Reforming Competition and Consumer Policy Consultation - Response from the Buy With Confidence Partnership

Introduction

Buy With Confidence is the UK's only nationally available trader approval/accreditation scheme that's owned and controlled by Trading Standards services. Set up over 20 years ago, it is completely local government run and was created to ensure consumers (and particularly vulnerable consumers), have access to a list of fully checked and vetted businesses that they can have confidence in. Over 65 Trading Standards services are currently involved in Buy With Confidence, from Cornwall to Stirling.

Every business approved by Buy With Confidence has gone through a rigorous series of checks by Trading Standards professionals, to ensure they are trustworthy and legally compliant. They are then monitored to ensure they continue to provide good customer service. If a consumer has any issues with a business involved in the scheme, they are able to access advice and mediation provided directly by trained Trading Standards personnel. This mediation service is very successful, although for reasons detailed below, we are not currently an Approved ADR Provider under the current legislation.

Membership of the scheme is available across nearly all business sectors, as long as they can pass our vetting and adhere to our terms of membership. While this means we have approved all sorts of businesses, our core membership has always been the traditional 'trades'/home improvement sector, as well as the motor vehicle sector.

This consultation response is being provided by the Buy With Confidence Partnership, which is a collaboration between Heart of the South West Trading Standards (which covers the Devon, Plymouth, Somerset and Torbay council areas), Hampshire County Council Trading Standards Service, and Trading Standards South West. The Partnership owns the Scheme and provides the central administration and support for all the local authorities involved.

If you have any questions or would like to further discuss how schemes like Buy With Confidence can provide all-around consumer protection from ensuring accredited businesses are good and legally compliant (which includes working with businesses to improve their standards), to providing ADR if necessary, we would be extremely happy to hear from

you. You can contact us by email at admin@buywithconfidence.gov.uk or by phone on 01392 383430.

Consultation Response To Select Questions

Section 2.30 Fake Reviews (pg 91)

Q42: *Should government add to the list of automatically unfair practices in Schedule 1 of the CPRs the practice of (a) commissioning consumer reviews in all circumstances or (b) commissioning a person to write and/or submit fake consumer reviews of goods or services or (c) commissioning or incentivising any person to write and/or submit a fake consumer review of goods or services?*
C) would be the best 'catch all'

Q43: *What impact would the reforms mentioned in Q42 have on a) small and micro businesses, both offline and online b) large online businesses and c) consumers?*

a) The reforms may mean that smaller businesses struggle to compete in terms of volume of reviews compared to larger businesses
b) Large online businesses are likely to see a reduction in reviews, however the reviews left would be genuine and therefore more reliable for the consumer increasing confidence in reviews as a consumer tool for business selection.
c) Consumers may have less data to aid their selection if reviews are lower in volume, however the reviews that are left should be more reliable. Consumers would need to be educated on other ways to help ensure the business they choose to consume from is genuine and trustworthy – this should include both how to interpret the reliability of reviews, as well as that there are other key factors to consider as well.

Q44. What 'reasonable and proportionate' steps should be taken by businesses to ensure consumer reviews hosted on their sites are 'genuine'? What would be the cost of such steps for businesses?
Businesses could use a review site or accreditation scheme to gather their reviews for them (such as Buy With Confidence) who have robust measures for checking that reviews are genuine; these reviews could then be shared on their own websites using an API or other similar system. There would be a cost of association to such a scheme and this varies significantly from provider to provider.

Q45. Should government add to the list of automatically unfair practices in Schedule 1 of the CPRs the practice of traders offering or advertising to submit, commission or facilitate fake reviews?
Yes.

Supporting Consumers enforcing their rights independently (p116)

Q65. What more can be done to help vulnerable consumers access and benefit from Alternative Dispute Resolution?

Consider formalising ADR already provided by reputable trade associations where an equivalent or better standard as imposed by the Competent Authority can be demonstrated. For example, Buy With Confidence provides a robust mediation service supporting consumers and businesses to work together to find a resolution to their complaint. BWC is a commonly promoted as a tool used by Citizens Advice services to support vulnerable consumers when they need help finding reputable businesses. This is backed by support from local authority Trading Standards professionals. Additional barriers to schemes such as this providing good quality ADR should be avoided where they do not add value. However, the diffuse nature of Buy With Confidence (where it is provided by a multitude of local authorities), makes it difficult for it to become an approved ADR body without compromising the level of service/mediation provided. The issues are largely about the difficulty of ticking the right boxes under the current legislation, rather than the standard of the ADR or our ability to report results against it.

Q66. How can regulators and government balance the need to ensure timely redress for the consumer whilst allowing businesses the time to investigate complex complaints?

The 8 weeks proposed in the paper, and already used in existing ADR schemes, to allow the business to investigate a consumer complaint seems a fair timescale to have made good progress in investigating a complaint and to have the majority of simple matters resolved, however we recognise that it may not be sufficient in complex cases. This is particularly true where an expert witness or 3rd party testimony is required, and availability of such 3rd party is limited. BWC has seen this increasingly in the furniture sector where complaints are received regarding damage to sofas, chairs and suites and the availability of independent upholstery experts to appraise the damage before the complaint will be taken up, is proving exceptionally challenging and time consuming. The availability of a national expert witness panel may be of assistance although this would need someone to administer. The definition of complex complaint is difficult to quantify and will vary from sector to sector; who will decide if the complaint is in fact a complex one? We would however suggest that eight weeks was sufficient for a business/consumer engaged in complaint resolution to have identified any complexities or barriers to a swift resolution and to be able to give some estimation of tasks that remain to be completed after this point and approximate timescales. We would suggest that there should be an ultimate cut off time by which point referral to ADR would become absolute, this should probably be no more than six months.

Q67. What changes could be made to the role of the 'Competent Authority' to improve overall ADR standards and provide sufficient oversight of ADR bodies?

ADR providers should be assessed and a set of standards needs to be applied. Those standards need to be applied consistently providing benefits for both consumers and businesses. Also, there should be penalties for ADR providers that provide poorer levels of service and fail in their duties, as well as a penalty

of removal from service provision in the worst cases. To aid this, the Competent Authority needs to be properly incentivised to see themselves as a true oversight body and not solely an approver of ADR schemes. Currently there seems little incentive for the Competent Authority to robustly address issues raised about ADR providers, to investigate or force schemes to change potentially problematic practices that are detrimental to consumers.

Q68. What further changes could government make to the ADR Regulations to raise consumer and business confidence in ADR providers?
ADR needs to be promoted more as a key, government backed way of addressing issues. Consumer awareness is currently low and even once explained to them, consumers sometimes have reservations about its trustworthiness and independence, especially when they realise it is paid for by the business being complained about. However, better consumer understanding and promotion of the process and that the ADR is overseen by a body properly incentivised to ensure impartiality and independence, would be helpful. This could be things such as better promotion of positive cases that have come out of the ADR process.

Q69. 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 agree that participation in these sectors should be mandatory. A 'per case' basis would seem the fairest method of administering this. There are countless businesses who never receive complaints they can't resolve themselves, however, the offer of a subscription package should also be an option as this may provide a better value solution for businesses who typically receive a higher level of complaints and encourage them to engage with ADR without it becoming cost prohibitive.

Q70. 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?
A nominal fee to the consumer would help to deter spurious complaints, unnecessary delays or a refusal to attempt to negotiate in the first instance with the business before moving to a more formal resolution mechanism. It also brings some parity with the civil claims system. For all of the aforementioned reasons we would anticipate that businesses would welcome this fairer approach and sharing of initial commitments to evidence a more balanced approach to complaint resolution recognising that it is not always the business who is at fault. It may be worth including, however, that should the ADR procedure find largely in favour of the consumer, the business should include reimbursement of the nominal fee as part of any settlement.

Q71. How can government best encourage businesses to comply with these changes?

Offer a range of providers and allow organisations that businesses are already associated with to offer ADR as part of their existing membership packages. Buy With Confidence currently offers a mediation service included in the price of its membership. Our members value this support and it is regularly used as a means of checking consumer and business rights and responsibilities to resolve simple complaints, as well as a more in-depth negotiation service where the business' internal complaint resolution process has been exhausted. We have explored becoming an Approved ADR provider authorised by the competent authority (CTSI), however the administrative burden of doing so acted as a deterrent.

These difficulties particularly revolved around the fact that we offer a range of different types of mediation/help depending on the circumstances and type of business, but the legislation suggested we'd have to be less flexible and more proscriptive in what we did. There were also issues regarding the fact that dozens of Trading Standards Services are involved in running Buy With Confidence and it was not practical for all of these services to independently sign up. However, the solutions that involved a single service signing up as the central mediating body for the scheme were either cost prohibitive or involved an extensive increase in bureaucracy and control in a way that would not benefit either consumers or businesses. Therefore, we concluded that under the current model, it was better for us to stay outside – as we could offer a stronger service from outside than in. We have seen no detriment to either the scheme, our businesses or consumers resulting from this decision under the current rules, as have been able to continue to offer a successful and appreciated mediation service.

We would suggest that simple advice, e.g., clarification on a point of law to support a business when engaging with a consumer that only requires one short phone call or email should not be considered as ADR, this would seem an unnecessary burden for the provision of simple information that is available through many open-source channels. Sufficient promotion of any changes are also needed, as part of the issue with the current rules around ADR, is that the majority of businesses aren't aware of what their current obligations are, so unless well publicised it's unlikely they would adhere to changes.