

## UK car-finance lenders can appeal landmark ruling on ‘secret’ commissions

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The UK Supreme Court has granted Close Brothers and Firststrand Bank the permission to appeal October's landmark ruling from the Court of Appeal, which had found commissions paid from car-finance lenders to brokers without the customer's consent to be unlawful.

Two UK car-finance lenders — Close Brothers and Firststrand Bank — have been given permission from the Supreme Court to appeal a landmark ruling that found “secret” commissions paid from lenders to brokers without the customer's consent to be unlawful (see [here](#)).

The review of the ruling will take place in the first quarter of next year, the court said.

“Permission to appeal is very good news indeed. The expedited process will give the motor finance sector the certainty it needs,” said Adrian Dally, director of motor finance at the Finance & Leasing Association.

The landmark ruling on car finance had left the industry in uncertainty as it effectively introduced a fiduciary duty that went beyond the scope of the current regulation set by the Financial Conduct Authority (see [here](#)).

Car-finance lenders had to pause their activities for some time in order to ensure they would comply with the ruling (see [here](#)). But uncertainty continued to loom as Close Brothers and Firststrand Bank had said they intended to appeal.

If the ruling is maintained, car-finance lenders could see an inflow of claims worth billions of pounds (see [here](#)). The chief executive of Lloyds Banking Group — the country's biggest provider of car finance — warned last week (see [here](#)) that the uncertainty in the UK car-finance sector was making investors less confident about providing capital to UK banks.

The FCA had sent a letter to the Supreme Court urging it to speed up its decision (see [here](#)). The issue also came under scrutiny in the UK Parliament, which defined the matter as an issue of national importance (see [here](#)).

The ruling came as the car-finance industry has come under closer scrutiny from the FCA, which has been conducting a parallel review on the use of Discretionary Commission Arrangements, a practice that the regulator banned in 2021.

“We’ve previously said that looking at DCAs alone, we don’t think it’s the scale of PPI,” Stephen Braviner-Roman, the FCA's general counsel and executive director of legal affairs, told the Treasury committee yesterday. He was referring to the Payment Protection Insurance scandal, which unfolded over the past decade and led to banks paying out nearly 50 billion pounds (\$64 billion).

“But that was when we were looking at DCAs alone. So I think it would be premature to say it’s definitely not the scale of PPI now,” Braviner-Roman said.

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