Consumer Codes Approval Board cic
Chartered Trading Standards Institute
1 Sylvan Court, Sylvan Way
Southfields Business Park
Basildon, Essex, SS15 6TH
Telephone: 01268 888054
Fax 01268 582225
E-Mail: ccab@tsi.org.uk

Consumer and Competition Policy Directorate
Department for Business, Energy, and Industrial Strategy
4th Floor 1 Victoria Street
London
SW1H 0ET

Via email: RCCPconsultation@beis.gov.uk

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Consultation: Reforming Competition and Consumer Policy: Driving growth and delivering competitive markets that work for consumers

Response from the Consumer Codes Approval Board

The **Consumer Codes Approval Scheme** (CCAS) is facilitated self-regulation that aims to reduce consumer detriment. It aims to promote consumer interests by setting out the principles of effective customer service and protection. It goes above and beyond consumer law obligations and sets a higher standard, giving consumers a clear indication – through the right to display the CTSI Approved Code logo – that code members can be trusted.

The CCAS is committed to promoting codes of practice that meet our core criteria and have obtained CTSI approval. Code sponsor – A code sponsor is the organisation, firm or entity that administers and promotes a voluntary code of practice (as opposed to statutory codes) and can influence and raise standards within its membership. Code member – A code member is any member of a code sponsor. It is a requirement for the CCAS that all eligible members of a code sponsor's organisation sign up to the code.

The CCAS currently has 18 Code Sponsor organisations, 23 individual Codes of Practice covering almost 80,000 business members and over £97 billion of consumer spending covered by a Code of Practice. Sectors include car servicing and repairs, home building warranty providers, healthcare products, removals and storage, renewable energy, will-writers, car sales, carpet retailers, property sales and lettings. Codes will only be approved if they can clearly

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Registered office:
1 Sylvan Court, Sylvan Way
Southfields Business Park
Basildon, Essex SS15 6TH
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demonstrate that they are contributing to this objective. Codes approval is a rigorous and intensive process for code sponsors.

The **Consumer Codes Approval Board (CCAB)** is a Community Interest Company; the board is responsible for determining all matters relating to the approval of codes of practice and discharging its fiduciary responsibilities for the company; it consists of up to seven members.

There are three broad points that the CCAB would make in relation to the role of ADR:

1. **Importance of administrative scheme** – ADR is an important mechanism that has played a positive role is supporting consumer redress. It enables, when it works well, faster resolution outside of the courts for consumers. CCAB believes there are opportunities for further develop he scheme to stimulate further innovation that would ensure that consumers are better protected.

2. **Focus on highest risk sectors** – ADR should naturally focus on the areas of greatest consumer risk, helping to ensure effective redress more quickly where the biggest challenges exist. It therefore makes sense to extend the scheme to other high-risk sectors.

3. **Consistency of approach** – there are a number of challenges with the consistency of ADR scheme which make it less effective for consumers and there needs to be a focus on ensuring that schemes are comparable and of high quality so that consumers get the most effective service to deal with their issues. CCAB are less concerned about one single provider per sector provided consistency across different providers can be maintained.

There is a broader point about the role of CCAS and the potential to link this more formally to ADR schemes. For example, CCAS as a proven scheme that has demonstrated its value and impartiality could play a wider role overseeing ADR schemes to ensure consistency which in turn would support consumer confidence.

This response has been composed by members of the Consumer Codes Approval Board. If you have any questions or wish to discuss the response please do not hesitate to contact me at [redacted]@tsi.org.uk.

Yours sincerely
on behalf of the Consumer Codes Approval Board

[redacted]

Chartered Trading Standards Institute

This reponse is supplied by the Consumer Codes Approval Board and examines those areas of relevance to the CCAS scheme. CTSI has responded to the wider issues of the consultation in another, separate response.

Question 60 Under Part 8 of the EA 02 be reformed to allow for enforcement through an administrative model? What specific deficiencies do you expect this to address?

There has been support for the regulators to have a wide set of enforcement options and for them to be used more in markets that have impacted Trading Standards. In recent years the discussion has focussed on scam telephone calls and energy fraud and our desire for the regulators to be able to do more.

CCAS seeks to encourage proper delivery of consumer rights and customer service. Extremely transparent, administrative requirements, placed upon businesses to join a CCAS approved schemes and adhere to the relevant CCAS code of practice, would be an appropriate element of encouraging proper performance without prosecution. The CCAS offers many benefits to businesses and an enforced joining of one of the approved schemes may positively support a business towards wider compliance and engagement. Continued malpractice, despite the support of the scheme, should be seen as a factor towards deciding to prosecute a business or other enforcement action.

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

CCAS addresses the concern of supporting vulnerable consumers ensuring support and advice is provided to both the business and the consumer; this is highlighted within the core criteria of CCAS. It is possible for the CCAS to provide further documentation and support within this area as we understand the need to support both businesses and vulnerable consumers.

The definition of ‘vulnerable’ needs to be clear, CCAS defines this as it could include physical disability or health problems; mental health and other cognitive problems; low income; older people; consumers in isolated locations; consumers with poor basic skills; consumers with limited financial capabilities; consumers for whom English is not their first language; or consumers who have suffered a recent bereavement. This is by no means an exhaustive list and businesses must ensure their staff are aware of consumer vulnerability.

CCAS highlights the need for clear and accessible information points on websites and social media directing people to simple and understandable instructions on how to access information and processes. ADR use by vulnerable consumers should be supported by ADR schemes and the mandate of the ADR competent authority should allow them to ensure that that happens.

All business processes need to be less complicated with step-by-step communication with the consumer to aid them throughout the process.

ADR schemes need to have practices in place to assist in the identification of vulnerability and appropriate ways to record this so that it is acknowledged throughout the case handling process. Schemes also need to be flexible in their support of vulnerable consumers including being prepared to offer different contact channels and case handling timelines to meet the need of the specific type of vulnerability. Online only delivery may be possible in most circumstances but such processes need to be supported with additional contact channels for some types of

vulnerable user. Vulnerability or accessibility issues can impact the proper use of ADR by small traders as well as consumers.

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

A definition of ‘complex’, within the meaning of this legislation, would be useful for both business and consumer. The CCAS core criteria provide guidance and support in this area.

A preliminary independent assessment to evaluate the balance of responsibility for non-resolution and any implications for the business or consumer, would be helpful in this area.

A clear definition should allow for proper recognition, capture, and reporting of complex cases. Proper case categorisation in other areas is not usually as simple as a case being either complex or not and a more sophisticated approach to identifying and grading complexity might be helpful.

Question 67 What changes could be made to the role of the ‘Competent Authority’ to improve overall ADR standards and provide sufficient oversight of ADR bodies?

A dedicated, centralised approved list of ADR providers would be beneficial to both consumers and businesses. Whilst a list already exists on the CTSI website it is lacking in function and, with greater resources, could be better promoted.

The legislation empowering the Competent Authority needs to give them a stronger and clearer mandate. Audit and reporting periods should be more frequent and the Competent Authority should be able to increase these for bodies where they have identified potential problems. The Competent Authority should also be given a role in providing interpretation and guidance on the legislative criteria for approval, perhaps using a consultation and code of practice approach.

The Competent Authority needs to be properly funded and resourced to ensure the delivery of an appropriately robust system of approval and monitoring. A properly funded and resourced competent authority structure ensuring robust but accessible ADR procedures should be seen as supportive of good business as well as consumers.

Easy access for small businesses, particularly struggling or new businesses to business advisory services such as the Business Companion website and Business Education Service, will help those businesses comply with legislation and avoid disputes. A properly monitored approved ADR regime will allow businesses and consumers to resolve disputes where they do happen, without resorting to the adversarial environment of the courts. Approved Codes schemes such as CCAS, that encourage good business practice and use of ADR, support these mechanisms and go further to support businesses providing a wider view of their own delivery and that of their peers so that they can improve performance and further avoid disputes.

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

A dedicated centralised approved list of providers and defined arbitration process with time limits would be beneficial. Whilst a list already exists on the CTSI website it is lacking in function and, with greater resources, could be better promoted.

All ADR schemes should pride consumers with detail of their processes, time frames and expectations of the parties. They should also provide information as to the strength of any decision they make or the process they deliver. CCAS code schemes will generally require their members to use the scheme's approved ADR process AND to comply with any decision made against by that process. In effect whilst not binding in law, these decisions become binding by membership of the scheme and, as scheme membership has value within given sectors, this is likely a strong driver to comply with the decision which does not exist outside of membership in such schemes.

Question 69 Do you agree that government should make business participation in ADR mandatory in the motor vehicles and home improvements sectors? If so, is the default position of requiring businesses to use ADR on a 'per case' basis rather than pay an ADR provider on a subscription basis the best way to manage the cost on business?

Yes, we feel this should be mandatory in the two high detriment sectors. There is, however, a need for significant thought to be given to how this is achieved. Currently, there seems to be inconsistency within the sectors, e.g. processes and it is felt further clarity is required.

There is currently weakness within the sectors of the take up of ADR, CCAS requires all Code Sponsors to provide mandatory ADR for their consumers. It is felt that if this route is taken then it must be implemented fully and effectively and will require significant funding, and real commitment from Government, and of course dialogue with CCAB. Many of the businesses involved will be small and localised: second-hand car dealers, motor repairs, plumbers, builders, electricians. It will require considerable effort and discussion with trade associations to get these businesses into a mandatory system and cooperating with it. There must be sanctions for those that do not cooperate and at the same time, businesses must be treated fairly and not presented with unreasonable and unfair burdens.

Promotion of ADR to consumers will be key as most consumers know of the courts or 'small claims court', some recognise the idea of an ombudsman but most have little wider understanding of ADR, how to access and use it, or its benefits. As both sectors also contain many small or micro-businesses it will also be extremely important to promote awareness to these businesses. The business Education Service/Business Companion website would be useful tools as part of wider awareness-raising to business. The website is visited by 89,000 businesses each year.

CCAS would play a very important role in ensuring business awareness across these sectors as many businesses in the automotive and home improvement sectors are already members of CCAS code schemes.

Question 70 How would a 'nominal fee' to access ADR and a lower limit on the value of claims in these sectors affect consumer take-up of ADR and trader attitudes to the mandatory requirement?

What ADR schemes can charge and how they handle of costs of settling a dispute need to be very clearly defined by the legislation. To be approved as an ADR scheme, schemes should also have to provide clear explanations of these, to their potential users. All parties need to understand the true cost and complexity of using any given scheme.

Question 71 How can government best encourage businesses to comply with these changes?

CCAS is a dedicated independent scheme that supports both businesses and consumers with further support and visible recognition from government we could aid government in supporting businesses to continue to comply.

There are considerable overlaps with the use of consumer ADR and the practices of an approved Consumer Codes Approval Scheme. There are merits in wrapping approved ADR in a wider approved scheme mechanism as this allows added benefits to both traders and consumers. Membership of an approved code, under which there is an undertaking by the trader to use approved ADR, may have much more attractiveness as a marketing tool, to the trader, than approved ADR on its own.

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

Collective consumer redress is likely to provide good data that supports a position either way. It would also give weight to establishing precedents for ADR providers to base case decisions.

Well used ADR mechanisms and greater take up and compliance by businesses, of approved consumer codes of practice, would greatly reduce the need for more complex collective redress mechanisms.

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

Currently, the Code Sponsors utilise the Business Companion website as they work within the self-regulation sectors and this provides a level of support however further improvements could be the recognition of the Consumer Codes Approval Scheme.

Business guidance is often far too generic to be helpful to small businesses. Regulatory guidance needs to be packaged both for specific sectors and to support start-up businesses.