ACTSO
Association of
Chief Trading Standards Officers

NATIONAL TRADING STANDARDS
Protecting Consumers
Safeguarding Businesses

Consultation Response – "Reforming Competition and Consumer Policy Driving growth and delivering competitive markets that work for consumers"

Response submitted by email to: RCCPconsultation@beis.gov.uk

1 Introduction

The Association of Chief Trading Standards Officers (ACTSO) is the membership organisation representing senior Trading Standards managers from councils across England and Wales. ACTSO is focussed on providing effective leadership at the national level while supporting members to lead their services locally and regionally.

National Trading Standards (NTS) has a Board made up of senior Heads of Trading Standards from England and Wales with an independent Chair. It uses funds provided from Government to commission Trading Standards related work, utilising our commissioning model with local authorities. NTS's aim is to protect consumers and safeguard legitimate businesses by tackling serious national and regional consumer protection issues and organised criminality and protecting food supplies by ensuring the animal feed chain is safe.

We welcome the opportunity to comment on this important paper. We have focussed on those areas of most direct interest to our organisations. In addition, we have made submissions in relation to both resource and workforce issues which we believe BEIS must properly consider in order to ensure that there is an effective Trading Standards and consumer protection system.

2 Resources for Local Trading Standards

Local Authority Trading Standards Services enforce a wide range of legislation with over 260 statutory duties. Main areas of work include fair trading, legal metrology, product safety, underage sales, intellectual property, environmental regulations, safety of animal feed and human food, animal health and welfare, and agriculture alongside a whole range of other duties designed to protect consumers and ensure a level playing field for businesses. Government consistently uses Trading Standards enforcement as a method to ground its policy ambitions in areas where regulation and enforcement is required. Recent examples of this include the ban on microbeads in cosmetics, the sale of materials for wood burning stoves and the ban on tenant

fees and of course a key role in enforcing Covid related requirements. We know new Government ambitions continue and we are anticipating new legislation banning low welfare animal holidays, the ban on cosmetic filler treatments for children, new recycling regulations, standards for Covid PCR testing services and marketing of Covid tests, all of which will require work from Trading Standards.

Chartered Trading Standards Institute (CTSI) survey data shows that since 2009 Trading Standards services have suffered an average budget reduction of **46%** with staff numbers falling by **53%**.

The current financial climate and increasing demands means that hard choices have had to be made about which legislation to enforce and the need to decide between competing local and national priorities. Trading Standards services report the need to raise the threshold on the cases they can take due to concerns locally about risks posed to poorly resourced local authorities. This reduced capacity has meant that there have had to be significant cuts in proactive and routine regulatory work and the removal of free business advice in many areas. This will have a long-term impact on compliance leading to poorer outcomes for consumers and legitimate businesses.

There is a need to take a more strategic approach that looks at how all the elements of the consumer protection system are resourced and interact effectively in a coordinated way. All elements of that system are critical: the national, the regional and the local. We know that the national system cannot work without the local. It is also important to note that while NTS funding has been most welcome, and we have set out ideas below on how it could be enhanced, it cannot replace the resilience that has been lost at the local level.

Trading Standards align their service delivery plans to meet the needs of their own local authorities and to support specific programmes like ‘Net Zero’ and the Government agenda to reduce Organised Crime. This puts them in the best possible place to secure any available funds. The bulk of local authority funding for existing Trading Standards functions is via the non-ringfenced local authority block grants. There are significant problems for small services, like Trading Standards, in getting increases to budgets when funding for new functions is provided via this route. This is especially problematic when local authorities as a whole are facing hugely difficult budget settlements from Government and are responsible for major high-profile services such as adult social care and children’s services.

ACTSO and NTS would like Government to consider how any new resources can be provided to Trading Standards that best enables them to deliver both local council and Government priorities. Neither NTS nor ACTSO want Trading Standards removed from local authorities. The local authority infrastructure is crucial for the delivery because the local knowledge, links with other local authority services,

provision of support to local authority communities and the democratic accountability are fundamental. This is the case, no matter how any funding is routed.
It is our view that where there are **new** functions and funds for Trading Standards, the best way to ensure delivery is for this to be commissioned rather than funded via the local authority block grant. This way, all the benefits of the current locally based system can be retained, whilst ensuring that funds deliver the regulation and enforcement needed. Commissioning already exists in some areas. For example in England, Public Health fund a range of work directly via some regional groups whilst Welsh Government commissions aspects of Trading Standards work from Welsh local authorities. We would hope this can continue and expand. In particular, NTS has a proven track record of commissioning Trading Standards, from local authorities, for many Government Departments and agencies This is now an established and trusted network for local authorities.

Whilst this would be our preferred route to maintain the current local resilience and deliver on new demands, if any "new burdens" funding is provided via local authority grants, it would be highly desirable for this to be accompanied by written confirmation from Government as to the amounts provided for any function to enable appropriate conversations within the local authority.

In the past, Government has initially provided direct funding for some functions, which is then put into the block grants at a later date. This method allows a firm evidence-based spending profile for all future funding, by whichever method that is provided.

3. Resources for National Trading Standards

NTS is committed to continuing and expanding the work that it commissions. The impact of funding provided by BEIS to NTS is well recognised. Between 1/4/14 and 31/3/21, NTS tackled over £1 billion in detriment: £11.54 impact for every £1 spent.

One particular area where NTS and ACTSO feel the system could be improved is by investing funds to deliver an enhanced regional infrastructure. Trading Standards have long established partnership working via voluntary regional collaboration. NTS commissions much of its existing work via this route. We believe that for relatively modest investment, this infrastructure could be boosted to support local activity by provision of better coordination and expertise to up-skill local Trading Standards. This would **not** be about providing a regional service; it would be about a package of regional support and expertise that could enhance what local authorities in each area do. This is fully supported by all Heads of Service Groups in England and Wales.

For funds of around £5 million, a small team of people could be embedded in each region for functions of particular interest to BEIS. This would add direct value to local

Trading Standards and would easily integrate into the existing strong local/regional/national system that NTS and local TS services have developed so effectively over the last decade. There would need to be some flexibility between regions as their needs may differ and this would only work if it was for a sufficient period of time to enable proper planning, recruitment and execution. Short-term annual funding does not enable the system to be improved in a sustainable way. We believe this must be for a minimum of three, and ideally five years. We would welcome further discussions with BEIS on this, but the examples outlined below all had broad support by Heads of Trading Standards who believe it would add significant value to the system.

Workforce training and upskilling: Many local authorities are now starting to invest in new trainees and apprenticeships. This has been recognised as a key issue via the Department for Levelling Up, Housing and Communities Regulatory Services Capacity Review Project where a cross Government Spending Review bid has been submitted for more Environmental Health and Trading Standards apprentices in England. TS Wales are working with public protection colleagues to set up an Regulatory Compliance Officer Apprenticeship and have submitted proposals to Welsh Government. The initial response from Welsh Government has been positive.

Additional investment at regional level would mean that local authorities can fully support these new entrants in coordinating the complex training demands to fulfil qualification requirements, arrange work placements, carry out assessments, share best practice and create a good support network to retain new recruits. The creation of a support role at regional level would enhance this offer and encourage, particularly smaller authorities, to invest in trainees and apprentices knowing that they did not have to also resource the support, coordination and administration functions. As an example of the buy-in to the benefits, East Of England Trading Standards Authorities have already prioritised this and have managed to fund a short term post to carry out these functions, but need longer term funding to make this sustainable.

Online/e-crime issues: The increase in online commerce is well documented. Web sites and social media are now a feature in almost all consumer protection cases, even where the harm may ultimately occur offline, such as consumers' increasing reliance on the internet when identifying suitable tradespeople. The NTS eCrime Team provides expert forensic analysis services, partnership and coordination work that is focussed regionally and nationally. However, in addition to the support for the more serious cases provided by the NTS Team, local authorities advise that when conducting enforcement work in their localities, they need better more localised access to expert advice on preparing for enforcement action, triaging and the seizure of digital devices on site alongside general advice on enforcing and advising on online issues.

Scams: A regional resource working with partners in local authorities would build on the very successful Friends Against Scams and Business Against Scams work. We are aware that post the pandemic, consumer vulnerability has increased so we need to address this in a way that can better support localities and build community resilience to fraud and scams. Again, to illustrate the recognised need and buy-in, Yorkshire and Humber Trading Standards Group has committed some short-term funding for scams support as it is a priority, and they would very much welcome this being made longer term.

Regional Intelligence and Tasking: Every area has embedded the use of intelligence and tasking using the NTS Intelligence Operating Model. This enables limited resources to be prioritised on the most impactful work. To make it work more effectively, and for a wider range of Trading Standards work, some dedicated resource at a regional level will help to identify priorities and make intelligence and tasking as effective as it can be. This would also help local authorities dealing with serious and organised crime which impacts on many areas of Trading Standards' work. A new system for serious and organised crime group system tasking is being rolled out by the Home Office and Police and all enforcement partners are expected to participate. This is a new area of work for regional groups but should make it easier for them to raise the profile of the investigations they are leading and access support from other law enforcement agencies.

Expert Advice: Heads of Service advise that they would benefit from having regional experts in certain fields. These are likely to depend on current demands from region to region and also identified skills gaps. Examples raised have included expertise in energy and environmental regulations and legal metrology alongside expertise to assist local authorities undertake more Enterprise Act actions. This resource can then provide a source of expert support for local authorities and someone who can focus on increasing skills and competence within local Trading Standards for the identified areas.

We are pleased that this kind of approach has already been seen to be of value in parts of Government. For example the Intellectual Property Office are working with NTS to pilot the provision of Regional IPO officers this year.

4 <u>Workforce Issues</u>

As previously stated, CTSI survey data shows that since 2009 Trading Standards staff numbers have fallen by **53%**. There is a clear need for national professional standards and competence to be maintained. As well as the overall reductions, the ageing workforce creates the prospect of potential skills shortages in the future. Obtaining professional qualifications takes time and resources, so steps must be

taken now to address this issue. We know that even where local authorities have funds to recruit to posts, they are struggling to find competent, qualified staff.

5 Part 1 - Competition Policy

We fully support the need for a fair and effective Competition regime. It should be recognised that in a broad context, Trading Standards have a significant role to play in ensuring effective competition by protecting consumers and providing a level playing field via its enforcement and business advice work.

6 Part 2 - Consumer Rights

Q 30. Do you agree with the description of a subscription contract set out in Figure 8 of this consultation? How could this description be improved?

There was agreement on the description of a subscription contract.

Q 31. How would the proposals of clarifying the pre-contract information requirements for subscription contracts impact traders?

Traders are already required to give pre-contract information but there is tension between transparency and clarity and this is causing confusion. We suggest that there should be a requirement for a set of key bullet points to be immediately visible with the option to access more detail if consumers so choose.

Q 34. Should the reminder requirement apply where (a) the contract will auto-renew or roll-over, at the end of the minimum commitment period, onto a new fixed term only, or (b) the contract will auto-renew or roll-over at the end of the minimum commitment period

All businesses should be required to get full explicit consent at the end of any renewal point and the end of any free or low cost or trial period.

Q 36. Should traders be required, a reasonable period before the end of a free trial or low-cost introductory offer to (a) provide consumers with a reminder that a "full or higher price" ongoing contract is about to begin or (b) obtain the consumer's explicit consent to continuing the subscription after the free trial or low cost introductory offer period ends?

All businesses should be required to get full explicit consent at the end of any renewal point and the end of any low cost or trial period.

Q 38. What do you consider would be a reasonable timeframe of inactivity to give notice of suspension?

As we believe that all businesses should be required to get full explicit consent at the end of any renewal point and the end of any low cost or trial period, the question of reasonable timeframe in this question would not arise.

Q 39. Do you agree that the process to enter a subscription contract can be quicker and more straightforward than the process to cancel the contract?

All respondees agreed with this.

Q 40. Would the easy exiting proposal, to provide a mechanism for consumers that is straightforward, cost-effective, and timely, be appropriate and proportionate to address the problem described?

As we believe that all businesses should be required to get full explicit consent at the end of any renewal point and the end of any low cost or trial period, the question of reasonable timeframe in this question would not arise.

Q 41. Are there certain contract types or types of goods, services, or digital content that should be exempt from the rules proposed and why?

Notwithstanding the response to questions above, we recognise that there may be a small number of services (home and car insurance) where auto-renewals ensure necessary insurance cover is maintained. However these are also markets where consumers are often subjected to loyalty penalties and this is an area that needs to be addressed. In terms of contracts for medicines, any exemption would need to be tightly defined for prescription only medication. Complementary medicines and "health supplements" must not be exempted as we know this is a market that does exploit subscription traps**.**

Q 42. Should government add to the list of automatically unfair practices in Schedule 1 of the CPRs the practice of (a) commissioning consumer reviews in all circumstances or (b) commissioning a person to write and/or submit fake consumer reviews of goods or services or (c) commissioning or incentivising any person to write and/or submit a fake consumer review of goods or services?

NTS and ACTSO support option C.

Q 44. What 'reasonable and proportionate' steps should be taken by businesses to ensure consumer reviews hosted on their sites are 'genuine'?

This is a complex area requiring clear Government Guidance. Rules may need to differ dependent on the size of the business and business sector. We would encourage the engagement of Trading Standards in the development of such guidance.

Q 45. Should government add to the list of automatically unfair practices in Schedule 1 of the CPRs the practice of traders offering or advertising to submit, commission or facilitate fake reviews?

NTS and ACTSO support this.

Q 46. Are consumers aware of business using behavioural techniques to influence choice that affect their purchasing decisions? Is this a concern that they would want to be addressed?

There is strong agreement with the first part of the question. In terms of addressing this, there needs to be a recognition that the concept of vulnerability is changing and is now applicable to a much wider range of consumers than was historically the case, with exploitation targeted at specific high stress periods of people's lives like bereavement or divorce. Some of the techniques used are so subtle that even the most circumspect consumers may not be aware. Some good work has been done to try and better understand the issue, but much more is required. The Behavioural Insights Team at the CMA seems well placed to lead on some of this work.

Q 47. Do you think government or regulators should do more to address (a) "drip pricing" and (b) paid-for search results that are not labelled accordingly, as practices likely to be breached under the CPRs?

NTS and ACTSO support this. We also believe that BEIS should consider addressing the similar issues such as:

- Consumers having to provide significant personal information before being quoted delivery charges. Delivery charges should be transparent and accessible without creating an account.
- Auctions charge fees over and above the hammer price, even though an auctioneer is agent for the seller and not the buyer, and even though the seller pays a commission.
- Restaurants often fail to include 'service' in their headline price.

Q 48. Are there examples of existing consumer law which could be simplified or where we could give greater clarity, reducing uncertainty (and cost of legal advice) for businesses/consumers?

More clarity and fairness is needed on the status of a seller on multi-seller platforms. The difference in buyers' rights if the seller is in business or a private individual is significant. The status of the seller is often unknown to the buyer. This has been an issue for many years but with the explosion of online buying, it is now a much larger and increasing problem, extending across online marketplaces and social media sites which enable sales. It also causes great difficulties for enforcers like Trading Standards. While there is already a prohibition in the Consumer Protection Regulations on "falsely claiming or creating the impression that the trader is not acting for purposes relating to his trade, business, craft or profession, or falsely representing oneself as a consumer", this does not address the scale of the problem or help many consumers. We think that any platform facilitating the sale of goods, services or digital content by other parties should have an obligation to ensure that there is a clear declaration of each seller's status and to take reasonable and proportionate steps to ensure that the declaration is accurate.

There was widespread agreement that the use of Fixed Monetary Penalties should become more firmly established in any new or revised Trading Standards legislation, with criminal sanctions for non-payment in more serious cases. This would be a simple and cost effective route for businesses and provide a more consistent and easily understood approach to penalties.

We would ask that updates to legislation include the publication of the consolidated legislation rather than numerous additional amending regulations. This would help enforcers and businesses.

Q 49. Are there perverse incentives or unintended consequences from our existing consumer law?

If there are to be any de-regulatory measures, Government must consider them all together, to ensure the interconnectivity of consumer protection measures is known and understood and unintended consequences avoided.

Q 50. Are there any redundant or unnecessarily burdensome requirements to provide information or other reporting requirements, which burden businesses disproportionately compared to the benefits they bring to consumers?

It is felt that the Consumer Contract Regulations could be simplified as the information required can be complex for both the business and potential consumers to understand.

We would like to remove the requirement under the Consumer Rights Act to provide an Entry Notice to businesses by Trading Standards Authorities to conduct inspections. Currently these need to be provided 48 hours before a routine inspection or on the day of a non-routine inspection. Most businesses do not

understand what the notice is for or why they are being given it, and it creates an added layer of bureaucracy. It also creates duplication with issuing of Notices of Powers and Rights under the Police and Criminal Evidence Act Code B requirements when powers are used.

Q 51. **Do you agree that these powers should be used to protect those using "savings" clubs that are not currently within scope of financial protection laws and regulators?**

There was widespread agreement that savings clubs and similar schemes should be better regulated as part of the Financial Conduct Authority's regulatory remit.

Q 52. **What other sectors might new powers regarding prepayment protections be usefully applied to?**

There are many facets of this hugely problematic issue. It applies to all types of "set aside" schemes, where payments are made until the purchase price has been paid and the consumers get the goods or service; examples include prom and wedding dresses and car servicing plans. In these situations, if the business ceases trading, the consumer is merely added to the list of creditors with little or no comeback. In relation to home improvements, many of the worst situations where home improvements go wrong arise where the consumer has made significant or complete payment up front. Government needs to better protect consumer prepayments for home improvements and other services. Detailed research should be carried out and consideration given to whether consumers are well-served by current practices.

Q 53. How common is the practice of using terms and conditions to delay the formation of a sales contract?

Trading Standards officers have observed this in their daily work and the Law Commission report appears to confirm that this is a widespread practice.

Q 54. Does the practice of using terms and conditions to delay the formation of a sales contract cause, or have the potential to cause, detriment to consumers? If so, what is the nature of the detriment or likely detriment?

Everybody agreed that this is becoming more common and that further work needs to be done to protect consumers better and raise the awareness of this risk.

7 <u>Part 3 - Consumer Law Enforcement</u>

Q 55. Do you agree with government's proposal to empower the CMA to enforce consumer protection law directly rather than through the civil courts?

NTS and ACTSO support this. This will make effective intelligence sharing between CMA and Trading Standards even more important.

Q 56. What would be the benefits and drawbacks of the CMA retaining the same or similar enforcement scope under an administrative model as it has under the court-based, civil enforcement process under Part 8 of the EA 02?

The benefits should be a quicker system that prevents consumer detriment but we would leave it to the CMA and business community to comment further on this matter.

We are concerned that there is no mention anywhere in the Paper of the significant impact that Trading Standards initiated Enterprise Act work can have in reducing consumer detriment. While the number of actual Orders or undertakings may be low, it is the process itself that brings compliance as all the 'early' work that is done around discussing whether an Order is needed is a vital tool in its own right.

Q 60. Should sector regulators (OFGEM OFCOM etc.) civil enforcement powers under Part 8 of the EA 02 be reformed to allow for enforcement through an administrative model? What specific deficiencies do you expect this to address?

There was agreement with this proposal and also the suggestion to consider a wider duty to co-operate between regulators.

Q 61. Would the proposed fines for non-compliance with information gathering powers incentivise compliance? What would be the main benefits, costs, and drawbacks from having an option to impose monetary penalties for non-compliance with information gathering powers?

We believe the proposed fines for non-compliance with information gathering powers would incentivise compliance. Currently, a court can order compliance with information gathering requirements, but there is no immediate penalty for non-compliance. There are numerous instances where subjects choose not to comply which significantly hampers investigations.

Q 62. What enforcement powers (or combination of powers) should be available where there is a breach of a consumer protection undertaking to best incentivise compliance?

It is important that fines are punitive so that they are not just treated as a "business expense". Also making undertakings enforceable in their own right and introducing

monetary penalties for breaches of undertakings would best incentivise compliance (a combination of options 2 and 2A was the agreed choice).

Q 63. Should there be a formal process for agreeing undertakings that include an admission of liability by the trader for consumer protection enforcement?

We support this being included as an option rather than a requirement. We think it may only be used rarely as admitting liability would open up the possibility of redress claims and would serve as a significant deterrent to the trader engaging in this process. This in turn would mean creating a need for courts to resolve.

We know that CTSI will be responding in more detail on all the ADR related questions (Q65-71). We urge BEIS to take full account of their expertise in this area. In addition we would like to make the following brief points.

Q 65. What more can be done to help vulnerable consumers access and benefit from Alternative Dispute Resolution?

We would like current legislation to be tightened to ensure that all ADR bodies have to commit to helping vulnerable consumers to access ADR as part of the approval process.

Q 66. How can regulators and government balance the need to ensure timely redress for the consumer whilst allowing businesses the time to investigate complex complaints?

The right resolution is more important than fixed time limits but there does need to be some boundary to avoid unacceptable delays.

Q 68. What further changes could government make to the ADR Regulations to raise consumer and business confidence in ADR providers?

We would like to see more publication of the results of ADR to raise both consumer and business confidence as it would provide transparency. Also we believe that checks on a person's fitness must be based on a robust regime and periodic review. We note also that the notion of consumer vulnerability is an evolving concept, see Q 46 above, in terms of the notion that all consumers can be vulnerable at certain times. We think that sectors that can be easily identifiable as being connected to typical periods of temporary vulnerability (e.g. funeral services, care homes) need specific consideration for having mandatory ADR.

Q 69. Do you agree that government should make business participation in ADR mandatory in the motor vehicles and home improvements sectors? If so, is the default position of requiring businesses to use ADR on a 'per case'

basis rather than pay an ADR provider on a subscription basis the best way to manage the cost on business?

We agree that business participation in ADR should be mandatory for used cars. However TS would ask to be closely involved in shaping the detail on how this would work in practice.

There were mixed views In relation to the home improvement sector. Whilst a good idea in principle given the high levels of consumer detriment, it is a sector dominated by very large numbers of small businesses. This will make it very difficult to implement sector-wide. The key risk here is that you raise consumer expectation only to then undermine the concept of ADR as a whole if a mandatory process is seen not to work. There may be scope to consider options around implementing for businesses of a certain size or contracts of a certain price but Trading Standards would like to be fully engaged with Government if it plans to proceed with these proposals.

Q 72. To what extent do you consider it necessary to open up further routes to collective consumer redress in the UK to help consumers resolve disputes?

There are currently very few cases all involving large costs. We believe that better publicised and effective ADR schemes should limit the need for wider collective consumer redress which is complex and expensive to achieve.

Q 74. **How can national enforcement agencies NTS and TSS best work alongside local enforcement to tackle the largest national cases of criminal breaches of consumer law?**

The system as a whole needs to be able to manage the risks of large cases with the right funding in the right part of the system. In England and Wales, the current NTS/TS system is well embedded and has delivered good results but the sustainability of the system as a whole must be managed.

In recent years, the scale of criminality being tackled by Trading Standards has increased with many cases being fraud based. The costs and risks of pursuing these cases are huge and the risk appetite, within cash strapped local authorities, is limited. NTS funds many of these cases but given this, there is the very real increasing risk that NTS may not be able to task significant cases to a local authority unless factors that mitigate the risk these cases carry are implemented. The following options need to be considered:

- The Government to provide some form of insurance for these cases. We note this has been done for live entertainment events post Covid;

- The Government to provide some form of indemnity. We note that this has been put in place for the enforcement of building regulations in high rise buildings, in this case facilitated via the Local Government Association.
- The provision of multi-year funding would help mitigate some risk associated with very large cases by being able to give a prosecuting authority a guarantee of at least 3-4 years funds. We know large cases can take many years which is increasingly incompatible with only being able to provide funds for 12 months, when the local authority will have risks "on its books" until the case is completed. There is already precedent for this, agreed by treasury, where BEIS provided a grant for five years for a large scale energy fraud case.

All of the above would help address the risks if NTS's status remains as is. If the Government decides to create NTS as a public authority, then of course it could be given its own backstop enforcement power such that it can pursue 'untaskable' cases in its own name, if needed.

Worthy of note here is the different legal funding positions in England and Wales as opposed to Scotland. A large proportion of NTS funding is used for legal fees whereas in Scotland the different legal position means this cost is not borne by Trading Standards but by the Procurator Fiscal.

Q 75. Does the business guidance currently provided by advisory bodies and public enforcers meet the needs of businesses? What improvements could be made to increase awareness of consumer protection law and facilitate business compliance?

Local Trading Standards have a key role in supporting local growth and advising businesses, including via Primary Authority relationships, to address the needs of individual businesses and localities.

At a national level, CTSI's Business Companion provides excellent business advice resources. Trading Standards can signpost businesses to Business Companion. In addition it is used as a great starting point for officers who can then develop and apply the guidance with targeted, bespoke help for their own local businesses. There was widespread agreement that Business Companion needs more resourcing and the Government is urged to invest in broadening this rather than creating a different system.

8 <u>Additional Comments</u>

If other changes are to be made to the both Consumer Protection Regulations and Consumer Contract Regulations as a response to this Paper, we ask that the time

limits be increased as they are currently unworkable for serious cases. Currently they are three years from commission and one year from discovery. Ideally we would like unlimited time limits (as for Fraud Act). However as a minimum we would like to remove the one year from discovery. Recent case law has made proof around dates of discovery much more complex. In addition extending the three years from commission to five years from commission will make it realistic to use the CPRs to address cases where there is complex and serious consumer detriment.

NTS and ACTSO would like there to be explicit powers for Trading Standards to require website or digital content takedowns.

Officers would also like to be given specific powers under the Fraud Act.

In terms of enhancing intelligence gathering, one region suggested that a mechanism be developed whereby consumers can report an issue to the Citizens Advice Consumer Service without needing to engage in receiving advice.

Finally, it was suggested that much wider use of pre-trial and post-conviction processes, like Proceeds of Crime and Criminal Behaviour Order processes, for Trading Standards cases, would result in better outcomes. We would appreciate a conversation with BEIS and MoJ and Home Office colleagues to discuss how we can achieve this.

9. Further Contact

We hope you find the above comments helpful and we look forward to seeing the Government's response to the consultation. If there is anything in this response you wish to discuss further, please contact [redacted]

[redacted]