HM TREASURY

BIS Department for Business Innovation & Skills

CONSUMER CREDIT AND PERSONAL INSOLVENCY REVIEW

Formal Response on Consumer Credit

NOVEMBER 2011

CONTENTS

1. MINISTERIAL FOREWORD

In the Coalition Agreement we committed to curb unsustainable lending and strengthen consumer protections, particularly for the most vulnerable. We launched the Consumer Credit and Personal Insolvency Review (the Review) last year to gather evidence on how to deliver these commitments.

Our vision is twofold. First, we want all consumers to be empowered to make better choices for themselves. Consumers should be free to borrow if that is what they decide is in their best interest. It is not for the Government to pass judgement on whether a particular product is good or bad but, in line with the Coalition principles of freedom, fairness and responsibility, we want to provide consumers with the tools they need to make informed decisions. Second, we want to ensure there is a safe and fair regulatory framework for both credit and personal insolvency. These frameworks must protect vulnerable consumers, particularly those at risk of falling into or those already in financial difficulty, and drive rogue companies out of the market.

We have been tackling unfair bank charges, working with the industry to address consumer concerns about lack of control and transparency. We are pleased to announce additional commitments that will apply across every full-facility current account offered by the major banks, covering 85 per cent of consumers. Consumers will be able to receive an alert from their bank when their balance is low and, in some cases, when they are about to go into an unarranged overdraft; they will know by what time they need to make a payment into their account to avoid charges; and they will no longer be charged for small unarranged overdrafts. Balance alerts will be available from March 2012, with full implementation of the other commitments by March 2013 at the latest, although we expect that the vast majority of consumers will see improvements significantly before this, giving them better control of their accounts and enabling them to take action to avoid bank charges.

These additional control commitments come in addition to enhanced transparency measures that are already being implemented more widely in the personal current account market, such as the new annual statements which will be rolled out by every bank by the end of the year. The annual statements will provide a “nudge” to consumers, allowing them to see how much their account has cost them over the year and decide whether they are getting a good deal from their bank. They will also be complemented by the industry’s work to introduce a fast, safe and hassle-free switching service so that customers have the confidence to switch between banks if they wish. Together, all of these measures will provide a powerful way for consumers to hold their banks to account.

We are also working with industry to improve consumer protections in the high cost credit market, where concerns have been raised about the impact on more vulnerable consumers. We are aware of the upsurge of concern regarding the rapid increase in the use of payday and other instant lending. That is why we have started negotiations with industry on introducing enhanced consumer protections in their codes of practice. This is a real opportunity for the industry to show that it is serious about responsible lending. We will review progress and assess whether there may be scope for additional measures in the spring. We are pleased that the Department for Business recently appointed the Personal

Finance Research Centre (University of Bristol) and TNS-BMRB to undertake an important research project to assess the impact of a total cost of credit cap in the high cost credit market.

On store cards, respondents to the Review were most concerned about the ease with which customers are tempted into expensive credit by retailers offering discounts on their purchases at the time they take out a store card. Following negotiations with the Government, industry has agreed to end the practice of introductory discounts as well as introducing other measures to improve the way store cards are offered.

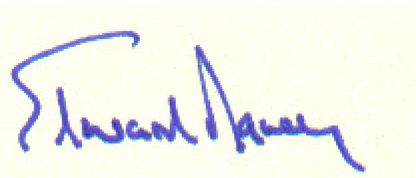
Positive action like this from industry to address consumer concerns has wider reaching benefits. By working with industry we can make changes that improve things for consumers far more quickly than waiting for legislation. As we stated in the Call for Evidence, we will regulate where necessary but our strong preference is to promote more responsible corporate and consumer behaviour through greater transparency, competition and by harnessing the insights of behavioural economics.

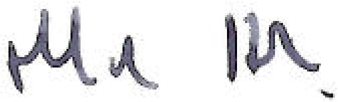
The Government is also working to improve access to credit unions which can provide a real alternative to high cost credit. The Department for Work and Pensions (DWP) is conducting a study into how we can best support credit unions and will report shortly. We are pleased that the Legislative Reform Order (LRO) for Industrial and Provident Societies and Credit Unions, introduced by HM Treasury in July, has completed its passage through Parliament. It will remove significant barriers on these organisations, enabling them to serve a wider range of customers. We want credit unions to provide a better alternative to other higher cost forms of borrowing and keep vulnerable consumers out of the hands of the illegal lenders.

Finally this response completes the announcement we made in July when we set out additional measures to assist consumers in difficulty, including a consultation on improving access for bankrupts to basic bank accounts (published on 17 November) and working with industry to improve standards in debt management plans. In addition, on 7 November we published a consultation seeking views on reforms to the route into bankruptcy (and compulsory winding up) to streamline the process and to ensure that the court focuses on dispute resolution.

The package of measures announced in this response will deliver real benefits for consumers that can be achieved while minimising the regulatory burdens on business.

Edward Davey and Mark Hoban





2. WIDER CONTEXT

1. In October 2010 the Government published a Call for Evidence[1] that contained 31 questions covering a range of consumer credit and personal insolvency issues. In July this year the Government published a summary of the responses to the consumer credit questions in the Call for Evidence and a final response to the personal insolvency questions[2]. The July response also provided details on who had responded to the Call for Evidence and the number of responses to each of the questions. Annex A of this document contains a table of all the questions in the Call for Evidence with a summary of the Government's response to the consumer credit issues and an update on the personal insolvency issues responded to in the July publication.

2. Consumer credit is essential to the long term future of the UK economy but its use must be sustainable. As well as the issues specifically covered by the Review, there have been other significant developments in the consumer credit market, including new consumer protections. This section considers some of these developments in more detail and provides some context to the actions of the Government to address the concerns raised in the Review.

   - At the beginning of this year five new rights for credit and store card users[3] were introduced which mean a better deal for consumers, giving them improved control of their credit and store card borrowing.
   - The Consumer Credit Directive (CCD)[4] was fully implemented in February this year, giving consumers an absolute right to withdraw from any credit agreement within 14 days only paying back the money lent and the interest accrued over that time.
   - The Directive also places a responsibility on lenders, including those in the high cost credit market, to undertake a full creditworthiness assessment of whether a borrower can afford to meet repayments in a sustainable manner before advancing any loan.
   - Also published in February, the Office of Fair Trading (OFT)'s Irresponsible Lending Guidance[5] provides greater clarity for businesses and consumer representatives as to those business practices that the OFT considers may constitute irresponsible lending.
   - In July the Government announced that the Money Advice Service (MAS) will take over coordination of free debt advice from April 2012. It is carrying out an assessment of how it can best deliver this and will make an announcement early next year. In the meantime, the Government have tasked the MAS with

[1] http://www.bis.gov.uk/Consultations.
[2] http://www.bis.gov.uk/assets/biscore/consumer-issues/docs/c/11-1063-consumer-credit-and-personal-insolvency-responses.pdf
[3] http://www.bis.gov.uk/assets/biscore/corporate/docs/c/10-808-consumer-credit-store-cards-joint-commitment
[4] http://www.bis.gov.uk/policies/consumer-issues/consumer-credit-and-debt/consumer-credit-regulation/ec-consumer-credit-directive
[5] http://www.oft.gov.uk/about-the-oft/legal-powers/legal/cca/irresponsible

researching and developing a more effective service which will reach more consumers in a more appropriate way, including the additional support needed by the most vulnerable. That new service will be in place in 2013.

- DWP is coordinating a feasibility study to examine the scope and the options for the modernisation and expansion of suitable credit unions. The study is also looking at how the credit union sector can best offer a broader range of banking services and the role the Post Office Network can play in enabling credit unions to reach more families. Initial results of the study suggest that, although knowledge of credit unions is limited, there is a large demand for affordable credit and a real appetite for growth by the credit union movement.
- The OFT will shortly issue their final revised debt management guidance. The overall theme of the guidance will be to improve transparency and to ensure that consumers have all the information they need to make an informed decision about which debt remedy is most appropriate for them. Where appropriate, the OFT will take enforcement action against businesses failing to adhere to the guidance.

3. Other new policies which will also have important implications for the consumer credit market more widely include the recent proposals in the final report by the Independent Commission on Banking[6], in particular for a ring-fence around better capitalised high street banks to make them safer and measures to increase competition in retail banking. The Government has welcomed these proposals and will respond formally by the end of 2011.

4. This response on consumer credit is available electronically at www.bis.gov.uk/Consultations. You may make copies of this document without seeking permission. It may be possible to make other versions of this document available on request in Braille, other languages, large fonts and other formats. Contact the Departmental contact below for information:

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[6] http://bankingcommission.independent.gov.uk/

3. COALITION COMMITMENTS

Unfair Bank Charges

Q8 - Do you believe that the current voluntary, market-driven initiatives to address concerns about unarranged overdraft charges are delivering, or will deliver, sufficient improvements for consumers? If not, what would the wider implications of limiting bank charges be?

5. The evidence provided in response to the Review showed that there have been significant developments in the personal current account market in recent years. Working with the OFT, banks have committed to introduce measures to improve the transparency of unarranged overdraft charges. Through The Lending Code, they have also agreed to act sympathetically, positively and proactively if they have reason to believe that one of their customers is in financial difficulty. Many have also revised their charging structures in the last two years and, overall, charges have fallen. Recent figures from the OFT, for example, show that the average unpaid item charge fell by more than half from £34 in 2007 to £14 in March this year. However, responses to the Review also showed that there were still concerns about how charges – including the new charging structures – affect consumers, particularly where charges may not be clear or transparent enough.

6. The Government has been working with the British Bankers' Association and key current account providers to agree further commitments to improve transparency and control of charges for consumers. These commitments will apply to all full-facility accounts offered by the major current account providers including Barclays, HSBC, Lloyds Banking Group, Royal Bank of Scotland and Santander, representing 85 per cent of the personal current account market in the UK.[7]

   As a result of these further commitments all customers of the major current account providers will:

   i) have the option to receive a text or email alert from their bank when their balance falls below a certain level, giving them the opportunity to manage their spending so as to avoid going into an unarranged overdraft. Many will also be able to receive an alert if they do go into an unarranged overdraft, enabling them to take action to put their account right and avoid or minimise charges.

   ii) be made aware of a 'grace period' within which they can credit funds to put their account back within their limit and avoid a charge being applied.

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[7] Based on data from the OFT's *Review of barriers to entry, expansion and exit in retail banking,* November 2010

iii) benefit from a small buffer zone within which unarranged overdraft charges will not be levied. This will prevent consumers from incurring a substantial charge as a result of going into unarranged overdraft by a very small amount.

7. Banks have committed to offer text alerts to all full-facility current account holders by March 2012 and to deliver the other two commitments by March 2013 at the very latest.[8] However, it is our understanding that for most consumers, these services will be available significantly earlier. Many banks will also be taking this opportunity to refresh their communications with their customers to ensure that there is better understanding of the charges they could face and how they can be avoided.

8. These additional commitments complement enhanced transparency measures which have already been agreed between the industry and the OFT and which all current account providers are implementing. These include making charges clearer on monthly statements and providing indicative charging scenarios on their websites to enable consumers to compare how different banks charge for different patterns of unarranged overdraft use.

9. In particular, from the end of this year, all personal current account customers will receive an annual statement detailing how much they have paid for their bank account over the previous twelve months. The annual statement will act as a trigger point for consumers to stand back and consider whether they are getting good value for money from their current account and, if not, to consider switching to another provider.

10. Consumers need to know that they are able to switch current accounts quickly and easily, without fear of errors. In response to the recommendation made by the Independent Commission on Banking, the industry will introduce a new guaranteed 7-day switching service by September 2013. With the new service (which will be free of charge), consumers will be able to be confident that their account will be switched within 7 working days, without any risk of their payments going astray.[9]

11. Taken together, these new commitments and enhanced transparency measures combined with existing developments in the market, such as greater transparency, simplified switching and falling charges will deliver real benefits overall to consumers. They will have better control of their personal current account, will have better access to information about their account and, importantly, will be empowered to manage their account in a way which suits their needs. Furthermore, once the new guaranteed switching service is introduced, consumers will be able to switch accounts more confidently if they wish, which should in turn increase competitive pressure in the personal current accounts market. The Government believes that this package of initiatives overall will deliver a fairer, more competitive market and mark a real improvement for consumers.

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[8] The package does not apply to basic bank account holders, as these accounts do not include an overdraft facility.

[9] http://www.paymentscouncil.org.uk/media_centre/press_releases/-/page/1618/

Cooling off Period on Store Cards

Q3 - What would be the impact of a 7-day cooling off period for store cards on (a) consumer behaviour and (b) lenders?

12. In the Call for Evidence, the Government highlighted a number of concerns with the store card market and proposed a cooling off period which would prohibit consumers from using the card for the first seven days after they sign up for it. This would allow consumers time to consider if such a credit product was right for them.

13. The responses to this question were mixed with many respondents questioning the rationale for the cooling off period. Some argued that it could limit access to mainstream credit for vulnerable consumers. For instance, by preventing usage during a cooling off period, a family who urgently needed an essential item, such as a fridge, might be pushed towards high cost credit alternatives and the unregulated market. A number of consumer groups and individual respondents highlighted that the key issue was the offering of 'tempting' retail incentives that encourage consumers to take out store cards on impulse, and they called for an end to this practice. Other key concerns raised by respondents were around the lack of training for sales staff who offer store cards.

14. The Government has decided to respond to the concerns raised to the Call for Evidence by agreeing a comprehensive package of measures with the industry. The package comprises three core features: a ban on direct commission to sales staff, a good practice training scheme and a seven day ban on retail incentives when a consumer takes out a store card. This ban will mean that stores will not be able to offer discounts, free gifts or similar incentives to encourage consumers to take out store cards at the point of sale, or for the first seven days. The introduction of the seven day ban on retail incentives will tackle the key concern raised by respondents, by de-coupling the decision to take out credit with an instant discount on a purchase.

15. These measures will address the concerns raised by respondents and will be introduced from the second quarter of 2012, enabling consumers to benefit from the effects swiftly.

Interest Rate Caps on Credit and Store Cards

Q9 - Should interest rates on credit and store cards be subject to a cap? If so, should this apply to all interest rates or only those which apply to existing borrowing?

Q10 - Are there any alternative measures which would reduce the scope for consumers to be exposed to higher interest rates on credit and store cards?

16. The Government has accepted the evidence submitted to the Review that introducing interest rate caps on credit and store cards would do more harm than

good, potentially cutting off some consumers from an important source of mainstream credit. A number of respondents drew attention to other measures already implemented in this area to deliver tangible benefits to consumers, such as the five rights on credit/store cards, in particular the consumer's right to have the highest interest credit paid off first. In relation to alternative measures, the responses were mixed and there was no consensus on the potential benefits to consumers if any. On balance therefore, the Government does not see a case for pursuing alternative measures at this stage. What became clear however during the Review was that the real concerns on interest rates centred on the high cost credit market. The Government has therefore commissioned research to gather robust evidence on the impact of introducing a cap on the total cost of credit that can be charged in that market.

4. OTHER CONSUMER CREDIT ISSUES

Advertising

Q1 – Should the Government extend regulations on advertising for credit products beyond the cost of credit?

Q2 – Should consumer credit advertising rules be aligned with those which the FSA applies to secured credit?

17. In respect of question one, the Government does not believe that regulations on advertising for credit products should be extended beyond the cost of credit. The Government notes that a great deal of good work has already been done in this area to ensure consumers are protected from misleading advertisements. In particular the Government is keen to see what impact the changes introduced as a result of the CCD, the new Advertising Standards Authority (ASA) code covering digital media introduced in March this year and the introduction in September last year of the social responsibility clause in the Broadcast Code have on the industry.

18. On question two, the Government does not believe that advertising rules on unsecured and secured lending should be aligned. The Government agrees with those submissions to the Review that highlighted that secured lending carries much greater personal risk for the consumer than unsecured lending as it is normally their own property that is at risk.

19. However, the Government does believe that more could be done to encourage consumers to manage their money better and to take time to think carefully whether the borrowing they are considering is right for them. One idea that has come out of the Review is that consumers could be made more aware of the benefits of the

services being offered by the MAS, to nudge consumers to think more about their budgeting and borrowing, for example by advertisements for unsecured credit products carrying a reference to the MAS. The Government believes that this idea is worth pursuing and looks forward to working with the MAS and the industry to explore how this could work.

High Cost Credit

20. The Government recognises that there is widespread concern about the high cost credit market, in particular the cost of accessing affordable credit for some of the most vulnerable consumers. However, the Government also acknowledges that without access to the products offered within this market, many poorer and more vulnerable consumers would struggle to access legal credit sources at all. Keeping consumers out of the hands of illegal loan sharks remains a priority for the Government. The Government recognises that any action in this market could have unintended consequences. That is why the Government has commissioned research to gather robust evidence on the impact of introducing a cap on the total cost of credit that can be charged across a range of high cost credit products in the market (see section on interest rate caps above). Also key here is the Government's work to expand the credit union coverage to provide a better alternative to other higher cost forms of borrowing.

21. The Call for Evidence asked a number of questions on high cost credit that covered the recommendations in the OFT's High Cost Credit Review[10].

Q4a - That the Government works with lenders to provide information on high cost credit loans to consumers through price comparison websites

22. Some respondents supported the proposal on the grounds that consumers could more readily themselves compare the costs and features of the loans of a number of different high cost credit providers. Currently, many consumers rely on credit brokers to actively search for appropriate credit products on their behalf - but a number of these brokers require up-front fees from consumers before doing so (and do not always return these fees when appropriate to do so) and do not always identify a suitable loan. The OFT will shortly be publishing its guidance for credit brokers and intermediaries and while the Government is concerned about some of the practices in this market, it will await the impact of the updated guidance before deciding on whether additional action is required.

23. As regards the issue of providing more information on price comparison websites, the Government believes it important that consumers are able to compare the cost of loans and make their own assessment about what type of loan is right for them at that particular time. Consumers have been able to compare the cost of home collected credit loans on the LendersCompared.org.uk website since it was established following the Competition Commission's investigation into that market[11].

[10] http://www.oft.gov.uk/OFTwork/credit/review-high-cost-consumer-credit/
[11] http://www.competition-commission.org.uk/inquiries/current/homecredit/

Consumers of high cost credit products are also already able to compare many different types of loans on price comparison websites. The Payday Loan forum, made up of representatives from the industry and consumer organisations is also investigating additional options for placing comparison data on price comparison websites. This is a welcome initiative by the industry and the Government looks forward to watching how this progresses.

Q4b - That the Government explores whether there is scope under the European Consumer Credit Directive for a requirement that high cost credit suppliers must include 'wealth warning' statements on advertisements for high cost credit.

24. The Government does not believe that a case has been made to require high cost lenders to include a wealth warning in their advertisements. After a consideration of the evidence the Government believes it is not clear that requiring a wealth warning in an advertisement would have much impact in making consumers stop and think before taking out a credit product, as previous research by the OFT has shown that price is not a main consideration for consumers when accessing high cost credit products. However the Government believes that more could be done to encourage consumers to give greater consideration as to whether the loan they are considering is right for them. As indicated in the response to the questions on advertising, the Government will work with the MAS and business to encourage this.

Q4c - That the Government works with credit reference agencies to explore ways in which payday lenders and rent-to-buy suppliers could provide suitable information to credit reference agencies about the payment performance of their customers, in turn allowing customers to build up their credit rating

25. See the response on data sharing and credit scoring below.

Q4d - That the OFT collects essential information on the high cost credit sector, such as the volume, value and pricing of credit, levels of repeat business and defaults among customers as needed. This will help OFT understand the effect of its recommendations and provide better evidence for future policy making.

26. It is important for the regulator to have sufficient information about a market to make decisions and recommendations based on sound evidence. The Government accepts the recommendation and will liaise with the OFT on how and when they will take forward this recommendation.

Q4e - That the relevant trade associations for home credit suppliers, payday lenders and pawnbrokers establish a code or codes of practice covering best practice policy including on: complaints and advice to customers, policies on rolling over of loans.

27. The Government partly accepts the recommendation. The Government acknowledges that there are numerous trade associations representing many different parts of the high cost credit market and some of these have already introduced their own successful codes of conduct. The Government also recognises the work that has already been done in parts of the high cost credit market to improve transparency for consumers, for example the recent code of practice and consumer information sheet introduced in the Bills of Sale market.

28. The Government does not believe that it would be beneficial to force the different trade associations to work towards a single code of conduct covering all of the high cost credit market because of the very diverse nature of this market. However, the Government is aware of an upsurge of concern regarding payday and instant type lending. This market has rapidly expanded in the UK over the last few years and the Government is concerned that in some parts of the market there is a lack of transparency as to how these loans work, coupled with a lack of understanding amongst consumers of fees and charges incurred if they run into difficulties repaying the loan. The Government accepts that for some consumers these loans are a way of managing their spending, but also believes that it is irresponsible to offer these types of loans to those who will struggle to repay them. The Government believes that payday loans should only ever be used as a short term financial measure and not as a long term solution to financial difficulties.

29. The Government recognises that some individual payday loan companies have moved quickly to address these concerns, for example, by producing their own code of practice and this is welcomed

30. However, the Government believes that more can be done to address some of the increasing concerns that are being raised about the payday loan market more generally. The Government will work with the main trade associations representing payday lenders to introduce enhanced consumer protections in their existing codes of practice. The Government sees this as a real opportunity for lenders operating in this market to show that they are serious about responsible lending and about giving consumers the protections the Government believes they need from some of the practices that appear to be blighting this market. Work has already started with the trade associations and consumer organisations to build on existing codes of practice so they include clear commitments on issues such as advertising, the use of continuous authority, roll over loans, dealing with consumers experiencing financial difficulty and data protection.

Q11 - How effective have the Competition Commission's remedies been at improving prices for home credit customers? Is further action needed to ensure that consumers of home credit get a fair deal?

31. The Government is not minded to commit to any specific further action at this stage. The responses received to the Call for Evidence have not provided clear evidence one way or the other as to the effectiveness of the remedies, or whether further action might be necessary in this market. In particular, the Government agrees with the argument that the remedies have not been in place for a long enough period to make a proper assessment of their effectiveness.

32. The Government was grateful for some useful practical points made as to how the remedies have operated in practice to date. This feedback has been shared with the Competition Commission and the OFT to inform any future work to evaluate the effectiveness of the Competition Commissions remedies.

Data Sharing and Credit Scoring

Q5 - Is there a need for greater sharing of data between the consumer credit industry and other bodies, including utility companies, local authorities and HMRC?

Q6 - It has been suggested that there needs to be greater transparency around credit scoring and the impact of credit scores on charges. Do you agree?

33. The Government believes that additional data sharing could lead to better quality lending decisions to some extent. Given the concerns expressed and the differing views about how best data can be shared in this market, the Government has decided to discuss with key stakeholders how to ensure that any increase in data sharing would be to the benefit of consumers.

34. On credit scoring, the Government appreciates the concerns about greater transparency of credit scoring models and accepts that there are risks of unintended consequences. However, it also recognises that while there is information on credit scoring available, more could be done to help consumers understand the impact of credit scoring, to better understand how a credit footprint works and to encourage use of quotation searches. The Government is also concerned that those with a 'thin' credit rating struggle to obtain credit. It should not be the case that a consumer who rarely borrows money or who has been living abroad struggles to access credit as they do not have a credit history. The Government wants to explore whether more high cost credit providers could provide information to credit reference agency databases.

35. The Government therefore proposes to initiate discussions with stakeholders to explore what practical measures could be put in place, with the aim of achieving the following key objectives:

- Greater sharing of data should lead to better quality lending decisions, but at the same time any increase in data sharing should also benefit consumers;
- More should be done to improve consumers' understanding of the impact of credit scoring;
- Consumers should be encouraged to make more use of quotation searches without leaving a footprint on a credit record;
- Consumers should be able to get errors on credit reference agency databases corrected quickly and easily;
- It should be made easier for those with a "thin" credit rating to build up their credit history so as to be able to obtain affordable credit.

Better Regulation

36. The Government is of the view that it would not be sensible to draw conclusions about actions involving amendment of the Consumer Credit Act until a final decision has been made on the most appropriate regime for consumer credit regulation. In July, the Government published a summary of the responses received to its consultation on the merits of transferring responsibility for the regulation of

consumer credit from the OFT to the new conduct of business regulator for financial services, the Financial Conduct Authority (FCA) [12]. The Government will announce its decision on the consumer credit regime in the coming months.

37. In respect of the other issues listed under better regulation the Government has the following responses:

- *Requirement for banks to identify and act quickly on snowballing penalty charges/unmanageable debt*; and
- *Provision of emergency borrowing facilities with limited duration and capped interest rates*

38. As part of the OFT's work on personal current accounts, the industry has developed best practice guidance for consumers in financial difficulty and this has been included in the Lending Code. The Government will continue to work with banks and regulators to address the needs of customers in financial difficulty.

- *Enhanced access to criminal records*

39. The OFT has confirmed that they have obtained greater access to the Police National Computer database, and will look to make the best and most appropriate use of that access.

- *Limit ability of creditors to add excessive interest and charges to bad debt*

40. This proposal is linked to the wider work concerning unarranged overdraft charges, the work being done on introducing additional consumer protections in the payday lending market and the research on the impact of introducing caps on the total cost of credit in the might cost credit market. The Government will need to consider any specific additional measures here in the light of the outcome of this pieces of work.

- *Regulate private bailiffs effectively*

41. The Government is clear that aggressive bailiff activity is unacceptable and is committed to bringing forward effective proposals which protect the public and ensure that bailiff action is proportionate. The Ministry of Justice has recently consulted on this issue and will announce the results in due course.

42. However, it is important to recognise that under the terms of the current jurisdiction order, regulating private sector bailiffs will not impact on who recovers CCA judgment debts. Such debts are enforced by county court bailiffs, rather than by private sector bailiffs, which currently provides effective public sector consumer protection.

- *Ban repossession of goods secured by sale*

43. The Government published its response to the consultation on proposals to ban the use of bills of sale for consumer lending on 28 January [13]. The response set out the Government's position following a detailed analysis of all the evidence. The

[12] http://www.hm-treasury.gov.uk/consult_financial_regulation.htm

[13] http://www.bis.gov.uk/Consultations/ban-use-of-bills-of-sale-for-consumer-lending?cat=closedwithresponse

Government came to the conclusion that rather than banning Bills of Sale, a package of measures based on the option to introduce an industry wide code of practice would be the most appropriate and proportionate response to this issue. The Government made clear that this was an opportunity for the industry to put its own house in order. This approach is consistent with the Government's approach to policy making of pursuing alternatives to regulation and only regulating when it is clear that policy objectives can not be achieved by self-regulatory or non-regulatory approaches

- *Rationalise the Role of Financial Ombudsman Service*

44. Notwithstanding the wider changes to the financial institutions which may impact on FOS, the Government has no plans to reform the FOS as part of this work. The Government envisages that it will continue its role as the independent body responsible for settling disputes between consumers and businesses providing financial services

5. ANNEX A - Summary of the Government's responses on consumer credit issues and an update on the issues responded to in July

<table>
<tr><th colspan="2">Question from the Call for Evidence</th><th>Summary of the Government's Response</th></tr>
<tr><td>Q1</td><td>Should the Government extend regulations on advertising for credit products beyond the cost of credit?</td><td rowspan="2">• The Government accepts that the evidence does not support extending advertising regulations or aligning rules on unsecured and secured credit.
• The Government believes that more could be done to nudge consumers to think more about their budgeting and borrowing and to consider if the credit product they are considering is right for them. The Government will work with the MAS and the industry to explore how this idea could work.</td></tr>
<tr><td>Q2</td><td>Should consumer credit advertising rules be aligned with those which the FSA applies to secured credit?</td></tr>
<tr><td>Q3</td><td>What would be the impact of a 7-day cooling off period for store cards on (a) consumer behaviour and (b) lenders?</td><td>• The Government has negotiated with industry to develop a comprehensive package of measures to address the greatest concerns raised by respondents. The package includes a ban on direct commission to sales staff, a good practice training scheme and an initial seven day ban on retail incentives when a consumer takes out a store card.
• These measures will be introduced from the second quarter of next year.</td></tr>
<tr><td>Q4</td><td>We would particularly welcome your views on the following OFT recommendations [from its High Cost Credit Review]:</td><td>• The Government recognises the widespread concerns about the high cost credit market, in particular the cost of accessing affordable credit for vulnerable consumers.
• However, the Government also recognises that any action in this complex market could have unintended consequences.
• That is why the Government has commissioned research to assess the potential impact of introducing a cap on the total cost of credit on a range of high cost credit products.
• Also key in this context is the Government's wider work to expand credit union coverage relevant to provide more consumers with affordable credit.</td></tr>
</table>

Question from the Call for Evidence		Summary of the Government's Response
4a	That the Government works with lenders to provide information on high-cost credit loans to consumers through price comparison websites.	• Consumers can already compare the cost of home collected credit loans on the lenders compared website; • Consumers of high cost credit products, including home collected credit, payday and other unsecured loans are already able to compare many different types of loans on price comparison websites; • The Payday Loan forum is investigating the various options for this sector and the Government looks forward to hearing how this idea has progressed.
4b	That the Government explores whether there is scope under the European Consumer Credit Directive for a requirement that high-cost credit suppliers must include 'wealth warning' statements on advertisements for high-cost credit	• The Government does not believe that a case has been made to require high cost lenders to include a wealth warning in their advertisements. • The Government will work with the MAS to encourage consumers to give more consideration to whether the loan they are considering is right for them.
4c	That the Government works with credit reference agencies to explore ways in which payday lenders and rent-to-buy suppliers could provide suitable information to credit reference agencies about the payment performance of their customers, in turn allowing those with good payment records to use mainstream lenders more easily in the future	• The Government believes that additional data sharing would lead to better quality lending decisions to some extent. • The Government will discuss with key stakeholders how to ensure that any increase in data sharing could be to the benefit of consumers (see Q5 and 6 below).
4d	That the OFT collects essential information on the high-cost Credit sector, such as the volume, value and pricing of credit, levels of repeat business and defaults among customers as needed. This will help OFT understand the effect of its recommendations and provide better evidence for future policy making	• The Government accepts the recommendation and will liaise with the OFT on how and when they will take forward this recommendation.
4e	That the relevant trade associations for home credit suppliers, payday lenders and pawnbrokers establish a code or codes	• The Government partly accepts the recommendation and will work with the payday loan market to ensure that increased consumer protections are included in future codes of practice.

Question from the Call for Evidence		Summary of the Government's Response
	of practice covering best practice policy including on: complaints and advice to customers, policies on rolling over of loans, limits for amounts to lend to consumers, avoiding misleading consumers through advertisements and ensuring that consumers are aware of the ultimate owners of brand names	
Q5	Is there a need for greater sharing of data between the consumer credit industry and other bodies, including utility companies, local authorities and HMRC?	• The Government will discuss with key stakeholders how to ensure that any increase in data sharing could be to the benefit of consumers. • The Government believes that the impact of making greater use of credit scoring has not yet been fully understood. As part of its discussions with stakeholders on wider data sharing issues, The Government will also explore consumer issues around credit scoring and whether high cost credit providers should provide data to the credit reference agencies.
Q6	It has also been suggested that there needs to be greater transparency around credit scoring and the impact of credit scores on charges. Do you agree?	
Q7	Which of the stakeholder proposals at Annex A do you consider would bring benefits to industry or consumers and what would these be? Please provide evidence in support of your view.	• The Government is of the view that it would not be sensible to contemplate any action that would involve the amendment of the Consumer Credit Act until a final decision has been made on the future of the consumer credit regime. • Other better regulation issues are covered in section four of this response.
Q8	Do you believe that the current voluntary, market-driven initiatives to address concerns about unarranged overdraft charges are delivering, or will deliver, sufficient improvements for consumers? If not, what would the wider implications of limiting bank charges be? Please provide evidence in support of your views.	• The Government has agreed with industry additional measures to address consumer concerns about control and transparency.of unarranged overdraft charges. • Consumers will benefit from the following: the option to receive an alert from their bank when their balance is low or before they are about to incur an unarranged overdraft charge; being made aware of the 'grace period' within which charges will not be levied if sufficient funds are deposited to cover the debit; and also being made aware of the minimum 'buffer zone' within which unarranged overdraft charges will not be levied. • Coupled with the banks' existing commitment to produce annual statements and the forthcoming improvements to make switching accounts safer and easier, the Governments believes this overall package will deliver real improvement for consumers.

Question from the Call for Evidence		Summary of the Government's Response
Q9	Should interest rates on credit and store cards be subject to a cap? If so, should this apply to all interest rates or only those which apply to existing borrowing?	• The Government accepts that introducing interest rate caps on credit and store cards would do more harm than good. • The Government sees no case for alternative measures while the full impact of on-going changes is still to be realised. • The Government has commissioned research on the impact of introducing a cap on the total cost of credit that can be charged in the high cost credit market.
Q10	Are there any alternative measures which would reduce the scope for consumers to be exposed to higher interest rates on credit and store cards?	
Q11	How effective have the Competition Commission's remedies been at improving prices for home credit customers? Is further action needed to ensure that consumers of home credit get a fair deal?	• The Government is not minded to commit to any further action at this stage and agrees that the remedies have not been in place for long enough to make a proper assessment of their effectiveness

Question from the Call for Evidence		Update from the Government's July Response
Q12	What role should the court play in the debt recovery process? Should it be restricted to genuine points of law and disputes between the parties?	• The Ministry of Justice consultation on orders for sale and proposals to improve the effectiveness of the court enforcement process closed in June. The Government will respond to the consultation shortly.
Q13	Are court-based enforcement mechanisms fit for purpose? If not how would you like to see them improved or added to?	
Q14	What impact would a £25,000 threshold have on your ability to enforce unpaid debts by means of 1) charging orders and 2) orders for sale? What alternative action might you take?	

<table>
<tr><th colspan="2">Question from the Call for Evidence</th><th>Update from the Government's July Response</th></tr>
<tr><td>Q15-Q31</td><td>These questions were underpinned by three broad objectives:
i) we want to see debtors empowered to make sensible decisions about their financial situation, thus leaving no space for rogue providers to operate;
ii) there should be a suitable option available for anyone experiencing significant debt difficulties; and those consumers in a position to repay, do so.</td><td>The Government's full response on personal insolvency issues can be accessed via http://www.bis.gov.uk/insolvency/Consultations/ConsumerCredit The Government has since built on that response by taking action in a number of areas:

• The Government has asked the MAS to review how debt advice could be more effectively delivered in the future, building on the expertise of specialist providers, with a view to putting in place a new delivery model in 2013, that will include ensuring a holistic approach is taken so that consumers have the support to understand and evaluate their options for debt remedy.
• The Government believes that the personal insolvency regime offers a good range of solutions for those in financial difficulty. The Government is however, proposing some further measures which will assist consumers in difficulty.
• On 7 November the Government published a consultation seeking views on reforms to the court petition process. The reforms aim to provide an appropriate and streamlines route into bankruptcy (and compulsory winding up) and ensure that the court's focus is on dispute resolution. The proposed new process will be quicker than the current courts process in straightforward cases where there is no dispute about the desired outcome. Where there are matters that require detailed consideration, current timescales are more likely to apply. This is a consultation (which closes on 31 January 2012) and it is important that the Government gets the detail right, so views are welcomed.
• The Government has also published a consultation (17 November) looking at the way in which bankrupts can get better access to basic bank accounts. Next year the Government will also consult about increasing the petition debt levels for creditors. The level (currently £750) has not been increased since the Insolvency Act 1986 came into force, and the ability to threaten someone with bankruptcy for such a small amount appears disproportionate.
• The Government is exploring whether the debt management industry itself can resolve some of the issues it faces, and which currently damage its reputation. Alongside the OFT Guidance for providers and the Treating Customers Fairly guidance for banks, the Government will aim to draw up a Protocol which will build on this work and ensure that expectations of providers, creditors and debtors themselves are made clear</td></tr>
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