

**EMPOWERING AND PROTECTING
CONSUMERS**

Government response to the
consultation on institutional
reform

APRIL 2012

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Executive Summary

Outline of the response

1. The Government is committed to promoting growth in the UK economy and empowering and protecting consumers is a vital element of our approach. The current landscape of bodies responsible for these is inefficient and confusing, leaving consumers uncertain who to turn to for help and advice when things go wrong. Our recent consultation, *Empowering and Protecting Consumers*, proposed a number of approaches to tackle this.
2. Consumers need someone they can trust and who has a track record of providing knowledgeable, fair and impartial advice. We therefore propose to fund Citizens Advice and Citizens Advice Scotland (the Citizens Advice service) to provide information and advice about general consumer matters. They will become the publicly-funded voice of consumers, championing their needs and empowering them to make the right choices for themselves.
3. The regulated gas, electricity and postal services industries are important to all consumers and their interests need to be effectively represented. We see great benefits in bringing together the technical expertise of Consumer Focus and the research it undertakes with the information gathered by Citizens Advice bureaux and through advice help lines. But we are keen to ensure continuity and capability during a time of economic stress. We will therefore begin a phased transition of these activities by creating a small, technical Regulated Industries Unit which will be tasked with working with the Citizens Advice service and with consumer bodies representing the views of other regulated industries. This unit will transfer to the Citizens Advice service in 2014. Once established the Government will periodically review the quality of provision of the RIU against expectations. The legislative changes to set up the RIU will include the ability for the Government to move it in the future if necessary.
4. Trading Standards play a critical role in protecting consumers and businesses in their local authority areas, in particular from rogue traders. We want to build on this local expertise by providing additional funding and mechanisms to strengthen cross-boundary working. We are therefore establishing a National Trading Standards Board (NTSB) that will bring together representatives of Trading Standards from England and Wales to prioritise, fund and coordinate national and cross-boundary enforcement cases. They will be charged with developing a system to bring together intelligence from around the country to improve their ability to combat rogue traders. They will also create and develop expert teams to tackle priorities such as internet scams and illegal money lending and other enforcement issues that go beyond local authority boundaries. Trading Standards officers from Scotland and Northern Ireland will attend NTSB meetings to advise on UK-wide enforcement issues and on the coordination of business education.
5. The Government wants these organisations to work better together for the benefit of consumers and so will establish a Strategic Intelligence, Prevention and Enforcement Partnership (SIPEP) with membership from the NTSB, Trading Standards in Scotland and Northern Ireland, the Office of Fair Trading (and subsequently the Competition and Markets Authority), the Regulated Industries Unit and the Citizens Advice service. They will share intelligence, identify future issues that could adversely affect consumers and agree priorities for enforcement, information and education. They will provide regular

reports to the Minister for Consumer Affairs to provide accountability on how the system as a whole is delivering for consumers.

6. These changes will be subject to agreement by Parliament and will reflect the devolution arrangements in Scotland, Wales and Northern Ireland. Consumer policy is not devolved to Scotland and Wales but it is devolved to Northern Ireland, hence most of the decisions in this Government response to do not apply to Northern Ireland.
7. The competition authorities will also continue to play a key role in empowering and protecting UK consumers. The Office of Fair Trading, the Competition Commission and their joint successor, the Competition and Markets Authority will remain responsible for the proper functioning of markets, correcting market failures wherever they arise so that consumers can exercise real choice, keeping prices as low as possible and keeping quality high.

Consultation on proposals for reform

8. The Government believes that people buying goods and services should be empowered to make wise decisions about what and how they purchase. There should also be strong protection of their rights as consumers, especially for vulnerable consumers who may be at particular risk of exploitation. Empowered consumers are more confident to buy new or different products and services and demand choice, thereby stimulating competition and innovation from traders as well as high standards of consumer care. In turn, this drives greater productivity and economic growth.
9. As Britain faces challenging economic times, the need for powerful consumer voices that protect and represent the consumer is more important than ever. In 2011 the Government consulted on proposals for reforming publicly funded institutions in order that consumers are clearer about who to turn to for information and advice so they can make good choices, who protects them from rogue traders and who speaks on their behalf at a national level.
10. Surveys of consumers show a widespread lack of knowledge among the public of where to turn to for advice before or after making a purchase and a lack of awareness of the publicly funded organisations representing their interests.¹ Although some evidence indicates that UK consumers feel well protected compared to other EU countries,² in June 2011 the National Audit Office estimated that they still suffer detriment to the tune of at least £6.6 billion every year³ and the Public Accounts Committee criticised a lack of clear

¹ BIS (2011) *Consumer Landscape Review Impact Assessment*

<http://www.bis.gov.uk/assets/biscore/consumer-issues/docs/c/11-981-consumer-landscape-review-impact-assessment.pdf>

² EU Commission (2011) *The Consumer Markets Scoreboard 5th edition* Figure 37

http://ec.europa.eu/consumers/consumer_research/editions/docs/5th_edition_scoreboard_en.pdf

³ NAO (2011) *Protecting consumers – the system for enforcing consumer law*

http://www.nao.org.uk/publications/1012/protecting_consumers.aspx

lines of responsibility for tackling this.⁴

11. The role of the Government is to create and maintain a fair and competitive business environment that leads to economic growth and to ensure that individuals are equipped with the knowledge and ability to understand their consumer rights and make good choices whilst also protecting them from rogue traders. The Government wants to consolidate and improve upon existing consumer support and not to diminish the level of support or protection.
12. It was in this context that the Government consulted on proposed reforms with the objectives to:
 - reduce the complexity of the consumer landscape – the publicly funded institutions that exist to help consumers;
 - strengthen the effectiveness of enforcement of consumer rights; and
 - ensure that activities that help consumers to be empowered are delivered more cost-effectively and in a way that links national and local intelligence about the problems consumers face.

All of these objectives still stand, even more so as households face uncertain futures.

13. The proposals in the consultation were to give responsibility for:
 - publicly-funded consumer advice to the Citizens Advice service comprising Citizens Advice and Citizens Advice Scotland;
 - publicly-funded education for consumers to the Citizens Advice service and consumer education for businesses to the Trading Standards Institute;
 - the majority of public enforcement of consumer rights to Trading Standards, working in partnership with the new Competition and Markets Authority where consumer detriment is caused by “structural market” problems;
 - publicly-funded consumer advocacy to the Citizens Advice service; and
 - to establish a distinct regulated industries unit to represent consumers in regulated sectors.
14. The consultation resulted in 184 responses, the majority of which were strongly in favour of the objectives behind the change. There was also support for the majority for the Government’s proposals.
15. Alongside consumer empowerment, strong competition policy and its effective enforcement also has an important role in promoting productivity and growth. The Government has decided to create a new Competition and Markets Authority (CMA) and to transfer to it the functions of the Competition Commission and the competition and related market functions of the Office of Fair Trading (OFT).⁵ The CMA will have an

⁴ House of Commons Committee of Public Accounts (2011) *Protecting Consumers – the system for enforcing consumer law* <http://www.publications.parliament.uk/pa/cm201012/cmselect/cmpubacc/1468/1468.pdf>

⁵ BIS (2012) *Growth, Competition, and the Competition Regime: Government Response to the Consultation* <http://www.bis.gov.uk/Consultations/competition-regime-for-growth?cat=closedwithresponse>

important role to help consumers by analysing markets and deploying competition and consumer enforcement tools and other remedies to correct market failures and behaviours that restrict competition.

Information, advice and education

16. An essential part of empowering consumers is to provide them with accurate and impartial information delivered through appropriate channels. For many people, the businesses they deal with are their first point of contact for information about, for example, their ability to return unwanted or faulty goods or to change their minds about a service they have bought. Also, consumers increasingly use independent sources of information and advice such as price comparison and consumer feedback websites to help guide their purchasing. In many cases these are sufficient but there will always be occasions when there is a need for further independent information for consumers about their legal rights or advice about how to deal with problems they encounter with traders. This is particularly the case for vulnerable consumers.
17. The consultation described the range of public, charitable and private sector organisations involved in providing information and advice to consumers.⁶ It proposed that in future, public funding for these purposes should be focused on the Citizens Advice service, working with other organisations as appropriate, to provide a simple message to consumers: if you need information or advice, go to Citizens Advice.
18. The consultation described the plans to transfer the OFT's responsibility for delivering consumer information and advice (then provided by the Consumer Direct helpline) to the Citizens Advice service, maintaining its existing referral links with Local Authority Trading Standards Services. In addition, the consultation proposed that the Citizens Advice service should be responsible for the Extra Help Unit (EHU), a GB-wide advice service covering energy and postal services run by Consumer Focus which received referrals from Consumer Direct about vulnerable consumers at risk from being excluded from these services. Integrating these advice services in Citizens Advice and Citizens Advice Scotland would provide a seamless service to consumers and a better flow of information about the issues consumers face to inform advocacy and enforcement.
19. These plans were supported by most consultation respondents and the new advice service went live across the UK on 2 April.⁷ The Extra Help Unit will transfer to the Citizens Advice service in 2014 and in the meantime, the Government will explore with Citizens Advice, Citizens Advice Scotland and Consumer Focus whether it is possible to achieve synergies by combining initial advice and more detailed help, particularly for these vulnerable consumers, in one organisation or through closer working ahead of final changes.
20. The Citizens Advice service already works closely with other charities and agencies to provide information on a wide range of topics and to direct enquiries to those with the right expertise – this will continue. Also, the Government hopes that Citizens Advice and Which? will collaborate to ensure that there is no duplication between them in generating

⁶ Financial services and activities focused on public services such as health were excluded

⁷ www.adviceguide.org.uk

online consumer information. Citizens Advice Scotland will also use this information as well as generating content for Scottish consumers where, for example, the law is different.

21. Education of consumers includes awareness-raising about internet and other trading scams being conducted nationally or in a specific area and the education of young consumers and others who may not have the skills or knowledge to take wise purchasing decisions.
22. There was strong agreement from consultation respondents that consumer education would be more effective if informed by the local consumer issues presented at Citizens Advice bureaux combined with complaints to the new advice service and intelligence from local Trading Standards offices. Consumer education should be delivered through a range of channels, not only online, and focused on young people and vulnerable adults. **The Government has therefore decided that Citizens Advice and Citizens Advice Scotland will be responsible for consumer-facing education from April 2013.** This will strengthen the relationship between the Citizens Advice service and Trading Standards in supporting local consumers
23. Businesses sometimes need assistance understanding their responsibilities under consumer legislation and this is usually provided by Local Authority Trading Standards Services with support and coordination from the OFT. There was strong support for the proposals that in future, the Trading Standards Institute should lead on coordinating most business education under the supervision of the proposed Trading Standards Policy Board. The OFT and others argued, however, that the CMA should retain some responsibility for business guidance, notably in the context of its market studies.
24. **The Government has therefore decided that the Trading Standards Institute will be responsible for most business-facing education activities from April 2013 under the authority of a new National Trading Standards Board (see paragraph 54).** Exceptions will be where the CMA has conducted a market study or other in-depth analysis of business practices in a particular sector and may issue specific guidance for businesses in the sector concerned or in relation to the application of unfair contract terms legislation where the CMA will have primary enforcement responsibility. Official guidance on the interpretation of consumer legislation more generally will be produced, as now, by the Department for Business, Innovation and Skills (BIS).

Consumer Code Approval Scheme (CCAS)

25. Voluntary consumer codes of conduct are an important way to provide protection to consumers and to improve standards of customer service without imposing unnecessary regulatory burdens on business. As well as several types of “co-regulatory” schemes (industry led but underpinned by a statutory regulator), two sorts of consumer code have emerged. The first checks each individual business that has signed up to a code – the Buy with Confidence and Trusted Trader schemes run by Local Authority Trading Standards Services are examples. The second is based on a two-tier process whereby an organisation operating a code (a code sponsor) recruits businesses to a voluntary code and is then accredited by an independent organisation – examples of this type are Trustmark and the OFT’s Consumer Code Approval Scheme (CCAS). For the code sponsors, the approval scheme provides guidance on applying the minimum standards and monitors the sponsors’ processes for ensuring compliance by the businesses that

sign up to the codes.

26. The consultation sought views on the future of the CCAS which sets the standard for consumer codes to gain OFT-approved code status. The CCAS is based on a two stage process – first the sponsor produces a code that meets OFT's standards and then the sponsor proves that the code is effective in practice. The CCAS standard includes what happens before a consumer makes a purchase, the protection of pre-payments and the systems of redress if things go wrong. The CCAS covers diverse sectors from motor servicing to will writing.
27. While recognising the value the existing code sponsors place on the approval process, the consultation noted that only 10 consumer codes (now 12) had been approved during the 10 year operation of the OFT scheme. With the reforms of the competition landscape, it proposed that the CCAS was not a good fit to the role intended for the CMA and so a new home should be found for it.
28. A number of alternatives were put forward during the consultation and from the written responses and discussions with existing and potential future code sponsors, it is clear that several sponsors particularly value the national, independent endorsement of their codes. This can provide additional confidence to consumers and help ensure compliance by the individual business members of the code.
29. The Trading Standards Institute proposed to take over responsibility for the scheme on behalf of the Trading Standards network. It would maintain the rigour of the CCAS but streamline the approval process and, as had previously been intended by the OFT, make it self-funding. The new scheme would be backed by the Trading Standards profession which would provide an equally well-recognised and respected alternative to Government endorsement and the OFT logo. TSI would also develop an online portal providing simple public access to details of the business members of the different approved schemes. With a post-code check, the consumer would be able to see quickly and easily which traders had been approved in their area and under which type of approval process. TSI is in discussion with other potential partners to help deliver these plans.
30. The **Government has decided to invite the Trading Standards Institute to establish a successor to the CCAS from April 2013 on a self-funding basis.** In the meantime, the OFT will continue to maintain the CCAS for the existing members and to progress well-advanced applications. Discussions with code sponsors are continuing on the development of the new scheme and the TSI will be consulting widely on a mechanism for self funding.

Consumer Advocacy

31. Advocacy is about understanding existing issues and anticipating future ones that will affect consumers and then representing consumers' interests to businesses, Government, regulators and internationally. Advocacy activities involve research, analysis and investigation of cases that have general interest. They can also extend into offering help to consumers to gain redress when things go wrong. Consumer advocates use the information gained from all of these activities to act as a voice for consumers in policy formation, ensuring that their interests are considered at the earliest stage possible.

32. The consultation described general advocacy, which can apply to an individual market or across all markets, and sectoral advocacy which is focused on an individual regulated sector. Responsibility for publicly-funded general advocacy is currently divided between Consumer Focus and the Citizens Advice service and the consultation proposed that there would be significant benefit in creating a single voice for consumers and that the Citizens Advice service should have that role. The national research capability of Consumer Focus would be integrated with the front-line intelligence gained from the new advice service (replacing Consumer Direct) and the Citizens Advice bureaux.
33. Consumer interests also need to be represented in a number of regulated industries. Whilst energy and postal services are covered by Consumer Focus, a number of regulated sectors have consumer advocacy bodies offering varying levels of support. This can make it confusing for consumers to know who is representing their interests and what type of help for redress they can get in which sector.
34. The consultation proposed integrating the functions of various advocacy bodies into a Regulated Industries Unit which would help develop stronger cross-sectoral expertise and capability, consider the cumulative impact on consumers of price changes, raise awareness of who is representing consumers' interests and increase efficiency of delivery and value for money. It proposed that the Citizens Advice service would take over the energy and postal services advocacy functions from Consumer Focus, which is funded by industry levy, alongside its general advocacy role. Wherever possible, the functions of other sectoral consumer bodies would transfer too.
35. In addition to publicly funded bodies, the consultation noted that other consumer organisations such as Which?, Age UK, Shelter and the National Consumer Federation also engaged in general and sectoral advocacy and that there was an opportunity for partnership to create a really powerful voice for consumers.
36. Most responses to the consultation supported transferring the general advocacy functions of Consumer Focus to the Citizens Advice service. Most also agreed that the information-requiring powers Consumer Focus has were important for the advocacy role to be conducted successfully with several suggesting that the proposed changes be used to bring about improvements to the use of these powers. A number of organisations had concerns, however, that the Citizens Advice service lacked a track record of working on the technical aspects of regulated industries
37. **The Government has decided that the Citizens Advice service will become the publicly-funded voice of consumers, championing their needs and empowering them to make the right choices for themselves.** The Government recognises the need for strong powers to require information from public bodies and companies to inform effective consumer advocacy. The Government will provide the Citizens Advice service with the powers currently held by Consumer Focus as soon as Parliamentary procedures permit. The Government will ensure that the same safeguards are in place to ensure that the Citizens Advice service are accountable to BIS ministers for proportionate use of these powers and for effective use of additional funds. They will retain their charitable status and accountability to their boards. Their role will include research and horizon-scanning about issues that may become important in future. **The Government intends Citizens Advice to take on this role from April 2013.**
38. The Government welcomes the proposal from Which? to expand its existing role in

consumer advocacy. However, it also recognises the concern that at a time where consumers are under increasing financial pressure, there should continue to be an independent, publicly accountable and publicly funded organisation responsible for consumer advocacy in energy and postal services and, in due course, other sectors such as water, transport and telecoms that individual government Departments decide should be covered by the new arrangements in future.

39. **The Government has therefore decided to create a small Regulated Industries Unit (RIU), initially with responsibility for postal services and energy across England, Scotland and Wales with additional responsibility for water in Scotland. The RIU will not be a new public body but will consist of the parts of Consumer Focus that currently carry out these functions and will ensure that the existing skills, knowledge and expertise is retained. The Government will consider further the benefits of the RIU covering water in England and other sectors in future.**
40. As set out in the Water White Paper published in December 2011,⁸ the Government has concerns around the timing of any change in the Consumer Council for Water (CCWater) in relation to Ofwat's price review. Defra and the Welsh Government will therefore maintain the role of CCWater to 2014. Before that, the UK Government will further consider the benefits of moving CCWater to the Citizens Advice service with any change taking place after the price review. Considerations will also include how this move could be made in a way that would retain CCWater's expertise and deliver improved outcomes for customers. Leading up to 2014, CCWater will be asked to explore how they could join up more closely with the RIU and Citizens Advice on cross-cutting areas of interest, such as reducing the level of customer debt. The Welsh Government intends to retain CCWater to provide a clear focus for the interests of water customers in Wales.
41. **The role of the RIU will be technical and involve working with regulators, companies and policy-makers – it will not be primarily public facing so will not cut across the general advocacy role of the Citizens Advice service. The RIU will be created by April 2013 and then transfer to the Citizens Advice Service in 2014.** This phased approach will ensure that technical expertise in Consumer Focus is retained in the RIU while the Citizens Advice service consolidates its other advocacy functions. A close working partnership between the RIU and the Citizens Advice service will be essential to ensure smooth transition. The bodies will manage the information-gathering powers together until the final transfer. BIS will continue to work with all organisations involved as they develop a suitable delivery model. Once established the Government will periodically review the quality of provision of the RIU against expectations. The legislative changes to set up the RIU will include the ability for the Government to move it in the future if necessary.
42. Consumer Focus accredits energy switching websites to ensure they provide a good service to consumers – the Consumer Confidence Code. Ofgem will take over this Code from April 2013.
43. The Government hopes that Which? will continue to play an important role in both general and sectoral advocacy on behalf of consumers and that it will work closely with the RIU and with the Citizens Advice service.

⁸ <http://www.official-documents.gov.uk/document/cm82/8230/8230.asp>

44. The consultation also asked for views on the extension to other sectors of existing redress schemes such as those in the energy and postal services sectors. However, the Government believes it would be unwise to take decisions in the UK until European negotiations on alternative dispute resolution for consumer to business contractual disputes have concluded.
45. The timing of these changes in Scotland will depend on the outcome of the request by the Scottish Government for the UK Government to consider devolving responsibility for consumer issues to them.
46. In Northern Ireland, the consultation proposed that Consumer Focus Post Northern Ireland should be transferred to the General Consumer Council for Northern Ireland (CCNI) and that the Postal Services Redress Scheme should continue to apply there. There was strong support for these proposals and **the Government has therefore decided that when suitable legislative vehicle is available Consumer Focus Post NI will be transferred to CCNI.**

Enforcement of consumer protection legislation

47. Unless the law is enforced effectively, rogue traders can undermine responsible businesses, unfair practices can develop and consumers will lack confidence to exercise choice sensibly and thus drive competition, innovation and growth. Individuals may suffer detriment significantly beyond the cost of their purchase which can in turn lead to social or health problems and a drain on public funds.
48. The consultation set out the difficulties faced by Trading Standards at the front line of local enforcement in the context of severe budgetary pressure which is leading to potentially unsustainable low levels of enforcement activity in some places. At a national level, responsibility is split between Local Authority Trading Standards Services (LATSS) and the OFT. While BIS provides some support for national schemes (Scambusters, Illegal Money Lending, internet enforcement, funding for ports and a fighting fund for large, expensive cases), Trading Standards' accountability for tackling cross-boundary and national threats is not clear and OFT resources are limited with the result that gaps can appear. The National Audit Office and the Public Accounts Committee reports in 2011 both highlighted the need to make responsibilities and accountability clearer.
49. The consultation proposed to strengthen consumer enforcement by improving the national leadership and coordination capability of Trading Standards and by clarifying its responsibility to tackle cross-boundary threats and its accountability to Parliament. It also proposed to ensure that there is effective partnership working between Trading Standards and the new CMA. The preferred delivery model was for a Trading Standards Policy Board (TSPB) which would assess the priorities for action by national and cross-boundary teams as well as helping individual local authorities to tackle cases that were too large or complex to deal with alone. It would have at its disposal the current BIS funding for national and cross-boundary enforcement alongside a proportion of the OFT's current enforcement budget. The OFT's enforcement functions which go beyond resolving "structural market" cases, that is practices and market conditions that make it difficult for consumers to exercise choice in an otherwise competitive market, would transfer either to the TSPB or to lead local authorities for particular subject areas. These arrangements would apply in England and Wales and there would be parallel arrangements in Scotland.

50. Alternative delivery models were also discussed including a Joint Enforcement Board between the CMA and Trading Standards with the CMA retaining the OFT's range of enforcement responsibilities and more control over funding and expertise than in the TSPB model but having to make joint decisions with Trading Standards about priorities.
51. In terms of the scope of the CMA's consumer activities, the consultation proposed that it should have a clear focus on competition and market issues. It could start market studies addressing consumer problems where it was not initially clear whether the cause of the problem was a competition or structural market issue but if it found there was not a competition issue, the study would be stopped and passed to Trading Standards to complete. It also proposed that the CMA would retain consumer enforcement powers only for the cases that hinder consumer choice referred to above and that responsibility for international liaison would pass to a lead local authority with much of the work being done by the Trading Standards Institute.
52. There was almost unanimous support for the TSPB model from the many LATSS that responded, although there were some questions over the choice of name for the board. This was reinforced by the views expressed in a series of meetings organised by the Trading Standards Institute (TSI) around the country and by many of the other respondents. However, the OFT and some respondents questioned whether Trading Standards officers would always have the capability to prioritise cases effectively and questioned the potential disruption and potential loss of expertise from the OFT. The OFT also argued that serious breaches of unfair contract terms legislation were nearly always about complex problems in markets. On international liaison, several respondents argued that this activity was more appropriate for a national body than a designated local authority.
53. Taking these responses into account, the Government still believes that there will be strong benefits from clarifying roles and reducing areas of enforcement overlap. Also that more resources should be directed towards national and cross-boundary Trading Standards activity and that the CMA should have a primary focus on competition and markets. Some elements of the original vision have been modified, however, to address the concerns raised.
54. **The Government has decided that it will establish a National Trading Standards Board (NTSB) which will have responsibility for prioritising national and cross-local authority boundary enforcement in England and Wales.** It will be created immediately and from that date have at its disposal the current BIS funding for enforcement to tackle national and cross-boundary cases. The NTSB will have discretion over how this money is used but will have to report regularly on its work, showing how it is meeting the requirements placed upon it and how it is securing maximum value for money.
55. From April 2013, the NTSB will receive additional funding from the current OFT enforcement budget and will take over the coordination and database-management functions currently undertaken by the OFT. This will ensure that there is better national data on Trading Standards to inform activity and measure impact on a national basis. Intelligence and coordination systems in England and Wales will come under the supervision of the heads of service who will make up the membership of the NTSB. The NTSB will establish a system to ensure effective intelligence can be used to set enforcement priorities for Trading Standards teams, appoint specialist lead authorities focusing on particular areas of legislation or policy and support those authorities and

others to take action on larger and more complex cases in the national interest. Subject to transitional arrangements relating to live cases, the OFT will cease most of its work on “pure” consumer enforcement cases.

56. Trading Standards officers from Scotland and Northern Ireland will attend NTSB meetings to advise on UK-wide enforcement issues and on the coordination of business education.
57. **The CMA will have a primary objective to promote competition for the benefit of consumers.** It will retain consumer enforcement powers as remedies for use in markets where competition is not working appropriately due to practices and market conditions that make it difficult for consumers to exercise choice. Linked to this, it will retain primary expertise in the enforcement of unfair contract terms legislation. The CMA should therefore be designated as the lead enforcement authority and source of business guidance in this one area, rather than seeking to duplicate this expertise in Trading Standards. Additionally, the CMA will retain most of the OFT’s current role on international consumer law and policy liaison.
58. **The Convention of Scottish Local Authorities (COSLA) has set up a task group to look at how best to deliver the landscape changes in Scotland in both the short and long term and there will be Scottish (and Northern Irish) attendance at NTSB meetings to ensure effective exchange of intelligence and information.** Separately, the Scottish Government and COSLA have requested the consideration of devolution of consumer policy more generally and the Government has agreed to look at the implications and impacts of this. The COSLA proposals are not intended to prevent any future Scottish Government plans being taken forward.
59. The OFT’s estate agency negative licensing and related anti-money laundering activities will be undertaken by a nominated lead local authority, acting in concert with the NTSB. However, recognising the practical linkage with consumer credit functions in the OFT, this change may take place at the same time as the recently announced transfer of those functions to the Financial Conduct Authority⁹ and therefore later than the other changes.
60. It is clear that the different bodies will need to work closely together to minimise duplication of effort and gaps in consumer detriment being addressed. The Government therefore believes that a mechanism is essential to share intelligence and information across the consumer and competition landscapes and to highlight potential cases or areas for study. In order to achieve this, the different organisations will need to be open about their priorities to ensure that gaps do not occur.
61. **The NTSB will work with the CMA, the Regulated Industries Unit and the Citizens Advice service** to share intelligence, identify future issues that could adversely affect consumers and agree priorities for enforcement, information and education. **A Strategic Intelligence, Prevention and Enforcement Partnership (SIPEP) of these bodies will be established** which will report regularly to the Minister for Consumer Affairs to provide joint accountability on how the system as a whole is operating. There will also be a flow of information between the SIPEP and sectoral regulators.
62. Where the SIPEP assesses that consumer detriment is being caused by the failure of a

⁹ http://www.hm-treasury.gov.uk/fin_financial_services_bill.htm

market to work competitively, it can ask the CMA to conduct a market study. If the CMA does, or instigates market studies of its own volition, but finds early on that the problem does not involve such market failure, it will be able to complete it. If appropriate remedies fall within the CMA's remit, such as enforcement of unfair contract terms law or business education, the CMA will be able to take these forward. Alternatively the CMA should make recommendations to its SIPEP partners or to the Government in order to avoid duplication.

63. The Citizens Advice service will undertake research and horizon-scanning about consumer issues that may become important in future, especially in relation to vulnerable consumers, and inform the SIPEP.

Meeting the reform objectives

64. The Government believes that these reforms will go a long way to achieving the original objectives of the programme. More people than now should know where they can get information and advice and be able to access it more easily. Where people lack the knowledge or skills to take wise decisions or are unaware of particular scams in operation consumer education should be more consistently available across the country. Intelligence about the problems individuals face should be better joined up with research done at the national level to inform advocacy activities on their behalf. And enforcement of the law should be better led and coordinated across local authority boundaries and at the national level making more effective use of limited resources.
65. The outcome of these reforms will be reviewed regularly as set out in the accompanying impact assessment.

Next steps

66. The Enterprise Act 2002 and the Consumers, Estate Agents and Redress Act 2007 are the main pieces of legislation that will need to be amended to enable the changes described above. Subject to the will of Parliament, BIS intend that the amendments will be taken forward by Orders under the Public Bodies Act 2011 or suitable primary legislation such as the proposed Enterprise, Employment, Regulatory Reform and Repeals Bill.
67. BIS will continue to work with the organisations involved to refine delivery models and work through transition issues so that the reform timetable described above is met.

1. The consultation process

- 1.1 The Department for Business, Innovation & Skills published a consultation document and accompanying impact assessment on 22 June 2011.¹⁰ The consultation period ran for 14 weeks, closing on 27 September 2011. The consultation document was sent to a range of relevant key stakeholder organisations and was posted on the BIS website.
- 1.2 The consultation document set out the Government's proposals for reform of the publicly-funded institutions delivering information, advice and education to consumers, consumer code approvals and enforcement of consumers' rights. The objectives of the proposals were to:
 - reduce the complexity of the consumer landscape – the publicly funded institutions that exist to help consumers;
 - strengthen the effectiveness of enforcement of consumer rights; and
 - ensure that activities that help consumers to be empowered are delivered more cost-effectively and in a way that links national and local intelligence about the problems consumers face.
- 1.3 The questions posed in the consultation are at Annex A
- 1.4 The consultation was undertaken in the context of parallel work on reforming the UK's competition and credit regimes. Announcements about these reforms have been made recently.¹¹

Engagement with stakeholders

- 1.5 In the twelve months before the publication of the consultation document and through to September 2011, BIS held discussions with numerous individuals and the organisations involved or with an interest in empowering and protecting consumers.
- 1.6 This response sets out the issues that were consulted upon, a summary of respondents' views, the Government's analysis of these responses and its decisions. It is published alongside an updated Impact Assessment.
- 1.7 The Government would like to thank all those who contributed to the consultation. Engagement with stakeholders will continue through the final policy development stages and legislative process.

¹⁰ BIS (2011) *Empowering and Protecting Consumers: Consultation on institutional changes for provision of consumer information, advice, education, advocacy and enforcement* URN: 11/970

¹¹ BIS (2012) *Growth, Competition, and the Competition Regime: Government Response to the Consultation*
<http://www.bis.gov.uk/Consultations/competition-regime-for-growth?cat=closedwithresponse>;

The OFT's credit functions will be transferred to the Financial Conduct Agency:

http://www.hm-treasury.gov.uk/fin_financial_services_bill.htm

2. Responses received

- 2.1 The Government received 184 formal written responses from a variety of organisations including Local Authority Trading Standards Services (LATSS), trade bodies, consumer organisations, businesses and individuals (Table 1). A summary of key points made by respondents can be found in Chapters 3 to 6 and a list of those who provided written responses is at Annex 2. The responses are also published, except those where respondents requested confidentiality. These can be found on the BIS website along with this document.

Table 1. Responses to the consultation by type of organisation

Type of organisation	Information, advice & education	Code approval	Advocacy	Enforcement	All
LATSS	53	43	48	56	56
Trade Body	8	14	11	14	28
Business	6	12	20	9	27
Individual	6	7	10	8	17
Consumer	12	9	13	11	16
Regulatory Body	6	4	9	8	12
Academic	6	3	6	3	7
Other	4	3	4	4	6
Legal	3	3	6	3	6
Ombudsman	3	3	5	2	6
Government	1	1	1	2	3
Total	108	102	133	120	184

3. Information, advice and education

Key decisions

1. Publicly-funded information and advice to be delivered by the Citizens Advice service from April 2012

2. From April 2013, consumer-facing education to be led by the Citizens Advice service and most business-facing education to be coordinated by the Trading Standards Institute.

Introduction

- 3.1 An essential part of empowering consumers is to provide them with accurate and impartial information delivered through appropriate channels. For many people, the businesses they deal with are their first point of contact for information about, for example, their ability to return unwanted or faulty goods or to change their minds about a service they have bought. Also, consumers increasingly use independent sources of information and advice such as price comparison and consumer feedback websites to help guide their purchasing. In many cases these are sufficient but there will always be occasions where there will be a need for further independent information for consumers about their legal rights or advice about how to deal with problems they encounter with traders. This is particularly the case for vulnerable consumers.
- 3.2 The consultation described the range of public, charitable and private sector organisations involved in providing information and advice to consumers.¹² It proposed that in future, public funding for these purposes should be used by the Citizens Advice service, working with other organisations as appropriate, to provide a simple message to consumers: if you need information or advice, go to Citizens Advice.
- 3.3 The consultation described the plans to transfer the OFT's responsibility for delivering consumer information and advice (then provided by the Consumer Direct helpline) to the Citizens Advice service, maintaining its existing referral links with Local Authority Trading Standards. In addition, the consultation proposed that Citizens Advice Scotland should be responsible for the Extra Help Unit (EHU) covering energy and postal services across the UK – it received referrals from Consumer Direct about vulnerable consumers and is currently run by Consumer Focus. Integrating these advice services in Citizens Advice and Citizens Advice Scotland would provide a seamless service to consumers and a better flow of information about the issues consumers face to inform advocacy and enforcement.

¹² Financial services and activities focused on public services such as health were excluded

Consultation responses

Responses received

LATSS	53
Trade Body	8
Business	6
Individual	6
Consumer	12
Regulatory Body	6
Academic	6
Other	4
Legal	3
Ombudsman	3
Government	1
Total	108

Information and advice

QUESTION 1. How do you think the provision of consumer information to consumers can be improved upon?

QUESTION 2. Do you agree that the OFT's consumer information role should be transferred to the Citizens Advice service?

QUESTION 3. Do you agree that the Extra Help Unit should be transferred to the Citizens Advice service?

- 3.4 There was widespread agreement that the current landscape of information and advice was confusing for the consumer and should be simplified. Most respondents also agreed with the Government's plans to transfer OFT's information role and the Consumer Focus Extra Help unit to the Citizens Advice service.
- 3.5 A few Local Authority Trading Standards Services (LATSS) were under the misunderstanding that Citizens Advice bureaux would be in the lead on the new advice service rather than the Citizens Advice service nationally and were worried about their capacity. More generally, there was concern about over-reliance on the bureaux for delivery of advice in the light of their difficult funding position. However, almost all LATSS, in individual authorities and cross-boundary groups as well as the Association of Chief Trading Standards Officers (ACTSO), agreed with the proposals. They wanted the current levels of service to consumers and Trading Standards from Consumer Direct at least maintained when it was transferred. They also wanted a role in the governance of the new service via ACTSO and the Trading Standards Institute. In terms of the way the new service operated, they were clear that face-to-face and telephone advice remained essential, particularly for vulnerable consumers, and while online support was important, it could not be the only channel used. LATSS were keen that there were stronger links locally with the bureaux to join up the provision of more detailed advice following referrals

from the new advice service. They also wanted continued access to complaints data as was the case with Consumer Direct. The Local Government Group and the Trading Standards Institute also supported the proposals.

- 3.6 The Office of the Rail Regulator saw no reason to change Passenger Focus as the provider of information to rail consumers and Money Advice Scotland thought the Scottish Government should take over the OFT's role in Scotland. The Law Society was concerned that there would be insufficient resources within the Citizens Advice service, was worried about accountability and thought that Consumer Focus would be a better home.
- 3.7 Respondents from the University of East Anglia disagreed with the principles behind the establishment of the CMA and so did not support the transfer of consumer functions away from the OFT.
- 3.8 Business organisations gave a mixed response. The CBI said that consumers were generally "savvy" and information and advice should only be provided for the needy and when asked for. It had concerns about the degree to which the Citizens Advice service had an understanding of business and about accountability to the public. The British Retail Consortium (BRC) went further in saying that the Citizens Advice service did not engage with business and it did not agree with the proposals. However, the three energy retailers that responded – Npower, British Gas and EDF – supported the proposals as did the Energy Retail Association. A premium phone line provider, Kgbdeals, was also supportive.
- 3.9 Alongside the strong support from LATSS, Consumer Focus and the Consumer Council for Northern Ireland supported the proposals as did the Citizens Advice service. Most consumer organisations and regulators also agreed including Age UK, the Legal Services Consumer Panel, the CAA, Money Advice Service, Ofgem, and Phonepayplus. The two ombudsmen that commented gave a cautious welcome to the proposals – one suggested that it could also undertake the role and the other wanted to see strong accountability to Government.
- 3.10 The OFT said the advice service needed to be as good as Consumer Direct and the current level of access given to enforcement professionals must be preserved. A mechanism was needed to set national priorities and information for consumers and businesses should be aligned.

Education

QUESTION 4. Do you agree that the OFT's consumer education roles should be transferred to the Citizens Advice service? What are your views about the types of consumer education activity that are most valuable and how they should be managed and coordinated?

QUESTION 5. Do you agree that the proposed Trading Standards Policy Board and the TSI should coordinate and support business-facing educational activities?

- 3.11 Again, LATSS were strongly in favour of these proposals. They valued the guidance material OFT had produced for them in the past which was regarded as well researched and authoritative and they thought that sufficient resources would be needed in future to continue this capability. ACTSO and several LATSS questioned how the provision of

guidance to business would interact with the development of the Business Link service.

- 3.12 The Trading Standards Institute (TSI) and Citizens Advice both agreed to the proposals and cited examples of their educational activities – TSI sponsor Young Consumer of the Year and led the *Know your Rights* campaign, for example, while Citizens Advice cited their financial education work. Citizens Advice put forward a series of steps it would take in establishing a programme of education activities, including evaluating the OFT's work.
- 3.13 The OFT thought that there would continue to be a need for mechanisms for prioritising cases and evaluating the impact of education activities. They and others argued that the CMA should retain some responsibility for business guidance, notably in the context of its market studies
- 3.14 Consumer organisations were supportive though Age UK was concerned that consistency might be lost without the OFT's oversight and thought that LATSS were better at school education than Citizens Advice. The CAA thought that it should retain a lead role on education activities for aviation businesses. The Law Society agreed in principle but was concerned about resources and wanted to see a responsible person in each Local Authority with peer review to spread best practice. The Money Advice Service and Money Advice Trust also wanted to see standards maintained.
- 3.15 Among business organisations, the energy industry respondents were supportive as was Trustmark, provider of a quality mark of Government endorsed standards in the repair and maintenance industry. However, the BRC valued OFT's guidance for businesses, particularly the Sale of Goods Hub, and thought that only a government body could provide authoritative guidance to business.

The Government's response

- 3.16 There was strong agreement from consultation respondents to the proposal to put together in one place information about local consumer issues fed in from Citizens Advice bureaux and the new advice service, providing information and advice through a range of channels and education activities aimed at young people and vulnerable adults. The plans to develop the infrastructure and trained advisors for the advice service are well under way and the new advice service went live on 2 April 2012 with a telephone advice line and website.¹³ The Government agrees that enforcers should be given appropriate access to consumer complaints data as a source of intelligence, and evidence for investigations and prioritisation of enforcement activity. Plans are also underway to combine the businesslink.gov and direct.gov online advice into a single Government website.
- 3.17 The Citizens Advice service already works closely with other charities and agencies to provide information on a wide range of topics and to direct enquiries to those with the right expertise; this will continue. Citizens Advice Scotland will also use this information as well as generating content for Scottish consumers where, for example, the law is different.
- 3.18 The Extra Help Unit will transfer to the Citizens Advice service in 2014 and in the

¹³ www.adviceguide.org.uk

meantime, the Government will explore with Citizens Advice, Citizens Advice Scotland and the Regulated Industries Unit (see Chapter 5) whether it is possible to achieve synergies by combining initial advice and more detailed help, particularly for vulnerable consumers of energy and postal services, in one organisation or through closer working ahead of final changes.

- 3.19 Education of consumers ranges from awareness-raising about internet and other trading scams being conducted nationally or in a specific area to the education of young consumers and others who may not have the skills or knowledge to take wise purchasing decisions.
- 3.20 In the light of the strong support from respondents, the Government has decided that the Citizens Advice service will have responsibility for consumer-facing education from April 2013.
- 3.21 To ensure that there is consistency in advice provided and to avoid duplication, the Citizens Advice service and the Trading Standards Institute plan to work together to:
- evaluate the OFT's activities and to map current bureaux- and Trading Standards-led education work in order to find ways to share resources;
 - establish a governance and coordination mechanism for the development of educational materials at a local level which would then be promoted nationally;
 - hold a national conference for Trading Standards and bureaux staff delivering education; and
 - establish rolling campaigns based on intelligence from the new advice service about scams and other problems.

The Government supports these plans.

- 3.22 The Government has also decided that the Trading Standards Institute will have responsibility for most business-facing education activities from April 2013 under the authority of a new National Trading Standards Board (see Chapter 6). Exceptions will be where the CMA has conducted a market study or other in-depth analysis of business practices in a particular sector and may issue specific guidance for businesses in the sector concerned or in relation to the application of unfair contract terms legislation where the CMA will have primary enforcement responsibility. Official guidance on the interpretation of consumer legislation more generally will be produced, as now, by the Department for Business, Innovation and Skills (BIS).

4. Consumer Code Approvals

Key decisions

1. The Trading Standards Institute to establish a successor to the OFT's Consumer Code Approval Scheme on a self-funding basis from April 2013.

Introduction

- 4.1 Voluntary consumer codes of conduct are an important way to provide protection to consumers and to improve standards of customer service without imposing unnecessary regulatory burdens on business. As well as several types of “co-regulatory” schemes (industry led but underpinned by a statutory regulator), two sorts of consumer code have emerged. The first checks each individual business that has signed up to a code – the Buy with Confidence and Trusted Trader schemes run by Local Authority Trading Standards Services are examples. The second is based on a two-tier process whereby an organisation operating a code (a code sponsor) recruits businesses to a voluntary code and is then accredited by an independent organisation –examples of this type are Trustmark and the OFT's Consumer Code Approval Scheme (CCAS). For the code sponsors, the approval scheme provides guidance on applying the minimum standards and monitors the sponsors' processes for ensuring compliance by the businesses that sign up to the codes.
- 4.2 The consultation sought views on the continuation of the CCAS which sets the standard for consumer codes to gain OFT-approved code status. The CCAS is based on a two stage process – first the sponsor produces a code that meets OFT's standards and second the sponsor then proves that the code is effective in practice. The CCAS standards include what happens before a consumer makes a purchase, the protection of pre-payments and the systems of redress if things go wrong. The CCAS covers diverse sectors from motor servicing to will writing.
- 4.3 While recognising the value the existing code sponsors place on the approval process, the consultation noted that only 10 consumer codes (now 12) had been approved during the 10 year operation of the OFT scheme. With the reforms of the competition landscape, it proposed that the CCAS was not a good fit to the role intended for the CMA and so a new home should be found for it.
- 4.4 The consultation put forward some possible alternatives including a scheme based on a British Standard and one involving the Primary Authority scheme administered by the Local Better Regulation Office and local authorities.

Consultation responses

Responses received

LATSS	43
Trade Body	14
Business	12
Individual	7
Consumer	9
Regulatory Body	4
Academic	3
Other	3
Legal	3
Ombudsman	3
Government	1
Total	102

Analysis of responses

QUESTION 6. What are the best options for current and prospective CCAS members to consider in the event that the Government's proposed consumer and competition landscape proposals are adopted?

QUESTION 7. Do you think that the private and voluntary sectors, together with local authorities, will respond to any winding down of CCAS with effective alternative systems of accreditation?

QUESTION 8. What are the lessons learned from the operation of CCAS which may help in establishing (or revising) voluntary schemes in the future?

QUESTION 9. What is your view on transposing CCAS-approved codes into standards and related documents such as those published by BSI?

QUESTION 10. What characteristics would a Kitemark® based code certification process need to have to meet industry requirements?

QUESTION 11. What is your view on extending the Primary Authority concept to code certification?

4.5 The current CCAS code sponsor organisations and several of the applicants for approval were among those who responded to the consultation.

4.6 All respondents agreed with the need to give consumers confidence in the standards of service they should expect and also that self- or co-regulation was preferable to legislation. There was a wide range of views about how the market might respond in the

absence of the CCAS and some CCAS sponsors, particularly in regulated sectors, thought that there would be a steep rise in rogue trading and associated consumer detriment.

- 4.7 Local Authority Trading Standards Services (LATSS) respondents and Which? preferred consumer codes that focused on individual businesses such as the Buy with Confidence scheme whereas the CCAS sponsors and applicants and some other sector codes argued that sectoral codes also had value in driving up performance, particularly in new sectors like renewable energy or where there was a high risk of rogue trading.
- 4.8 Code sponsors and applicants all valued the rigour of the CCAS accreditation process and the ability to use the OFT logo – they felt these were often key in persuading their members to join the code. Indeed, a few sponsors thought the OFT logo was the most important thing and argued that if CCAS was stopped, they should be able to continue using the logo for a transitional period. They believed it was widely recognised as being authoritative. Three of the codes are in regulated sectors – debt management, estate agency and renewable energy micro-generation – and the sponsors argued that the requirement of the regulator that businesses belong to an accredited consumer code was good for consumers and honest businesses alike as it drove up standards and discouraged rogue trading.
- 4.9 However, Which? questioned whether there was sufficient checking of compliance in the CCAS, pointing to the absence of mystery shopping as a requirement in the code and that checks of compliance by some code sponsors were infrequent. They argued that some of the LATSS schemes were actually more rigorous in their checking procedures and Which? were working towards a partnership between their own trusted trader scheme and the Buy with Confidence scheme.
- 4.10 LATSS also questioned the recognition of the OFT brand among consumers and argued that the Trading Standards brand was much better recognised.
- 4.11 The OFT argued that there was high recognition of its brand and while its application process was very rigorous, it produced robust consumer codes.
- 4.12 There was a common perception, however, that the CCAS application process was too lengthy, bureaucratic and inflexible and that this was a major reason for there being only 10 (at that time) fully accredited sponsors. Some trade associations such as ABTA and the National Caravan Council had found some of the requirements, such as full pre-payment protection, impossible to comply with. Citizens Advice felt that its views were not always taken into account in the OFT's consultation about individual applications. The Ombudsman Service, Money Advice Trust, the Legal Services Consumer Panel and energy industry respondents thought that something like the CCAS was needed in future but with streamlined processes.
- 4.13 In terms of the consultation's proposals for the way forward, a few sponsors insisted that only the current scheme would do but most indicated that they would consider alternatives as long as they offered similar confidence and recognition; they thought that Trading Standards involvement could offer this. The British Compressed Air Society argued that consumer codes should be extended to include business-to-business relationships.
- 4.14 Whilst BSI was a respected organisation, there was some doubt whether a British

Standard and its associated processes could replace the CCAS code and about how its use would be certified. Several respondents noted the widespread recognition of the Kitemark® but observed that it is usually awarded to individual companies rather than trade bodies. Both the BS development and Kitemark® application processes were perceived by the sponsors to be expensive and bureaucratic. There did not appear to be much knowledge about how these processes actually worked, however, and also misunderstandings about BSI's separate public and commercial activities. BSI set these out in its own response and outlined how a standard might be developed and certified.

- 4.15 There was also a lack of knowledge about how the Primary Authority concept, whereby a named local authority would take the lead on the code approval process on behalf of all local authorities, might apply to consumer codes and doubts about whether it could generate sufficient brand recognition. Some sponsors and other respondents thought it could work, however. The LATSS that were already involved in Primary Authority relationships with companies were more confident about this although one noted that different Primary Authorities sometimes gave inconsistent advice about interpretation of legislation and there would need to be some oversight of different Primary Authority relationships. Npower and a few of the code sponsors made a similar point.
- 4.16 Several respondents put themselves forward to take over from the CCAS. The UK Accreditation Service offered to take it on arguing that its role and partnership with Government (BIS) made it a natural candidate for the job. The Trading Standards Institute also offered, citing its well-recognised brand and experience in accrediting consumer codes in the e-commerce and motor industries. Asset Skills, the Sector Skills Council for the property and facilities management sector, argued that its experience in driving up skills in its sector made it a good candidate to do the job. Finally, Trustmark offered to take over CCAS citing its large membership and Government endorsement; Citizens Advice supported a role for Trustmark and its engagement with consumer organisations.
- 4.17 A workshop of code sponsors, applicants and interested parties was convened by BIS and the OFT on 10 October 2011 to discuss the issues raised. As a result, the Trading Standards Institute and Asset Skills made aligned proposals to take on the approval scheme.

The Government's response

- 4.18 The Trading Standards Institute proposed to take over responsibility for the approval scheme on behalf of the Trading Standards network. It would maintain the rigour of the CCAS but streamline the approval process and making it self-funding. The new scheme would be backed by the Trading Standards profession which would provide an equally well-recognised and respected alternative to Government endorsement and the OFT logo. The Trading Standards Institute would also develop an online portal providing simple access for the public to members of the different approved schemes. With a post-code check, the consumer would be able to see quickly and easily which traders had been approved in their area and under which type of approval process. TSI is in discussion with other potential partners to help deliver these plans.
- 4.19 The Government has decided to invite the Trading Standards Institute to establish a successor to the CCAS from April 2013 on a self-funding basis. In the meantime, the OFT will continue to maintain the CCAS for the existing members and to progress well-advanced applications. Discussions with code sponsors are continuing on the

development of the new scheme and the TSI will be consulting widely on a mechanism for self-funding.

5. Advocacy

Key decisions

- 1. The Citizens Advice service to become the publicly-funded voice of consumers.**
- 2. A Regulated Industries Unit for postal services and energy (also water in Scotland) to be established. The Government will review the quality of the provision of the RIU and put in place mechanisms to transfer those functions if expectations are not being met.**
- 3. Consumer Focus Post Northern Ireland to transfer to the General Consumer Council for Northern Ireland when a suitable legislative vehicle is available.**

Introduction

- 5.1 Ensuring the view of the consumer is represented throughout the development of public policy and regulation is essential. This requirement shows no sign of decreasing in the future as new challenges bring new policies and the relationship between suppliers and consumers becomes more complex. Advocacy is about understanding existing issues and anticipating future ones that will affect consumers and representing their interests to businesses, Government, regulators and internationally. Advocacy activities involve research, analysis and investigation of cases that have general interest and can also extend into offering help to consumers to gain redress when things go wrong. Consumer advocates use the information gained from all of these activities to act as a voice for consumers in policy formation, ensuring that their interests are considered at the earliest stage possible. Much of the work an advocate does is at the very early stage of policy development – using knowledge of the consumer to identify areas that could be problematic if pursued. So where it is done well, consumer advocacy prevents problems from arising in the first place.
- 5.2 The consultation described two types of advocacy: general advocacy which can apply to an individual market or across all markets and sectoral advocacy which is focused on an individual regulated sector.
- 5.3 Responsibility for publicly-funded general advocacy is currently divided between Consumer Focus and the Citizens Advice service. The consultation proposed that there would be significant benefit in creating a single voice for consumers and that the Citizens Advice service should have that role. This would bring together the national research capability of Consumer Focus with the front-line intelligence gained from the new advice service (replacing Consumer Direct) and the Citizens Advice bureaux, thus ensuring that the views being communicated were genuinely representative of consumers as a whole.
- 5.4 Consumers' interests also need to be represented in regulated sectors. In certain sectors, network effects and/or economies of scale create circumstances, such as natural monopolies, which under current technological patterns limit the prospects for effective competition. In these areas, independent economic regulation is needed over the long

term to continue to provide vital consumer protections and to ensure consumers' interests are promoted through efficient provision of good quality, reliable and sustainable services.¹⁴ Whilst energy and postal services (and also water in Scotland) are covered by Consumer Focus, a number of regulated sectors have consumer advocacy bodies offering varying levels of support. This can make it confusing for consumers to know who is representing their interests and what type of help for redress they can get in which sector.

5.5 The consultation proposed integrating the functions of various advocacy bodies into a Regulated Industries Unit and identified seven core principles to guide its design and on which respondents were asked to comment:

- It should have clear **aims and objectives**, focused on protecting and promoting the needs of all UK consumers, future as well as present, small business customers as well as domestic customers, with particular attention being paid to vulnerable groups.
- It should have appropriate **powers** to enable it to represent consumer interests effectively. This should include information-gathering powers, rights to be consulted by economic regulators on matters which affect consumer interests, rights of appeal where appropriate against high impact regulatory decisions, and powers to initiate supercomplaints. It should be held directly accountable for the use of these powers.
- In setting and pursuing its agenda and priorities, it should be **independent** of Government, regulators and regulated companies, and be seen to be so.
- It should have adequate **resources** to fulfil the advocacy role, funded by the sectors concerned, and accountable to those sectors for the efficient expenditure of this money.
- It should have the **capability** to look at emerging issues in order to anticipate and shape future policy and where possible forestall consumer problems before they arise. There should be relevant sector-specific expertise as well as the ability to detect synergies across and between sectors. It should have flexible capacity to undertake research, investigations, empowerment and advocacy and where possible draw on shared services. It should be scalable to advocate on behalf of consumers in additional sectors if required.
- It should have strong **links** with and wherever appropriate, act in **partnership** with consumer advocacy bodies within local and national communities.
- It would need to work closely with other **European** consumer organisations and directly with European institutions and regulatory bodies, to ensure that the consumer voice across the UK is heard when policies are being developed in Europe and internationally.

5.6 In addition to publicly funded bodies, the consultation noted that other consumer organisations such as Which?, Age UK, Shelter and the National Consumer Federation

¹⁴ BIS (2011) Principles for Economic Regulation

<http://www.bis.gov.uk/assets/biscore/better-regulation/docs/p/11-795-principles-for-economic-regulation>

also engaged in general and sectoral advocacy, and that this could further add to consumer confusion. It was suggested that there was an opportunity to improve working between these organisations preferably through a partnership to create a really powerful consumer advocacy voice.

Consultation responses

Responses received

LATSS	48
Trade Body	11
Business	20
Individual	10
Consumer	13
Regulatory Body	9
Academic	6
Other	4
Legal	6
Ombudsman	5
Government	1
Total	133

Analysis of responses

QUESTION 12. Do you consider that, subject to decisions by individual Departments, the vision of combining as many sectoral advocacy functions as possible in the Citizens Advice service is the correct one?

- 5.7 Energy companies fully supported the idea of a broader, combined regulated industries unit as did most Local Authority Trading Standards Services (LATSS), cross-sectoral organisations, some large companies and Age UK. They saw benefits from the critical mass a combined body would achieve and the ability to share and spread best practice across sectors. There should be cost savings from sharing back office and research functions and a good opportunity to share information on issues such as consumer behaviours and the application of consumer law which applied to more than one or all sectors. It was also suggested that other groups such as vulnerable consumers would benefit from a coordinated approach.
- 5.8 Citizens Advice and Which? put forward separate responses supporting a cross-sectoral approach and proposing a partnership between them to deliver this.
- 5.9 Royal Mail took a different stance and proposed that specific sectoral advocacy for postal services should be abolished and absorbed within general advocacy.
- 5.10 Some respondents argued that a single body was inappropriate and an attempt at "one

size fits all”. This was particularly evident amongst the sectoral advocates (other than Consumer Focus) that it was proposed should be combined in the Citizens Advice service. They felt that their own regulated sector was different to others and that there were risks that sectoral knowledge and expertise would be diluted with the result of weakened consumer representation. However, others in those sectors did support the principle of combining functions in one place.

- 5.11 Others, whilst complimentary of Citizens Advice’s capabilities in providing advice, were concerned about their lack of a proven track record in providing specialist advocacy and technical expertise. Potential complications with their charitable status, their ability to be accountable to Parliament and to be covered by the requirements of the Freedom of Information Act were also identified as potential obstacles.
- 5.12 The consultation proposed that as many sectoral advocacy bodies as possible should be combined with the Citizens Advice service. The bodies concerned all stated that there was no evidence that the Citizens Advice service would be able to deliver an improvement to the existing arrangements and that their profile and effectiveness would be diminished if all of the regulated sectors were included.
- 5.13 There was, however, support from the energy sector and from Trading Standards for the Citizens Advice service to take on this combined sectoral advocacy role as long as the necessary skills were acquired from Consumer Focus or elsewhere. Their involvement in this way was seen to be a good example of the Big Society and to fit well with the localism agenda.
- 5.14 Some respondents misunderstood the proposals, thinking that the Citizens Advice bureaux rather than the national organisations would be responsible for this work and doubted their ability to do so.
- 5.15 Many respondents, both those in support and those against the idea of combining sectoral advocacy functions, said that there was, at least, a need for better partnership working across existing consumer advocacy bodies.

QUESTION 13. Do you agree with the design principles for the Regulated Industries Unit (as set out in paragraph 4.34 of the consultation document)?

- 5.16 Those that supported the formation of an RIU agreed with the design principles proposed. Sufficient technical knowledge and sector-specific expertise was considered essential and many asked for reassurance that existing skill and expertise would not be lost. Several observed the importance of having sufficient resource and expertise to research emerging concerns as well as reacting to existing issues. Many agreed that having the appropriate powers was also essential and without these the unit would be “toothless”. Equally important were independence from industry and regulators and accountability to Government.
- 5.17 Constructive relationships with the relevant regulators and supra-local and national communities were also considered key and where appropriate, partnership with other advocacy bodies. There was a continuing need for UK consumers to be represented internationally and Consumer Focus was praised for its work in the EU.
- 5.18 Additional principles suggested included impartiality, the ability to understand and

represent business, in particular Small and Medium sized Enterprises (SMEs), and transparency of funding. Businesses in many regulated sectors pay a levy which is used to fund the advocacy body. Some respondents were concerned that there would be a lack of transparency as to where their specific industry levy was spent if all regulated industries were combined into a single organisation.

5.19 Several organisations supported the retention of a slimmed down version of Consumer Focus to deliver the Regulated Industries Unit.

QUESTION 14. In the light of all these considerations, do you agree that Consumer Focus should be abolished and its sectoral and some of its general advocacy functions be transferred to the Citizens Advice service? What are your views on alternative approaches?

5.20 There was wide support for a single body to undertake consumer advocacy. Several respondents, particularly from Scotland and Wales, commended the work and technical expertise of Consumer Focus and were concerned that abolishing it would risk losing or diluting its essential functions and activities.

5.21 There was also a lot of support for the Citizens Advice service in their current role and recognition of the high awareness among the public of the Citizens Advice brand and many welcomed the idea of them developing their general consumer advocacy activities. Some, particularly in the energy sector, were also happy for them to take on sectoral advocacy including the envisaged functions of the Regulated Industries Unit. Others, however, questioned the ability of the Citizens Advice service to extend their activities to include sectoral research and other more technical aspects of sectoral advocacy. They noted that their current strengths were in providing front line advice to consumers and were concerned that their remit could become too broad. This might be exacerbated if they also took on support for SMEs and international advocacy.

5.22 Most respondents recognised the distinction made in the consultation between general and sectoral advocacy and thought that adequate resources for both were important.

5.23 Towards the end of the consultation, Citizens Advice and Citizens Advice Scotland made a joint proposal with Which? to take on the sectoral advocacy functions. This proposal was later updated by a further letter to BIS from Which? which was widely circulated. Given the timing of the proposal, few respondents were able to take this proposal into account in their own responses. However, Which? were recognised as an important organisation in the consumer advocacy landscape. Some respondents felt that their commercial activities might result in difficulties of conflicts of interest if they were to take on a significant sectoral advocacy role.

QUESTION 15. What do you consider to be the best way of reflecting the Scottish, Welsh and NI interests in the models for the new consumer institutional landscape?

5.24 Many respondents thought that consumer issues in Scotland and Wales should be represented in their own country as well as at the GB level. In cases where there were differences in the regulatory regimes that had impacts on consumers, representation was best done by staff based in the particular nation concerned. There was some concern that the proposed abolition of Consumer Focus would mean the abolition of national representation in Scotland and Wales.

- 5.25 A number of responses offered particular support for Consumer Focus Wales and the Welsh Government and suggested that the UK Government should consider making provision to allow transfer of the functions of Consumer Focus Wales to Welsh Ministers so that they could in turn transfer these at a later point to an existing or new body.
- 5.26 The Scottish Government said that its aim was to obtain devolved powers for consumer representation in the future but that it would cooperate with the review in the meantime.
- 5.27 The regulators and many national companies and organisations thought that consumer advocacy in the regulated sectors should be GB-wide. Independent consumer representation in Wales and Scotland was not favoured as it might lead to additional burdens on business operating across borders and run counter to the objective to simplify the landscape for consumers.

QUESTION 16. What are your views on these options for the transfer of information gathering powers? Which is preferable and why? Are there any other options for information-gathering powers?

- 5.28 There was overwhelming support for the consumer advocate to hold information-gathering powers. However, the CBI were cautious about whether it would be appropriate for Citizens Advice as a charity to hold such powers and the British Retail Consortium (BRC) was explicitly against this.
- 5.29 There was also wide support for better management of information-gathering though a difference of opinion as to who should be responsible. The proposed option that the Regulated Industries Unit could request information via the regulators was considered unsatisfactory by some: it would raise questions about the RIU's independence, have resource implications for regulators and potentially create conflict between them.
- 5.30 Citizens Advice and Citizens Advice Scotland proposed setting up joint arrangements with Which?. They believed such an approach would ensure the careful, proportionate and effective use of such powers in a coordinated manner, effectively reducing duplication of effort.

QUESTION 17. What are your views on whether redress schemes such as those established in electronic communications, financial services, energy and postal services should be extended to other sectors?

- 5.31 Responses on this point were limited but of those that did respond, there was widespread support for ombudsmen and similar redress schemes. Bodies that already ran such schemes thought their model was best. In terms of extending such schemes, most, including Trading Standards, Ofgem, the OFT and Consumer Focus thought it was a good idea but several thought that there should be just one scheme per sector and others offered success criteria based on their own experience.

QUESTION 18. Do you support the transfer of the functions of Consumer Focus Post Northern Ireland to the General Consumer Council for Northern Ireland and agree that as a result Consumer Focus Post Northern Ireland be abolished?

QUESTION 19. Do you agree that the Postal Services Redress Scheme should continue to apply in Northern Ireland to ensure that Northern Irish Consumers retain the same access to redress as consumers elsewhere in the UK?

5.32 The CCNI was in favour of the transfer of information and advice to consumers of postal services in Northern Ireland and supported the Government's preferred option that would leave the redress scheme as it is; they also were keen for an appropriate apportionment of resources. Consumer Focus also fully supported the Government's proposals as did the small number of other respondents who commented on this including Age UK, Citizens Advice, and Which?

The Government's response

General advocacy

5.33 In the light of the consultation responses the Government has decided that the Citizens Advice service will become the publicly-funded voice of consumers, championing their needs and empowering them to make the right choices for themselves. The Government recognises the need for strong powers to require information from public bodies and companies to inform effective consumer advocacy. The Government will provide the Citizens Advice services with the powers currently held by Consumer Focus as soon as Parliamentary procedures permit. The Government will ensure that the same safeguards are in place to ensure that the Citizens Advice service are accountable to BIS ministers for proportionate use of these powers and for effective use of additional funds. They will retain their charitable status and accountability to their boards. Their role will include research and horizon-scanning about issues that may become important in future.¹⁵ The Government intends the Citizens Advice service to take on this role from April 2013.

5.34 The Government and many respondents to the consultation recognise the added benefit that information from the bureaux and the new advice service will bring. Although the bureaux will have an increased role in feeding this information into the Citizens Advice service, they will not be primarily responsible for consumer advocacy – this will be led by Citizen Advice (based in London), Citizens Advice Cymru (Cardiff) and Citizens Advice Scotland (Edinburgh).

5.35 In Wales, arrangements will be made to make Citizens Advice Cymru accountable to the Welsh Government on an equivalent basis to the current arrangement with Consumer Focus Wales. In addition, the Citizens Advice Cymru Committee has already had its terms of reference extended so it is responsible for consumer policy. Two members of this Committee also sit on the Citizens Advice national Trustee Board. Detailed design is underway and Citizens Advice Cymru will continue to work with the Welsh Government and others throughout the transition.

5.36 It remains the intention of Government that there will be no reduction of consumer representation in Wales or Scotland as a result of these changes.

5.37 Close working between Citizens Advice Scotland and Citizens Advice Cymru and the

¹⁵ Examples might include access to personal purchase data – see <http://www.bis.gov.uk/policies/consumer-issues/personal-data>

Regulated Industry Unit committees (as outlined below) will be essential.

- 5.38 In Northern Ireland, the consultation proposed that Consumer Focus Post should be transferred to the General Consumer Council for Northern Ireland (CCNI) and that the Postal Services Redress Scheme should continue to apply there. There was strong support for these proposals and the Government has therefore decided that when a suitable legislative vehicle is found, it will to transfer Consumer Focus Post NI to CCNI.

The Regulated Industries Unit

- 5.39 Whilst there was support in the consultation for the Citizens Advice service, the responses also demonstrated nervousness about the lack of a track record in the provision of technical consumer advocacy in regulated sectors – for example representing consumers' interests in discussion of companies' licence obligations and the introduction of new policies. The Government has therefore decided to create a small Regulated Industries Unit (RIU), initially with responsibility for postal services and energy across England, Scotland and Wales with additional responsibility for water in Scotland. The RIU will not be a new public body but will consist of the parts of Consumer Focus that currently carry out these functions and will ensure that the existing skills, knowledge and expertise is retained. The Government will consider further the benefits of the RIU covering water in England and other sectors in future.
- 5.40 The Government believes that in principle there would be benefits for consumers in a single body, with strong brand recognition and extensive customer reach, representing them in all regulated sectors. As set out in the Water White Paper published in December 2011,¹⁶ the Government shares David Gray's concerns around the timing of any change in the Consumer Council for Water (CCWater) in relation to the next price review. Defra and the Welsh Government will therefore maintain the role of CCWater to 2014. Before that, the UK Government will further consider the benefits of moving CCWater to the Citizens Advice service with any change taking place after the next water price review. Considerations will also include how this move could be made in a way that would retain CCWater's expertise and deliver improved outcomes for customers. Leading up to 2014, CCWater will be asked to explore how they could join up more closely with the RIU and Citizens Advice on cross-cutting areas of interest, such as reducing the level of customer debt. The Government will look at similar arrangements for other regulated sectors. The Welsh Government intends to retain CCWater to provide a clear focus for the interests of water customers in Wales.
- 5.41 The role of the Unit will be of a technical nature, dealing primarily with companies, regulators and policy makers – it will not have a campaigning or consumer-facing role. However, publicly-funded campaigning in these areas on behalf of the public should not be diminished as that role will be undertaken by the Citizens Advice service along with their wider consumer-facing role, thereby delivering a more streamlined landscape. The RIU will be created by April 2013 and then transfer to the Citizens Advice Service in 2014. The RIU and the Citizens Advice service will be expected to work closely together in the meantime to develop shared work plans. There must be a seamless flow of information in both directions so that the Unit can be well informed in its dealings with the regulators and industry about the issues raised by bureaux clients and the Citizens Advice service

¹⁶ <http://www.official-documents.gov.uk/document/cm82/8230/8230.asp>

advocacy can be correctly aligned with the behind-the-scenes technical regulatory work. BIS will work with all the organisations involved as they develop a suitable delivery model. Once established the Government will periodically review the quality of provision of the RIU against expectations. The legislative changes to set up the RIU will include the ability for the Government to move it in the future if necessary.

5.42 Consumer Focus accredits energy switching websites to ensure they provide a good service to consumers – the Consumer Confidence Code. Ofgem will take over this Code from April 2013.

5.43 Respondents to the consultation supported the design principles for a RIU and these will continue to influence its detailed design. In addition the Government will ensure that the following areas identified during the consultation are reflected in the design:

- **Sufficient coverage in devolved nations** The Government recognises the importance of ensuring issues of concern in Wales, Scotland and, in respect of Post, Northern Ireland are reflected in the work of the RIU. Committees based in Scotland, Wales and Northern Ireland will advise the Unit on these in consultation with the respective devolved Governments. Representatives from these Committees will sit on the GB-wide board of the Unit. The timing of these changes in Scotland will depend on the outcome of the request by the Scottish Government for the UK Government to consider devolving responsibility for consumer issues to them.
- **Ability to share knowledge more effectively between sectors** The Government remains of the view that there would be value in a single consumer voice for the regulated sectors but that there are a number of issues that need to be addressed before that can be achieved. As announced in the recent Water White Paper the Government will consider transferring the functions of the Consumer Council for Water in England to the RIU after Ofwat's 2014 price review. In the meantime and with the support of relevant Departments, the RIU will be responsible for forging partnerships with all other sectoral regulators and consumer advocates to start to share best practice, identify common issues and identify opportunities to simplify the landscape of bodies for consumers.
- **Accountability** The Government recognises the importance of the existing accountability obligations that Consumer Focus has and there are no intentions to reduce accountability under the new arrangements.
- **Impartiality** Respondents were clear that a national sectoral advocate needed to be impartial and this is the Government's firm intention for the RIU.

5.44 The RIU will have the same legal functions, governance and powers as Consumer Focus currently has including information-gathering powers under s24 of the Consumer, Estate Agents and Redress Act 2007. The Government recognises the concern expressed by some respondents on the use of these powers, specifically that better coordination was required between bodies requesting information, whether formally through the use of the powers or informally. The RIU will be asked to consider the information-gathering process and identify any necessary improvements.

5.45 The full range of activities of the RIU will need to be considered further. However, it is anticipated that they will at least include:

- participating in early stage policy development and more formal regulatory and governmental consultations;
- investigations of wider interest complaints within relevant regulated sectors;
- inputting to formal price control review processes;
- membership of other relevant panels across a range of sectors;
- research and analysis on a wide range of issues that affect current and future consumers, some of which will require in-depth knowledge and technical expertise;
- working informally with regulated firms to improve standards;
- being a formal consultee on license condition changes affecting the consumer interest and membership of relevant industry code panels and working groups;
- European and international work.

5.46 The Government recognises the important work that Which? does on general and sectoral advocacy and welcomed its proposals to expand its existing role. While the Government believes that there is a continued need for an independent, publicly-accountable and publicly-funded organisation responsible for sectoral consumer advocacy, it strongly encourages Which? to form close working relationships with both the Citizens Advice service and the RIU.

Redress Schemes

5.47 Since launching the consumer landscape consultation the European Commission has published proposals on alternative dispute resolution for consumer to business contractual disputes.¹⁷ The Government believes it would be unwise to take decisions on redress in the UK until negotiations on these proposals have concluded. This issue will therefore be revisited during the implementation of any relevant EU legislation (which itself will be subject to consultation) or during the transition of the Regulated Industries Unit to the Citizens Advice service.

¹⁷ http://ec.europa.eu/consumers/redress_cons/adr_policy_work_en.htm

6. Enforcement

Key decisions

1. A National Trading Standards Board (NTSB) to be established for prioritising national and cross-boundary enforcement in England and Wales. Trading Standards officers from Scotland and Northern Ireland will attend NTSB meetings to advise on UK-wide enforcement issues and on the coordination of business education.
2. A Strategic Intelligence, Prevention and Enforcement Partnership (SIPEP) to be established between the NTSB, Scotland and Northern Ireland Trading Standards, the CMA, the Regulated Industries Unit and the Citizens Advice service.
3. The Citizens Advice service to undertake research and horizon-scanning about consumer issues that may become important in future to inform the SIPEP

Introduction

- 6.1 Unless the law is enforced effectively, rogue traders can undermine responsible businesses, unfair practices can develop and consumers will lack confidence to exercise choice sensibly and thus drive competition, innovation and growth. Individuals may suffer detriment significantly beyond the cost of their purchase which can in turn lead to social or health problems and a drain on public funds.
- 6.2 The consultation set out the difficulties faced by Trading Standards at the front line of local enforcement in the context of severe budgetary pressure which is leading to potentially unsustainable low levels of enforcement activity in some places. At a national level, responsibility is split between Trading Standards officers and the OFT. While BIS provides some support for national and cross-boundary schemes (Scambusters, Illegal Money Lending, internet enforcement, funding for ports and a fighting fund for large, expensive cases), Trading Standards' accountability for tackling cross-boundary and national threats is not clear and OFT resources are limited with the result that gaps can appear. The National Audit Office and the Public Accounts Committee reports both highlighted the need to make responsibilities and accountability clearer.
- 6.3 The consultation proposed to strengthen consumer enforcement by improving the national leadership and coordination capability of Trading Standards and by clarifying its responsibility to tackle cross-boundary threats and its accountability to Parliament. It also proposed to ensure that there was effective partnership working between Trading Standards and the new CMA.
- 6.4 In terms of the scope of the CMA's consumer activities, the consultation proposed that it should have a clear focus on competition and market issues. It could start market studies addressing consumer problems where it was not initially clear whether the cause of the

problem was a competition or a “structural market” issue,¹⁸ but if it found there was not a competition issue, the study would be stopped. It also proposed that responsibility for international liaison would pass to a lead local authority with much of the work being done by the TSI.

- 6.5 The consultation document provided three alternative options for delivery of better leadership and coordination to tackle national and cross-boundary enforcement:
- Option 1. Transfer all OFT’s enforcement functions and associated funding to Trading Standards.
 - Option 2. All supra-local enforcement to be undertaken by the Competition and Markets Authority.
 - Option 3. Transfer the majority of OFT’s consumer enforcement functions to Trading Standards, with some consumer enforcement powers being retained by the CMA.
- 6.6 Within option 3, two alternatives were presented:
- Transfer the relevant functions to Trading Standards, led by a Trading Standards Policy Board (TSPB), with consumer enforcement powers being retained by the CMA only to deal with problems where consumer choice is obscured.
 - Set up a Joint Enforcement Board (JEB) made up of Trading Standards chiefs and representatives of the CMA to set priorities and coordinate Trading Standards and the CMA consumer work.
- 6.7 Additionally, in order to implement this:
- In England and Wales, national enforcement would be carried out by a Primary or Home Authority supported by a small number of national teams. BIS would ring fence funding to support this.
 - Supercomplaints would be retained by the CMA in relation to issues where consumer choice was hindered, with an open question about whether supercomplaints could be made also to TSPB in other cases.
 - The TSPB, CMA, Citizens Advice service and Which? would share intelligence on consumer detriment and work plans on enforcement.
 - The TSI could take on OFT’s training, international liaison and policy functions as well as guidance to the profession and business.
 - “Established Means” code of practice promoters would be able formally to request action against businesses which TSPB or JEB would have a duty to consider.

¹⁸ Where business practices and market conditions make it difficult for consumers to exercise choice in an otherwise competitive market.

Consultation responses

Responses received

LATSS	56
Trade Body	14
Business	9
Individual	8
Consumer	11
Regulatory Body	8
Academic	3
Other	4
Legal	3
Ombudsman	2
Government	2
Total	120

Analysis of responses

QUESTION 20. Which option for reform of enforcement powers and responsibilities do you prefer, if any, and why?

- 6.8 Option 1 received no support. Consultees were concerned that it would completely break the link between consumer and competition policy. Trading Standards expressed no appetite to deal with cases where consumer enforcement may be the best remedy when consumer choice was hindered. This option also would not ring-fence money for national consumer enforcement and many had concerns about this.
- 6.9 Several representatives from the legal sector preferred option 2 and a number favoured supra-local trading standards authorities with dedicated funding or a national trading standards authority with a cross-boundary presence. Some business respondents called for local authorities to have less responsibility for consumer enforcement. However, this was not within the scope of the reforms and in general this approach was not favoured.
- 6.10 There was overwhelming support for option 3. Respondents felt that a greater role for Trading Standards would deliver a more effective enforcement regime.

QUESTION 21. In relation to option 3, do you agree with the Government's principles for the operation of the new TSPB? Do you think this model would deliver effective enforcement against large businesses tempted to break the law? Which areas of enforcement activity should warrant specialist national teams? Do you think that an indemnity fund to enable local authorities to take the risk of losing cases is desirable and deliverable?

- 6.11 Within option 3, coordination by a TSPB was strongly supported by the vast majority of Trading Standards authorities and all the local Councils which responded. Strong support also came from the Citizens Advice service with qualified support from some other consumer associations, individual businesses and other enforcers. These bodies thought

that the new system to take effective action must be able to ensure consistency across the wider enforcement framework. Some business associations, some consumer associations and the small number of international stakeholders that responded thought there was value in a single national body undertaking some aspects of general enforcement and liaising with international enforcement agencies.

6.12 Most respondents agreed with the Government's principles for the TSPB. The Association of Chief Trading Standards Officers (ACTSO) expanded on these, proposing that:

- Membership should be Heads of Service or other senior officers. The TSPB could be similar to the current Trading Standards Policy Forum though the two should not be merged. There should also be a role for representatives from BIS, TSI, ACTSO and their Scottish, Welsh and Northern Irish counterparts. Other organisations such as Citizens Advice, the CMA and possibly a business representative should be able to attend meetings but in a non-executive capacity.
- The Government should only set principles; it should not direct operational decisions and the relationship with the Government should be a partnership rather than a contractual one.
- The Local Government Association (LGA) and Welsh LGA should develop a suitable model of political oversight for TSPB activities in Wales.
- The body that "owned" the TSPB would need to provide full financial oversight.
- A chairperson and secretariat would be essential. The chair could be either elected from within the TSPB or be independent. Either way it would need to be someone with a good knowledge of how local authorities and Trading Standards operate.
- Delivery would be by centres of excellence in lead authorities and strong investigative and enforcement support teams, similar to Scambusters. Not every authority would be expected to host a national centre of excellence, but there would be cross-boundary coordination, intelligence and leadership functions as well as a strengthened Scambusters programme which would be represented on the TSPB.
- TSPB could be responsible for referring cases under the Consumer Protection Co-operation Regulations
- Some sort of indemnity fund would be essential or local authorities would be unable to take larger cases.

6.13 These proposals for a delivery model were supported by almost all the Trading Standards authorities and local authorities that responded, including in Wales.

6.14 The Society of Chief Officers of Trading Standards in Scotland (SCOTSS) proposed that a Scottish Reaction Team be formed with a similar function in Scotland to the TSPB in England and Wales. Separately, the Scottish Government and the Convention of Scottish Local Authorities requested the consideration of devolution of consumer policy more generally.

6.15 A number of respondents thought that the TSPB model should not be restricted to the fair

trading area covered by the consultation but should be widened to include all aspects of Trading Standards' work including food standards, animal health, product safety, anti-counterfeiting and weights and measures.

6.16 Finally, there were a number of informal submissions arguing that the title "Trading Standards Policy Board" did not accurately reflect its proposed role.

QUESTION 22. Would you prefer to maintain the status quo in terms of powers and responsibilities, but with improved collaboration between OFT/CMA and Trading Standards? If so, would one of the Joint Enforcement Board (JEB) models be the best solution? Which one and why?

QUESTION 23. In relation to the various JEB models, how would you ensure effective Trading Standards participation in the JEB? Do you think that this option would deliver integration of enforcement across local, regional and national levels? Should other organisations be involved in the JEB, either as members or as participants in discussions? Would retention of such unrestricted consumer enforcement powers and responsibilities affect the CMA's singularity of purpose and distract it from its core competition remit?

6.17 The Joint Enforcement Board model was strongly favoured by the OFT but opposed by Trading Standards respondents. The OFT stressed the value of a structural mechanism to ensure liaison between different enforcers. Opponents typically expressed concern that it would not, by itself, be a significant enough change from the status quo and in particular would not deliver the national leadership of Trading Standards that was required. Many doubted that Trading Standards would be able to engage effectively within a JEB without further change. A number of respondents including a legal association expressed concern that it would require the CMA also to have a consumer enforcement objective and would dilute its competition focus.

QUESTION 24. How can your preferred new model best work with businesses?

6.18 Most Local Authority Trading Standards Services (LATSS) respondents thought that the TSPB model would work well with businesses. There was a more mixed view from business organisations with a number adopting a "wait and see" approach. The principles proposed by Philip Hampton in 2005¹⁹ were seen as a model for working with business although the British Retail Consortium questioned whether Trading Standards and other Local Government organisations were truly committed to this.

QUESTION 25. Do you agree that the CMA should retain a consumer enforcement role in those cases where a potential breach of consumer law may be connected to a structural market problem?

QUESTION 26. In an Option 3-based model, should this enforcement role be subject to procedural limitations?

QUESTION 27. Do you agree that the CMA should enjoy significant discretion over when a market has structural problems, such as to give rise to its consumer enforcement powers?

¹⁹ BIS (2005) Reducing administrative burdens: effective inspection and enforcement, <http://www.bis.gov.uk/files/file22988.pdf>

6.19 There was strong support for the CMA to retain consumer enforcement powers in cases with a “structural market” problem where consumer choice was hindered although some questions were raised about how such a problem could be defined. A few respondents argued for the CMA to retain a consumer role more generally. Some respondents also argued for the CMA to retain a role where barriers to competition in a market appeared to exist even if these were non-structural; the Government had not intended to exclude these.

QUESTION 28. Do you agree that the CMA should retain responsibility for mixed market studies where there may be competition and consumer issues (supply and demand side market failures) present on the relevant market?

QUESTION 29. Do you agree that in an Option 3-based model, the Citizens Advice service should in future be responsible for pure consumer detriment analysis and that the CMA should not perform pure consumer market studies? In such a case, do you agree that the CMA should stop performing market studies once it identifies that there is no structural problem in such markets and do you think there should be a duty on the Trading Standards Policy Board to prioritise cases referred by the CMA?

6.20 There was widespread support for the CMA retaining responsibility for “mixed” market studies where there may be both competition and consumer (supply and demand side) market failures existing in a market.

6.21 There was a range of responses to the proposal that the Citizens Advice service should in future be responsible for “pure” consumer detriment analysis and that the CMA should not perform such studies. Some respondents argued that this would be essential to protect the single competition objective of the CMA. Others argued that it was extremely difficult to define the scope of a market study at the outset.

6.22 There was general support for the CMA having discretion about when to commence a market study, although business respondents criticised the generic market studies regime. They argued that market studies should be started only where there was some evidence of competition problems or where a defined threshold of identified loss was reached.

QUESTION 30. Do you agree that the Government’s proposed approach is a sensible way of ensuring effective collaboration between the various bodies in the proposed new landscape?

QUESTION 31. Do you agree that it would be helpful to have some resource that required joint agreement between the CMA, TSPB and consumer advocacy bodies for its release, to be used to investigate or address consumer and market issues that would otherwise risk an enforcement or advocacy gap? If so, at what level should such funds be set and how best should they be administered?

6.23 There was a mixed response to the question about ensuring effective collaboration with the OFT, in particular suggesting that the JEB model would be a more effective approach. Most LATSS respondents recognised the importance of continuing to work closely with the CMA.

6.24 Many LATSS respondents argued in favour of some joint resource between the various bodies, although they were not specific about the resources involved.

QUESTION 32. Do you believe that an enforcement model branded as run by Local Authority Trading Standards Services would deter illegal behaviour? If not, how could the threat of enforcement needed to back up self-regulatory schemes be made more credible?

6.25 There was some scepticism that a Local Authority Trading Standards Services brand would be an effective deterrent in all cases but the standalone Trading Standards brand inspired more confidence. Most Trading Standards respondents highlighted the work they already do and the levels of compliance achieved. A small number of respondents pointed out that any brand needed to be recognised as applying nationally.

6.26 In order to back up self-regulatory behaviour in certain sectors, representatives of those sectors thought that the TSPB or Scottish equivalent would need to be ready and willing to take enforcement action when needed to demonstrate “teeth” behind a self regulatory system.

QUESTION 33. Do you agree the TSI would be the appropriate home for the OFT’s professional guidance and training functions in the event of creation of a new single Competition and Markets Agency?

QUESTION 34. Do you agree that the TSI is the most appropriate home for the OFT’s international liaison and general policy functions in the event that the CMA has only a limited consumer enforcement role?

6.27 Most respondents agreed that the Trading Standards Institute would be an appropriate home for the OFT’s professional guidance and training functions, provided this did not become a chargeable activity.

6.28 There was a more mixed response to the question of whether TSI should take on the OFT’s international function. Of those that disagreed, a majority felt the role would sit better with the TSPB secretariat, with the work done by a lead authority centre of excellence relevant to a particular issue. The remainder argued that this function should remain with a national public authority.

6.29 There was more consistent support for TSI taking on general policy functions but some respondents also preferred this to be a role for centres of excellence.

QUESTION 35. Do you think the requirement for LATSS’ and other designated bodies’ (under Part 8 of the Enterprise Act 2002) court orders to be directed by a central body needs to be retained in the new consumer enforcement model and if so, why?

6.30 There was strong support for some mechanism to ensure coordination and consistency of court applications but most respondents felt it could be achieved through a notification-only system rather than the current duty to seek authorisation from the OFT. The Consumer Regulations Website was suggested as a suitable vehicle.

QUESTION 36. Do you agree that responsibility for chairing the consumer concurrencies

group should remain with the CMA?

6.31 Most respondents felt that the CMA was the most appropriate body to chair the consumer concurrencies group but a number of respondents argued this should pass to the TSPB given the CMA's reduced role in consumer enforcement. The sectoral regulators noted the need for closer working with the TSPB.

QUESTION 37. Do you agree that the current supercomplaints system to the OFT should be retained in respect of the CMA if the proposed changes go ahead?

QUESTION 38. Do you think that the supercomplaints process should be extended to require the Trading Standards Policy Board to issue a reasoned response if the subject matter of the complaint relates to consumer enforcement?

6.32 Retention of the supercomplaints system was supported by almost all respondents. Most argued that the recipients of the complaint – the CMA, TSPB or sectoral regulator – should have a duty to respond. A number noted, however, that almost all supercomplaints so far have related to competition or regulatory issues or ones where consumer choice has been hindered rather than questions of enforcement.

QUESTION 39. Do you think that a lead local authority could take on the OFT's estate agency and related anti-money laundering functions?

6.33 There was a general consensus that a lead local authority, possibly acting through a supra-local structure, could take on OFT's estate agency functions. Many Trading Standards respondents questioned, however, whether the current negative licensing regime should be continued at all. There was slightly less support for the transfer to a lead authority of monitoring of compliance by estate agencies with anti-money laundering regulations. Some Trading Standards respondents thought that it would sit better with a Primary or Home Authority while the estate agency sector argued it should remain with the OFT/CMA until relevant changes to the EC Directive were negotiated to allow the function to be taken on by a trade association.

QUESTION 40. Do you agree that the proposed changes to the consumer enforcement landscape should go ahead if the creation of the CMA is delayed? If not, why not?

6.34 There was general agreement that there was a need for change and that this should be taken forward as soon as possible.

The Government's response

6.35 In the light of the strong support from the consultation respondents, the Government has decided to implement a version of option 3 – the Trading Standards Policy Board. To demonstrate the national leadership needed it will be called the National Trading Standards Board (NTSB). It will consist of members of Trading Standards officers representing England and Wales and will be served by a central government-funded secretariat. Representatives from Scottish and Northern Ireland Trading Standards will attend meetings to advise on UK-wide enforcement issues and on the coordination of business education.

6.36 Consultation respondents thought that the advantages of the Board would be as follows:

- **Stronger leadership of Trading Standards.** To gather and use better intelligence and to prioritise effort and reduce the risk of enforcement gaps across local authority boundaries. This would require long-term support for an integrated intelligence system, a national leadership team of trusted professionals, clear responsibility and accountability across most areas of consumer enforcement and much better data on Trading Standards activity and impact.
- **Strengthened cross-local authority coordination and intelligence management within a national framework.** Investigation and enforcement teams would be needed with a small number of national teams in specialist areas to handle cases where individual authorities cannot or will not act against larger threats. These teams would need to be led by local Trading Standards officers and be well integrated at a national and local authority level to ensure cross-boundary coordination. In order for these teams to be effective, they would also need to maintain sufficient skilled staff so the Board would need to ensure a sustainable budget for this purpose.
- An **indemnity fund** to mitigate risks to individual local authorities when bringing expensive enforcement cases which were in the national interest.

6.37 The Government has considered how best to achieve these improvements while mitigating the risks, raised by OFT and others, of high costs of transition, loss of current expertise and loss of coordination between enforcement cases against individual rogue traders on the one hand and enforcement cases to resolve problems where consumer choice has been hindered on the other.

6.38 Accordingly, the Government has decided that the NTSB will be responsible for:

- an integrated national intelligence system;
- the coordination of Trading Standards enforcement activity across local authority boundaries and nationally including management of enforcement databases;
- the analysis of intelligence and setting of priorities for cross-boundary enforcement;
- funding and supervision of Trading Standards teams in English and Wales and a small number of national centres of excellence;
- the maintenance and use of a national indemnity fund to support local authorities bringing large or risky cases in the national interest;
- the tasking of problematic supra-local enforcement cases within the Trading Standards network;
- the collection of better data on Trading Standards activity and the evaluation of impact; and
- reporting to BIS, and where necessary to the LGA and to Parliament, on Trading Standards activity which crosses local authority boundaries and the use of central Government funding.

6.39 In Scotland, the Convention of Scottish Local Authorities (COSLA) have set up a task

group to look at how best to deliver the landscape changes in Scotland in both the short and long term and there will be Scottish (and Northern Irish) attendance at NTSB meetings to ensure effective exchange of intelligence and information. Separately, the Scottish Government and COSLA have requested the consideration of devolution of consumer policy more generally and the Government has agreed to look at the implications and impacts of this. The COSLA proposals are not intended to prevent any future Scottish Government plans being taken forward.

- 6.40 The NTSB will be created immediately and have at its disposal the current BIS funding for enforcement to tackle national and cross-boundary cases. The NTSB will have discretion over how this money is used for national and cross-boundary consumer protection but will have to report regularly on its work, showing how it is meeting the requirements placed upon it and how it is securing maximum value for money. Early indications are that in Scotland, COSLA will continue with a lead authority approach for the first year, possibly moving to a shared services model subsequently, although final decisions will be made when the task group has completed its work.
- 6.41 From April 2013, the NTSB and COSLA will receive additional funding from the current OFT enforcement budget and will take over existing OFT activities within their remit. Subject to transitional arrangements relating to live cases, the OFT will cease its work on consumer enforcement where in future it will be the responsibility of the NTSB.
- 6.42 The CMA will have a primary objective to promote competition. It will retain consumer enforcement powers as remedies for use in markets where competition is not working appropriately due to practices and market conditions that make it difficult for consumers to exercise choice. Linked to this, it will retain primary expertise and responsibility in the enforcement of unfair contract terms legislation. The CMA will therefore be designated as the lead enforcement authority and source of business guidance in this one area, rather than seeking to duplicate this expertise in Trading Standards. Additionally, the CMA will retain most of the OFT's current role on international consumer law and policy liaison. The CMA will also be responsible for acting as the UK's Single Liaison Office and ensuring compliance under the Consumer Protection Co-operation Regulations. But it will forward individual enforcement actions to the NTSB unless they relate to problems where consumer choice has been hindered or complex or precedent-setting enforcement of unfair contract terms legislation.
- 6.43 The CMA will retain the OFT's market studies function, including "mixed" consumer and competition market studies. The CMA will only launch market studies where it receives a well-founded supercomplaint or where it suspects that there are problems with consumer choice being obscured or competition failures. Having launched a market study, however, it will be able to conclude it even if it identifies no structural or competition problems but can see a need on the basis of its research for regulatory change or enforcement action in a given area. On the other hand, it will not be *obliged* to pursue a market study to its completion once it determines that there is no consumer choice or competition-related market failures.
- 6.44 In this context, studies should relate to markets which are otherwise competitive but where business practices make it hard for consumers to exercise choice. This activity will thus be integrated into the CMA's broader competition and markets objective.
- 6.45 The supercomplaints regime will be amended slightly but supercomplaints to the CMA will

still be possible on the same basis as now in respect of any market failure which is causing consumer detriment, whether on the supply or the demand side. Supercomplaints can therefore focus on any factor that may affect competition in a market including improper business-consumer practices and unfair exploitation of consumer behavioural biases. The threshold of proof – the type of information that is required for a complaint to constitute a supercomplaint – will remain unchanged. The only requirement is that the problem be a systemic or common market practice in some way, rather than arising out of isolated "rogue" behaviour by one or a small number of non-dominant companies. Many think this requirement is implicit in the current regime.

- 6.46 The Government recognises, however, that this could create a potential gap if a supercomplaint were to be focused on the need for specific enforcement action against an individual company rather than on a market practice. Therefore the NTSB will be responsible for a parallel guaranteed response process.
- 6.47 Problems of a regulatory nature outside the scope of the CMA's role will, as now, be taken up with the relevant Government department directly.
- 6.48 The Government intends, subject to the agreement of Parliament, to legislate to remove the duty for Trading Standards to seek authorisation from the OFT before taking some types of enforcement action. Instead, LATSS will simply be required to notify the NTSB secretariat of relevant cases in any area.
- 6.49 The OFT's estate agency negative licensing, redress scheme approval process and related anti money-laundering activities will be undertaken by a nominated lead Trading Standards authority, acting in concert with the NTSB. However, recognising the practical linkage with consumer credit functions in the OFT, this change may take place later than the other proposed changes along with the transfer of those credit functions to the Financial Conduct Authority.²⁰

²⁰ http://www.hm-treasury.gov.uk/fin_financial_services_bill.htm

		Responsibilities	Accountability			
	Citizens Advice & Citizens Advice Scotland	<ul style="list-style-type: none"> • Information, advice and education • Advocacy • Horizon scanning of possible consumer issues arising from commercial practices or developments in regulation 	BIS	}	Strategic Intelligence, Prevention and Enforcement Partnership (SIPEP)	<p>Responsible for coordination of:</p> <ul style="list-style-type: none"> • Intelligence about market problems • Assessment of current and potential consumer detriment • Enforcement policy and international liaison joint work <p>Agreement on the responsibility for specific issues including cases arising from market studies</p>
	CMA	<ul style="list-style-type: none"> • Structural market cases and studies • Legal precedent cases on Unfair Contract Terms • Lead on international liaison work 	Treasury BIS	}		
Chief Trading Standards Officers	National Trading Standards Board/Scottish counterpart	<p>Coordination, decision-making and financial management in respect of:</p> <ul style="list-style-type: none"> • Intelligence analysis and database management • Cases referred by local TS teams • Scambuster cases • Illegal Money lending • Internet enforcement (e-Crime) • Funding for enforcement at ports • Indemnity fund to mitigate risk 	BIS & Local Authorities	}		
	Delivery by Trading Standards teams	<ul style="list-style-type: none"> • Most large enforcement cases • Most legal precedent cases (except unfair contract terms) through lead authorities • Specific projects (eg e-crime, ports, illegal money-lending) 				<p>Enforcement Workplan agreed with BIS</p>
Individual local authorities						
<p>Taking forward:</p> <ul style="list-style-type: none"> • Joint project work with Trading Standards teams • Cases under Primary Authority 					Figure 1. Proposed responsibilities	

The Strategic Intelligence, Prevention and Enforcement Partnership

- 6.50 Across this new consumer landscape, it is clear that the different organisations, in particular the Citizens Advice service, Trading Standards and the CMA, will need to work closely together to minimise duplication and enforcement gaps. The Government believes it is essential to have a mechanism to share intelligence and information across the consumer and competition landscapes which will highlight emerging risks and potential cases or areas for study. In order to achieve this, the different organisations will need to work together to identify consumer detriment and agree priorities. Mutual understanding will be important.
- 6.51 The NTSB, the CMA, the Citizens Advice service and the RIU will work together along with representation from Scotland and Northern Ireland to share intelligence, identify future issues that could adversely affect consumers and agree priorities for enforcement, information and education. A Strategic Intelligence, Prevention and Enforcement Partnership (SIPEP) of these bodies will be established which will report regularly to the Minister for Consumer Affairs to provide joint accountability on how the system as a whole is operating. There will also be a flow of information between the SIPEP and sectoral regulators
- 6.52 Where there is a suspicion by any of the members of the SIPEP that consumer detriment is being caused by the failure of a market to work competitively, they can ask the CMA to conduct a market study. If the CMA does, or instigates one of its own volition, but finds early on that the problem does not involve such market failure, it will be able to complete the study and make recommendations in order to avoid duplication by other SIPEP members. The SIPEP will also monitor the effectiveness of the supercomplaint system.
- 6.53 As the publicly funded voice of consumers, the Citizens Advice service will undertake research and horizon-scanning about emerging consumer issues that may become important in future and will inform the SIPEP. All partners within the SIPEP as well as the sectoral regulators will be able to provide intelligence about consumer and competition problems with a view to their being addressed effectively by the correct organisation
- 6.54 The SIPEP will determine an agreed workplan for cases of interest both to the CMA and the NTSB. The NTSB will present its enforcement decisions and work plans at each meeting and the CMA will set out any cases it is planning to pursue, thus enabling cross-over points to be identified and resolved. The SIPEP will be tasked to guarantee there are no gaps in cross-boundary enforcement or duplication of effort. The SIPEP will also set the direction for international liaison, which will be performed by the CMA, bringing in experts on particular enforcement issues from Trading Standards if necessary.
- 6.55 The CMA will retain discretion over when to pursue a market study but in taking decisions will consult the SIPEP and other third parties such as sectoral regulators to ascertain the likely level of detriment which might be involved. The SIPEP will also offer a vehicle for the CMA to present to the NTSB and its counterpart in Scotland the results of its market studies, where it concludes that enforcement action is required in an area of high consumer detriment and where this is clearly appropriate for Trading Standards to pursue. The SIPEP will agree an enforcement plan to take forward any recommendations. The same process will be followed in respect of requests for enforcement activity received from overseas.
- 6.56 The SIPEP will report regularly to the Minister for Consumer Affairs to provide

accountability for delivery on these issues.

- 6.57 Linked to the SIPEP, the OFT – and subsequently the CMA – will continue to chair the consumer concurrencies group with sectoral regulators. The OFT/CMA will be responsible for passing on relevant information between the two groups and proposing attendance by a regulator or SIPEP member at the consumer concurrencies group where appropriate.

Annex 1 – Consultation Questions

- QUESTION 1. How do you think the provision of consumer information to consumers can be improved upon?
- QUESTION 2. Do you agree that the OFT's consumer information role should be transferred to the Citizens Advice service?
- QUESTION 3. Do you agree that the Extra Help Unit should be transferred to the Citizens Advice service?
- QUESTION 4. Do you agree that the OFT's consumer education roles should be transferred to the Citizens Advice service? What are your views about the types of consumer education activity that are most valuable and how they should be managed and coordinated?
- QUESTION 5. Do you agree that the proposed Trading Standards Policy Board and the TSI should coordinate and support business-facing educational activities?
- QUESTION 6. What are the best options for current and prospective CCAS members to consider in the event that the Government's proposed consumer and competition landscape proposals are adopted?
- QUESTION 7. Do you think that the private and voluntary sectors, together with local authorities, will respond to any winding down of CCAS with effective alternative systems of accreditation?
- QUESTION 8. What are the lessons learned from the operation of CCAS which may help in establishing (or revising) voluntary schemes in the future?
- QUESTION 9. What is your view on transposing CCAS-approved codes into standards and related documents such as those published by BSI?
- QUESTION 10. What characteristics would a Kitemark® based code certification process need to have to meet industry requirements?
- QUESTION 11. What is your view on extending the Primary Authority concept to code certification?
- QUESTION 12. Do you consider that, subject to decisions by individual Departments, the vision of combining as many sectoral advocacy functions as possible in the Citizens Advice service is the correct one?
- QUESTION 13. Do you agree with the design principles for the regulated industries unit as set out in paragraph 4.34?
- QUESTION 14. In the light of all these considerations, do you agree that Consumer Focus should be abolished and its sectoral and some of its general advocacy functions be transferred to the Citizens Advice service? What are your views on alternative approaches?
- QUESTION 15. What do you consider to be the best way of reflecting the Scottish, Welsh and Northern Irish interests in the models for the new consumer institutional landscape?
- QUESTION 16. What are your views on these options for the transfer of information gathering powers? Which is preferable and why? Are there any other options for information-gathering powers?
- QUESTION 17. What are your views on whether redress schemes such as those established in electronic communications, financial services, energy and postal services should be extended to other sectors?
- QUESTION 18. Do you support the transfer of the functions of Consumer Focus Post Northern Ireland to the General Consumer Council for Northern Ireland and agree that as a result Consumer Focus Post Northern Ireland be abolished?
- QUESTION 19. Do you agree that the Postal Services Redress Scheme should continue to apply in Northern Ireland to ensure that Northern Irish consumers retain the same access to

redress as consumers elsewhere in the United Kingdom?

QUESTION 20. Which option for reform of enforcement powers and responsibilities do you prefer, if any, and why?

QUESTION 21. In relation to Option 3, do you agree with the Government's principles for the operation of the new TSPB? Do you think this model would deliver effective enforcement against large businesses tempted to break the law? Which areas of enforcement activity should warrant specialist national teams? Do you think that an indemnity fund to enable local authorities to take the risk of losing cases is desirable and deliverable?

QUESTION 22. Would you prefer to maintain the status quo in terms of powers and responsibilities, but with improved collaboration between OFT/CMA and Trading Standards? If so, would one of the JEB models be the best solution? Which one and why?

QUESTION 23. In relation to the various JEB models, how would you ensure effective Trading Standards participation in the JEB? Do you think that this option would deliver integration of enforcement across local, regional and national levels? Should other organisations be involved in the JEB, either as members or as participants in discussions? Would retention of such unrestricted consumer enforcement powers and responsibilities affect the CMA's singularity of purpose and distract it from its core competition remit?

QUESTION 24. How can your preferred new model best work with businesses?

QUESTION 25. Do you agree that the CMA should retain a consumer enforcement role in those cases where a potential breach of consumer law may be connected to a structural market problem?

QUESTION 26. In an Option 3-based model, should this enforcement role be subject to procedural limitations?

QUESTION 27. Do you agree that the CMA should enjoy significant discretion over when a market has structural problems, such as to give rise to its consumer enforcement powers?

QUESTION 28. Do you agree that the CMA should retain responsibility for mixed market studies where there may be competition and consumer issues (supply and demand side market failures) present on the relevant market?

QUESTION 29. Do you agree that in an Option 3-based model, the Citizens Advice service should in future be responsible for pure consumer detriment analysis and that the CMA should not perform pure consumer market studies? In such a case, do you agree that the CMA should stop performing market studies once it identifies that there is no structural problem in such markets and do you think there should be a duty on the Trading Standards Policy Board to prioritise cases referred by the CMA?

QUESTION 30. Do you agree that the Government's proposed approach is a sensible way of ensuring effective collaboration between the various bodies in the proposed new landscape?

QUESTION 31. Do you agree that it would be helpful to have some resource that required joint agreement between the CMA, TSPB and consumer advocacy bodies for its release, to be used to investigate or address consumer and market issues that would otherwise risk an enforcement or advocacy gap? If so, at what level should such funds be set and how best should they be administered?

QUESTION 32. Do you believe that an enforcement model branded as run by Local Authority Trading Standards Services would deter illegal behaviour? If not, how could the threat of enforcement needed to back up self-regulatory schemes be made more credible?

QUESTION 33. Do you agree the TSI would be the appropriate home for the OFT's professional guidance and training functions in the event of creation of a new single Competition and Markets Agency?

QUESTION 34. Do you agree that the TSI is the most appropriate home for the OFT's international liaison and general policy functions in the event that the CMA has only a limited consumer enforcement role?

QUESTION 35. Do you think the requirement for LATSS' and other designated bodies'

(under Part 8 of the Enterprise Act 2002) court orders to be directed by a central body needs to be retained in the new consumer enforcement model and if so, why?

QUESTION 36. Do you agree that responsibility for chairing the consumer concurrencies group should remain with the CMA?

QUESTION 37. Do you agree that the current supercomplaints system to the OFT should be retained in respect of the CMA if the proposed changes go ahead?

QUESTION 38. Do you think that the supercomplaints process should be extended to require the Trading Standards Policy Board to issue a reasoned response if the subject matter of the complaint relates to consumer enforcement?

QUESTION 39. Do you think that a lead local authority could take on the OFT's estate agency and related anti-money laundering functions?

QUESTION 40. Do you agree that the proposed changes to the consumer enforcement landscape should go ahead if the creation of the CMA is delayed? If not, why not?

Annex 2 – Respondents

Aberdeenshire Council	Consumer Council for Water
Association of British Travel Agents (ABTA)	Consumer Credit Association
Association of Chief Trading Standards Officers (ACTSO)	Consumer Finance Association
Advertising Association	Consumer Focus
Advertising Standards Authority	Ray Cope
Age UK	Convention of Scottish Local Authorities (COSLA)
Association of Independent Tour Operators	David Hume Institute
Alliance against IP Theft	Debt Managers Standards Association
Anglian Water	Derbyshire County Council (CC)
Angus County Council Trading Standards (CCTS)	Devon CC
Allan Auty	Direct Selling Association
British Association of Removers	East of England TS Association
Barnsley Metropolitan Borough Council	East Midlands Trading Standards
British Air Transport Association	East Riding, Yorkshire
Jeffrey Bell	East Sussex CC
Laila Benfaida	ebay
BEUC – European Consumer organisation	EDF Energy
Blackpool Trading Standards (TS)	Electricity North West
Mark Boleat	Energy Retail Association
Bosch Car Service	Essex CCTS
Brighton & Hove TS	Financial Services Consumer Panel
British Airways	Financial Ombudsman Service
British Brands Group	Food Standards Agency
British Compressed Air Society	Forensic & Litigation Consulting
British Gas	FRESH – smoke free North East
British & Irish Ombudsman Association	Fundraising Innovations Ltd
British Retail Consortium	Furniture Ombudsman
BSI	Gemserv Ltd
BT	Glasgow CC
Buckinghamshire CCTS	Gloucestershire CCTS
Civil Aviation Authority (CAA)	Hampshire CCTS
Cambridgeshire CCTS	Haringey Council TS
Carpet Foundation	Hertfordshire CCTS
CBI	Highland Council
Central England TS Authorities	Gwen Holmes
Centrica	Home Retail Group
Cheshire East Borough Council	Paul Hunt
Cheshire West & Chester Council	Institute of Professional Willwriters
Children's Commissioner for Wales	International Consumer Policy Bureau
Citizens Advice and Citizens Advice Scotland	Islington Council TS
City of London TS	R&T Jebbett & J Purvin
Communications Consumer Panel	Joint Working Party of the Bars & Law Societies of the UK on competition law
Competition Commission	Tom Jones
Construction Licensing Executive	KGB
Consumer Council	Kingston-upon-Thames TS
	Law Society of England & Wales

Law Society of Scotland
 Local Better Regulation Office (LBRO)
 Legal Services Board
 Legal Services Consumer Panel
 Peter Lennon
 Local Government Group
 Local Government Ombudsman
 London School of Economics (LSE)
 Ken Lyle
 Manchester Metropolitan University
 David McCulloch
 MD Insurance Services Ltd
 Sharon Mills
 Claire Milne
 Mobile Broadband Group
 Money Advice Scotland
 Money Advice Service
 Money Advice Trust
 Motor Codes
 National Caravan Council
 National Consumer Federation
 National Energy Action
 North East TS Association
 Newport City Council TS
 National Federation of Property
 Professionals
 North Lanarkshire Council TS
 North Yorkshire CC
 Nottinghamshire CCTS
 Npower
 Dr Neil Ogg
 Ombudsman Services
 Ofcom
 Ofgem
 OFT
 Ofwat
 Office of Rail Regulation
 Prof P Cartwright, University of Nottingham
 Professor T H Pennington, Aberdeen
 University
 Personal Finance Education Group
 David Phillips
 Phonepay Plus
 Professor J F Pickering
 Plymouth City Council
 Portsmouth City Council TS
 The Property Ombudsman
 REAL Assurance Scheme
 Reference Line
 Renewable Energy Association
 Rhondda Council

RMI National Franchised Dealers
 Association
 Royal Mail
 Sainsburys plc
 St Helens Metropolitan Borough Council
 Society of Chief Officers of Trading
 Standards in Scotland (SCOTSS)
 Scottish Government
 Scottish Legal Aid Board
 Scottish Power
 Scottish Water
 Severn Trent Water
 Shelter Cymru
 Sky Broadcasting Group plc
 Somerset CC
 South Gloucestershire CCTS
 South West Water
 Southampton City Council
 Staffordshire CC
 Stockton on Tees Borough Council TS
 Sustain – alliance for better food and
 farming
 Swansea City & County
 Trading Standards North West
 Trading Standards South East (Buy with
 Confidence)
 Trading Standards South West
 Trading Standards Institute (TSI)
 TSI North East
 TSI Scotland
 Trustmark
 Howard Turton
 UK Accreditation Service (UKAS)
 UK Competitive Telecommunications
 Association
 Underage Sales
 University of East Anglia
 US Federal Trade Commission to UK
 uSwitch.com
 Vehicle Builders & Repairs Association
 Virgin Atlantic Airways
 Wandsworth Council TS
 Warwickshire CCTS
 Water UK
 Welsh Government
 West Yorkshire TS
 Which?
 Helen Woods
 York City Council
 Yorkshire & Humber Trading Standards
 Group

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Any enquiries regarding this publication should be sent to:

Department for Business, Innovation and Skills
1 Victoria Street
London SW1H 0ET
Tel: 020 7215 5000

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