loan with some friends before Christmas. Her friends repaid their share but the client lost her job and had to use the money. The client didn't hear from the lender for a while until they began taking £5 here and there from her bank account and then again a few months later. Eventually the client was left with no money.

In June 2012 a Bureau in the North West reported the case of a client is in receipt of Incapacity Benefit due to mental health issues. The client took out a payday loan and fell behind with the repayments. She came to an agreement to repay the loan at £20 per week. After missing one of these payments the lender took the full outstanding balance, amounting to over £700, from the client's bank account. The client also had large rent arrears as she had bee prioritising the payday loan repayments over her rent due the pressure the payday lenders had placed on the client. However the money in her account was intended to pay off a large portion of her rent arrears and the client had told her landlord she would be making this payment. As the payday lender took the entire amount, this left her unable to make any repayments towards her rent arrears, leaving her at risk of possession action. She was also left without enough money to buy food. The extra stress placed on the client by this situation, on top of her other financial worries, and the distress caused has badly affected her health.

Payday lenders also appear to use the existence of CPAs as a reason not to engage with customers.

In June 2012 a Bureau in the South East reported seeing a client who had a number of non-priority debts, including three payday loans. The Bureau sent out holding letters to creditors advising that the client had contacted them for assistance but the payday lender continued to debit the client's account. The client was upset by the approach the payday lender took, she was tryng to sort out her debt situation but was being hampered by the payday lender which continued to draw funds from her account.

Good Practice Customer Charter - Payday and Short-term Loans

Citizens Advice welcomes the Good Practice Customer Charter on Payday Lending and Short-term Loans and look forward to its implementation as soon as possible. The test will be the extent to which it actually changes practice. We hope that the Charter will ensure consumers get better protection and clearer information before deciding whether a payday loan is appropriate for them.

The Charter should address some of the issues identified, such as the use of CPAs without notice and failing to deal appropriately with consumers who are in financial difficulties. However we remain unconvinced that a voluntary approach will be effective. We will be monitoring the Charter's impact closely as vulnerable consumers struggle to cope with increasing money problems.

Conclusion

The evidence provided in this response is a small section of the cases seen by Bureaux and the OFT is welcome to come and look at the extensive evidence Citizens Advice has on these issues. We continue to see consumer detriment resulting from the mis-use of CPAs by payday lenders. Problems are often compounded by the continuing refusal of many banks to cancel CPAs. The Good Practice Customer Charter addresses some of the issues, such as requiring lenders to tell customers before they use CPAs, but is voluntary and is unlikely to be adopted by all payday lenders (as not all are members of trade associations). We believe urgent action must be taken by both the OFT and the FSA to ensure that payday lenders stop mis-using consumers' debit and credit cards.