

# Review Of The Consumer Credit Act 1974

A Consultation Document  
on Enabling and  
Facilitating the Conclusion  
of Credit and Hire  
Agreements Electronically  
Under the Consumer  
Credit Act 1974

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**Department of  
Trade and Industry**  
Consumer and Competition Policy Directorate

# **A Consultation Document on Enabling and Facilitating the Conclusion of Credit and Hire Agreements Electronically Under the Consumer Credit Act 1974**

## **CONTENTS**

- 1. INTRODUCTION AND SUMMARY**
- 2. LEGISLATIVE REQUIREMENTS**
- 3. THE ISSUES**
  - o The decision to contract electronically
  - o The form of a credit agreement
  - o Signature requirements
  - o Copies and cancellation
- 4. SUMMARY OF QUESTIONS**

## **ANNEXES**

**Annex 1 : List of Consultees approached**

**Annex 2 : Consultation Criteria**

# 1 INTRODUCTION AND SUMMARY

## 1.1 Introduction

In July 2001 DTI published a consultation document *Tackling loan sharks – and more!* which set out proposals to review the Consumer Credit Act. The document outlined the following priority areas for reform of the Act:

- \* increasing/removing the financial limit so that more credit agreements become regulated and reviewing the current exemptions under the Act
- \* making the early settlement regulations fairer
- \* enabling consumers to conclude credit agreements by electronic means
- \* reforming the licensing regime and targeting enforcement on keeping the loan sharks out of the market
- \* strengthening the protections for consumers against extortionate credit agreements
- \* simplifying the advertising regulations, including the regulations on APRs, and
- \* simplifying the rules on multiple agreements

We have already consulted on the first two issues and this consultation paper takes forward the third priority area – enabling consumers to conclude credit agreements electronically.

## 1.2 Summary

The Electronic Commerce Directive 2000 requires member states to ensure that their law allows contracts to be concluded by electronic means. The Directive has been transposed, for the most part, by the Electronic Commerce (EC Directive) Regulations 2002.

When these Regulations were laid, the Government gave a commitment to tackle any remaining legal obstacles to the recognition of electronically concluded contracts on a case by case basis under the appropriate primary or subordinate legislation. The Consumer Credit Act 1974 raises obstacles and difficulties for electronic contracting.

The Consumer Credit Act gives protection to individuals who enter into credit and hire agreements for amounts up to £25000. The Act lays down requirements as to the form and content of agreements, rights of cancellation, and procedures for dealing with default and termination of the agreement.

We aim to:

**Enable and facilitate consumer credit and hire agreements to be concluded by electronic means**

Some of the provisions of the Act and its regulations either preclude or raise doubts or difficulties for the conclusion of electronic contracts. We intend to deal with any such obstacles, doubts or difficulties.

**Enable and facilitate the wider contractual process to be effected electronically.**

We consider that, in the interests of enabling and facilitating electronic business, the whole contractual process (including communications after the conclusion of an agreement) should be able to be carried out electronically. The impact on electronic business of other aspects of the legislation, such as advertising, will be reviewed at a later stage in the review of the Consumer Credit Act.

**Ensure that necessary consumer protection is not removed or reduced**

Many of the provisions of consumer credit legislation play an important role in protecting consumers, and we do not intend our proposals to have the effect of reducing or removing necessary consumer protection.

**To the extent possible, take a technologically neutral approach, providing one set of rules for all contractual media**

We would like to provide one set of rules that works for paper as well as for electronic communications. To the extent that this is not possible, we intend that the rules for each medium will each provide the necessary consumer protection.

**Provide a sufficiently flexible regulatory framework that allows for electronic contracting by whatever means.**

The pace of change in electronic communications over the past five years has been dramatic. We have to expect that the pace over the lifetime of the new regulatory framework will be equally dramatic and the number and nature of the platforms will change in ways that are difficult to predict. It is therefore essential that we strike the appropriate balance, which will allow creditors and consumers to make the maximum use of these new technologies while retaining the necessary consumer protection. We also recognise that electronic communications might be carried out in many different circumstances, such as at business premises, from home or from an Internet café.

Our aim is, as far as possible, to “future proof” the legislation.

**Ensure that the regulatory framework complements, or is consistent with, other legislation**

The E-Commerce Regulations 2002 require, among other things, the provision of certain information where contracts are concluded by

electronic means. Similarly, the Distance Marketing of Consumer Financial Services Directive requires information to be given where contracts falling within its scope are carried out and concluded at a distance. Although the Distance Marketing of Consumer Financial Services Directive does not apply to all electronic contracts, we consider that it will apply to a significant proportion. Accordingly, we intend that the requirements of that Directive should apply to the consumer credit regime.

This consultation focuses on the issues arising in respect of consumer credit and hire agreements. DTI is also reviewing general issues affecting other non credit contracts, and our work on consumer credit legislation will need to tie up with the general review. It is hoped that the responses to this consultation will provide input not only for our work on consumer credit, but for the more general e-commerce work being undertaken by various Government Departments.

### **1.3 What we want from you:**

The main issues, proposals and options are set out in this consultation document, and include a number of questions on which we want your views. A summary list of the questions is in part four.

As already stated, this is the third consultation on the priority areas identified for review and consultees are therefore asked to confine their response to just the issues arising out of this consultation. The timing of subsequent consultations is currently as follows:

Licensing regime	Winter 2002/03
Extortionate credit	Winter 2002/03
Advertising regulations & APRs	Spring 2003
Multiple agreements	Spring 2003

## 1.4 Responses

You can respond to this consultation by e-mailing us at [stewart.dickey@dti.gsi.gov.uk](mailto:stewart.dickey@dti.gsi.gov.uk) or by writing to Stewart Dickey, Consumer and Competition Policy Directorate, Room 408, Department of Trade & Industry, 1 Victoria Street, London, SW1H 0ET. The deadline for responses is 28<sup>th</sup> March 2003.

We aim to publish a summary of the responses to this consultation in June 2003.

Your response to this consultation document may be made publicly available in whole or in part at the Department's discretion. If you do not wish all or part of your response (including your identity) to be made public, you must state in the response which parts you wish us to keep confidential. Where confidentiality is not requested, responses may be made available to any enquirer, including enquirers outside the UK, or published by any means, including on the Internet.

## 1.5 Consultees

Much of the preparatory work for this consultation has been undertaken through a series of focus groups with industry representatives, consumer groups and regulators.

We are sending this document to the consultees listed in Annex 3. Additional copies of this document may be made without seeking permission. Alternatively please see the Department's website.

<http://www.dti.gov.uk/ccp/>

or contact Nigel Creswick for additional copies.

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# TRANSACTING CONSUMER CREDIT BUSINESS BY ELECTRONIC MEANS – LEGISLATIVE REQUIREMENTS, THE ISSUES, AND OUR PROPOSALS

## 2 LEGISLATIVE REQUIREMENTS

There are three pieces of legislation of particular relevance to our proposals<sup>1</sup>:

### 1. Draft revised Consumer Credit Directive

The European Commission published its proposals in September 2002 for a revised Consumer Credit Directive (CCD). This seeks to modernise the existing directive, which dates back to the mid-1980s, and deliver a single market for consumers and creditors. It adopts a technology neutral approach and the Consumer Credit Act Review will need to take account of this draft and how it might affect our proposals. However, given that the draft is in the early stages of negotiation and is subject to change, we have not taken its specific provisions into account for the purposes of this consultation.

### 2. The Electronic Commerce (EC Directive) Regulations 2002 (S.I. 2002/2013)

Consumer credit and hire agreements made online will be covered by these Regulations. Anyone providing an information society service (which is summarised in recital 17 of the Directive as covering any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of the recipient of a service) must make available to the consumer in a form and manner that is easily, directly and permanently accessible, the following information:

- their name, geographic address and other contact details, including e-mail address;
- details of any trade register ;
- details of any supervisory authority;
- details of any relevant professional body/rules;
- VAT registration number if the online activity is subject to VAT;

They must also ensure that any references to prices are clear and unambiguous, and indicate whether they include tax and delivery (regulation 6).

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<sup>1</sup> Draft Revised Consumer Credit Directive  
[http://europa.eu.int/eur-lex/en/com/pdf/2002/com2002\\_0443en01.pdf](http://europa.eu.int/eur-lex/en/com/pdf/2002/com2002_0443en01.pdf)

Electronic Commerce Directive and Regulations  
[http://europa.eu.int/eur-lex/pri/en/oj/dat/2000/l\\_178/l\\_17820000717en00010016.pdf](http://europa.eu.int/eur-lex/pri/en/oj/dat/2000/l_178/l_17820000717en00010016.pdf)  
[http://www.dti.gov.uk/cii/e-commerce/europeanpolicy/e-commerce\\_directive.shtml](http://www.dti.gov.uk/cii/e-commerce/europeanpolicy/e-commerce_directive.shtml)

Distance Marketing of Consumer Financial Services Directive  
[http://europa.eu.int/eur-lex/en/dat/2002/l\\_271/l\\_27120021009en00160024.pdf](http://europa.eu.int/eur-lex/en/dat/2002/l_271/l_27120021009en00160024.pdf)

Where a consumer contract is to be concluded by electronic means an information service provider must, prior to an order being placed by the consumer, provide in a clear, comprehensive and unambiguous manner:

- the different technical steps to follow to conclude the contract, so that recipients are aware of what the process will involve and the point at which they will commit themselves;
- whether or not the concluded contract will be filed by the service provider and whether it will be accessible. "Filing" is a legal concept in other Member States that would apply in the UK only where contracts are made with service providers established in those Member States;
- the technical means for identifying and correcting input errors prior to the placing of the order;
- the languages offered for the conclusion of the contract;
- the relevant codes of conduct he/she subscribes to and how to consult these electronically.

Where the service provider provides terms and conditions applicable to the contract, the service provider must make them available in a way that allows the consumer to store and reproduce them (regulation 9).

The Regulations also require that:

- service providers must acknowledge receipt of an order placed by a consumer through technological means without undue delay and by electronic means;
- service providers must ensure that there are appropriate, effective and accessible technical means by which the service user can identify and correct input errors before the order is placed.

These requirements do not apply in respect of contracts concluded exclusively by exchange of e-mail or equivalent individual communications.

Regulation 15 entitles a person (subject to the discretion of the court) to rescind a contract to which the Regulations apply where he has not had made available to him the means of identifying and correcting input errors as required by Regulation 11.

They also provide for sanctions for breach of the rules. We will need to consider whether these sanctions should apply in respect of consumer credit and hire agreements, or whether use of the range of sanctions already provided in the CCA would be more appropriate.

### **3. Distance Marketing of Consumer Financial Services Directive.**

The Distance Marketing of Consumer Financial Services Directive (“DMFSD”), which is due to be transposed into UK law by 9<sup>th</sup> October 2004, lays down requirements where business is conducted exclusively at a distance. We intend to take account of its provisions in formulating our proposals. HM Treasury is expecting to consult on the implementation of the DMFSD in Spring 2003.

The requirements in the DMFSD, which are of particular relevance are that the consumer must be provided with information concerning

- the supplier - the information is similar to that required by the ECD Regulations;
- the financial service, such as the total price to be paid, as well as any specific additional cost for the consumer of using means of distance communication;
- the distance contract – including the existence or absence of a right of withdrawal in accordance with the Directive and where the right exists, its duration and the conditions for exercising it, including the consequences of non-exercise of that right and information on early settlement.

In the case of telephone communications, provided the consumer has given his or her explicit consent, more limited information concerning the contract such as the total price to be paid can be given prior to the conclusion of the contract.

The required information must be provided in a clear and comprehensible manner in a way appropriate to the means of distance communication used. Whatever the means of distance communications used, the supplier is required to communicate to the consumer all the required contractual terms and conditions and the information referred to above on paper or on another durable medium available and accessible to the consumer in good time before the consumer is bound by any distance contract or offer.

In addition, at any time during the contractual relationship the consumer is entitled, at his request, to receive the contractual terms and conditions on paper. The consumer is also entitled to change the means of distance communication used, unless this is incompatible with the contract concluded or the nature of the financial service provided.

“Durable medium” (a term also used in the draft revised Consumer Credit Directive) is defined as:

“ any instrument which enables the consumer to store information addressed personally to him in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored.”

The ECD Regulations and the DMFSD affect the requirements that will apply to electronic consumer credit agreements. For example, they affect the provision of pre-agreement information to the consumer, the form of the

agreement and its communication to the consumer, the giving of copies and cancellation notices. These topics will be explored more fully below.

The coverage of the ECD Regulations, the DMFSD and the Consumer Credit Act (were it to allow for electronic contracting) are different. For example, some of the requirements in the ECD Regulations do not cover contracts negotiated exclusively by individual communication, even where this is by exchange of e-mail. Also, the Regulations do not cover paper, phone or fax communications.

The DMFSD covers only contracts negotiated *exclusively* at a distance, whether by e-mail, fax, paper, or other electronic communication. Unlike the CCA, it does not cover agreements with “business consumers” or hire agreements. However, given that these other legislative frameworks will cover a significant number of consumer credit agreements, and that our aim is for the CCA to provide a single regime for all agreements within its scope, we consider that the requirements in those pieces of legislation should apply to all agreements in the CCA regime, with appropriate adaptations or exceptions where necessary.

### **3 THE ISSUES**

#### **The decision to contract electronically**

We intend to make it possible, but not mandatory, to contract electronically. The decision for both the lender and consumer as to whether to choose this medium raises a number of issues, such as whether they are able to do so technically, whether they have consented to doing so, and the reliability of the communications.

#### **The form of a credit agreement**

A number of the current provisions of the Consumer Credit Act are designed with paper transactions in mind. Therefore, they either preclude, or are unsympathetic to, the use of electronic media.

#### **Signature requirements**

Translating the provisions of the Act relating to signatures into the electronic world raises a number of issues about the relevance of the concept. We need to consider if current provisions, which confer protection on the parties by way of affirmation and verification, are necessary and, if so, how they can be provided for in respect of electronic communications.

#### **Copies and cancellation**

The Act contains requirements for the sending of copies of unexecuted and executed agreements. This concept might not be appropriate in an electronic age and other provisions, which require the furnishing of certain information to the consumer and for the consumer to be able to store and reproduce the information, might afford equivalent protection to that conferred by the Act’s current provisions. Similarly we need to look at the current provisions for cancellation rights.

#### **Questions**

- 1) Should we seek to apply a single regime to all credit agreements, applying the DMFSD and ECD Regulations despite their different coverage?
- 2) Do you think the sanctions contained in the ECD Regulations give consumers completing an electronic agreement sufficient protection?
  - a) If not, which sanctions contained in the CCA should be retained?
- 3) Are there any other significant issues, not dealt with in this paper, which might affect the possibility of electronic contracting under the CCA?

## **1. The decision to contract electronically**

- 1.1 We intend to make it possible for both lenders and consumers to conclude agreements electronically. The decision for both parties as to whether to choose this medium raises a number of issues, such as whether they are able to do so technically, whether they have consented to doing so, and the reliability of the communications.
- 1.2 The choice of the lender and consumer as to whether to contract electronically may be influenced by commercial or financial considerations or by the availability of the appropriate technology. But we consider that the regulatory framework should not hamper the parties' choice of medium by making it unnecessarily burdensome to contract either on paper or electronically. It is important that any regulatory framework provides the lender and consumer with equal confidence in the contractual process. The effects of the safeguards currently built into the paper-based system must be applied to the electronic environment. In addition, other safeguards might be necessary to take account of differences between paper and electronic transactions; for example, in the case of the former, the legibility and form of a document should be the same whether in the hands of the lender or consumer, but with electronic transactions, they might differ depending for example, on the hardware and software of the two respective parties. In the e-world it will be necessary to ensure that information, or the way it is presented, is legible and cannot be manipulated to the detriment of the consumer.

The issue sub-divides into three main categories:

- o legibility of the agreement
- o record keeping
- o post agreement communications

## **2. Legibility**

### **Issues**

- 2.1 Where business is transacted electronically, it is essential that the agreement and other communications between the parties are in a readable form. The CCA requires that when the document is

presented to the consumer for signature, it is in such a state that all its terms are readily legible. In the paper world, the lender can be fairly confident that the form and presentation of the document that he/she sees is identical to that which the consumer sees. In the electronic world, however, he cannot make this assumption. In order to ensure that the consumer has the technical capability to read his/her copy of the electronic document and that the lender knows the copy is complete, we consider that certain safeguards need to be built into the legislation.

## **Proposals**

- 2.2 The lender needs to be confident that the consumer is able to read in its entirety the agreement and all other documentation transmitted to him/her. This could be achieved to some extent by the consumer completing his/her application on line, or by the lender seeking a response that demonstrates the consumer's ability to read the document. In the US, for example, we understand that businesses that are required to provide information to consumers in writing may do so using electronic means only if the consumer consents in an electronic manner that reasonably demonstrates the consumer's ability to access the electronic record.

## **Questions**

- 4) Do you consider that it is necessary to make specific provision to ensure legibility of electronic communications?
- 5) Do you consider that the proposals achieve the right balance between providing minimum regulation and necessary protection for both the consumer and lender?
- a) In what circumstances might additional protections be required?
- 6) Do you envisage all media (including mobile phones or television) to be capable of enabling electronic credit agreements?
- 7) Can you give examples of media we may not have thought about that could now, or in the future, be used to enable the conclusion of agreements?

## **3. Record-Keeping**

- 3.1 The ephemeral nature of electronic communication distinguishes it from paper. Legislation dealing with electronic communications has recognised this; the ECD Regulations require the terms and conditions of the contract to be provided to the recipient in a form that enables the recipient to store and reproduce them. The DMFSD contains a similar requirement, employing the "durable medium" terminology. In addition, the consumer is entitled, at his request, to receive the contractual

terms and conditions on paper. The implications of this will be explored further in the HM Treasury consultation on the DMFSD. Our initial view is that the consumer should not generally be charged if he/she exercises this entitlement (although there might be some circumstances in which a charge might be appropriate).

- 3.2 The above provisions appear to provide requirements for electronic contracts, which meet the same record-keeping objectives as those already in the CCA. The CCA contains provisions which ensure that the consumer has a true copy of the agreement – the agreement must be in writing, copies must be supplied both as a matter of automatic right, and on request.
- 3.3 In our view, the essence of the storage and reproduction requirements appears to be that the consumer must be able to make his/her own arrangements to store and reproduce the relevant communication and make it accessible for future reference. A storage site might be offered by the lender or a third party as an option for the consumer to select

### **Proposals**

- 3.4 In a similar way to the proposal on legibility, the lender should have to take reasonable steps to ensure that the consumer has the capability to store and reproduce documents sent to him/her.
- 3.5 The lender and consumer should be required to inform the other party of any circumstances, which might affect the consumer's ability to store and reproduce documents.

### **Questions**

- 8) How should the lender ensure the consumer is able to store and/or reproduce documents?
- a) Should the lender ask specific questions about the consumer's hardware and software and whether or not the consumer's access to the Internet is limited to, for example, a particular pc or Internet café?
- 9) Do you agree that the lender should not be entitled to charge for supplying a paper copy of the agreement and other documents relating to the contract? If not, in which circumstances should the entitlement apply?
- a) If a charge is to be permitted, should it be left to the lender, prescribed for in legislation, or subject to a limitation?

## **4. Post Agreement Communications**

### **Issues**

- 4.1 Once the agreement has been concluded, the parties will still need to communicate with each other. Statements, notification of changes to terms or rates, default notices, and certain other items have a prescribed form or content and/or have to be given in a particular way.

On the assumption that both lender and consumer will normally want to continue communicating by electronic means, having established that particular channel, we need to consider how to facilitate this and whether communicating electronically is appropriate in every circumstance that may arise during the lifetime of an agreement. In addition, consideration needs to be given to what should happen if the consumer no longer has the ability to continue using that medium, for example, due to a change in personal circumstances or if there are problems with Internet Service Providers and telecomms suppliers.

- 4.2 Some items that need to be sent to the consumer are of greater importance than others e.g. a default notice or a notification of an interest rate increase. It is debatable whether these items should only be sent electronically - the impact of a letter on the doormat might be greater than a message on a screen and the letter might be more likely to be read (and read promptly), particularly for consumers who use the internet only infrequently.
- 4.3 There are rules in the CCA and in the Interpretation Act regarding the service of documents and the deemed receipt of postal communications. We need to consider whether there should be corresponding rules for the receipt of electronic communications and, if so, how they should differ from the postal rules (if at all).
- 4.4 There is a greater likelihood of a change of e-mail address than postal address – the concept of using a “last known address” could therefore be equally valid for electronic communications. A consumer may not check his e-mails daily so delivery does not equate to reading what has been sent – but similarly not everyone opens his post every day.
- 4.5 We need to take account of the requirement in the DMFSD, which states, “the consumer is entitled to change the means of distance communication used, unless this is incompatible with the contract concluded or the nature of the financial service provided”. The HM Treasury consultation on the DMFSD will consider further the implications of this provision.

## **Proposals**

- 4.6 Where the lender or consumer considers that changes have occurred, or might occur, that could affect communication between them or the legibility of documents, he should be required to inform the other party. In certain circumstances, the lender might be required to obtain the consumer’s consent to further electronic communication, for example, if the changes significantly impact on the parties’ ability to communicate with each other electronically. Or, some communications such as notices changing interest rates might require confirmation of receipt by the consumer.

- 4.7 The consumer should be entitled to change the medium of communication; in certain circumstances this might entail an extra cost, which should have been explained clearly in the contract.
- 4.8 A case may be made for certain notices, such as, default notices and cancellation notices, to be sent by post as well as electronically, or if sent electronically, for an acknowledgement of receipt to be required. Under section 7 of the Interpretation Act, a statutory notice is deemed to have been received (unless the contrary is proved) in the normal course of post. An equivalent provision for deemed receipt could be implemented along similar lines. This would allow the lender to prove his communication was received if certain conditions were met (e. g. accurately addressed, in time and with any prescribed requirements relating to format etc.) The burden would then switch to the recipient to prove the communication was not received or was illegible. However we need to consider factors such as breakdowns, volumes of traffic and restricted access to, say, work based PCs.
- 4.9 Subject to such factors, it seems necessary and appropriate to provide for a deemed time of receipt of electronic communications, for example, the next working day. There are however certain provisions in the CCA which exclude the operation of section 7 of the Interpretation Act – see section 68(a) in the context of the cooling-off period. There might be certain provisions where a deemed receipt provision is not appropriate.
- 4.10 We would also propose to include provision about service of documents electronically, along the lines of section 176 of the CCA which deals with service of documents by post. The consumer could also be required to notify the lender of any change to his electronic address.

## **Questions**

- 10) Where the parties have agreed to contract and communicate electronically, is it appropriate for the legislation to require certain documents, such as default notices or cancellation notices to be sent by post in addition to electronic means?
- a) If “yes” to what documents should these requirements apply?
  - b) Is requesting an acknowledgement of receipt a satisfactory alternative to a requirement that certain messages are sent by post?
  - c) What should happen if no acknowledgement is received by a lender to a message sent out requesting a read receipt?
- 11) Is it appropriate to provide deemed receipt rules for electronic communications and, if so, what should they consist of?

- a) Is “next working day” the correct time span for deemed receipt?
  - b) How should difficulties such as breakdowns and consumers having limited access to PCs be dealt with?
  - c) Are there any situations where deemed receipt rules should not apply?
- 12) Alternatively should the question of deemed receipt and notification be left to the lenders to stipulate in their agreements?
- 13) Should there be a duty on the lender to follow up “no responses” by attempting to communicate with the consumer by different means?

## **5. The Form of a Credit Agreement**

### **Background**

- 5.1 The Act lays down extensive regulations on the form and content of credit agreements and cancellation notices. These requirements ensure that the consumer receives a particular set of information to enable him to make an informed decision on whether or not the credit agreement is right for him, and enables him to compare different offers of credit. The requirements also draw particularly important matters to the attention of the consumer, for example, warnings on the risks associated with a secured loan. The form and content requirements ensure that all the relevant information is provided in a form that the consumer can use effectively, and that the scope for abuse by unscrupulous lenders is minimised.

### **Issues**

- 5.2 The rationale for some of the form and content requirements of the CCA still holds good. The form requirements are various; they include requirements as to legibility; statutory forms; requirements for information to be “shown together as a whole”; and requirements for relative prominence. We wish to maintain the necessary consumer protection afforded by the rules, but we recognise that some requirements make electronic contracting impossible (for example, references to colour of paper); or raise doubts or difficulties (potentially the requirements on statutory forms and information being “shown together as a whole”). If possible, we would like to provide a single regime of form requirements that applies equally to paper and electronic media.

### **Proposals**

- 5.3 We propose to amend the form requirements of the Act where they preclude or cause significant difficulties or doubts for electronic

contracting. We consider that many of the form provisions could be omitted or amended without loss of necessary consumer protection. For example, we do not consider that the legibility requirement need refer to the colour of the paper; and the objective that statutory forms serve of bringing important issues and warnings to the attention of the consumer might be able to be achieved by other means, such as relative prominence requirements.

- 5.4 Although we consider that there are advantages in providing a single regime for paper and electronic media, the peculiarities of electronic contracting might require some different treatment. For example, the ECD Regulations require there to be effective and accessible technical means by which a service user can identify and correct input errors before an order is placed. We consider this is an important protection for consumers taking out credit agreements, but see no necessity to duplicate this for paper transactions. Given the speed of the electronic medium, an appropriate safeguard might be built in to ensure that consumers have to scroll through the contract document before agreeing to it. Alternatively, it might be considered that wording and prominence requirements offer the necessary element of caution and nothing further is needed. The active and interactive nature of the electronic medium might also suggest that particular provisions need to be made, for example to prevent pop-up boxes and flashing advertisements diverting the consumer's attention. This safeguard might be able to be achieved for paper and electronic communications by a "non-interspersion" requirement, or it might require different measures for electronic contracting.

## **Questions**

- 14) Which provisions of the CCA, relating to the form and content of the agreement and cancellation notices, do you consider either prevent electronic contracting, or cause doubts or difficulties for electronic contracting? Please explain why.
- 15) Do you believe that consumers contracting electronically should be required to scroll through the entire document, and / or should the emphasis be on the prominence of the key information?
- 16) Do you consider that the differences between paper and electronic media suggest that some different form requirements might be necessary for the respective media? If so, please explain which requirements might be different and the reasons why they should be.
- 17) How should we deal with the requirement in the ECD Regulations, which gives consumers the opportunity to identify and correct input errors prior to conclusion of the contract, in its application to credit agreements?

## 6. Signature Requirements

### Background

- 6.1 The CCA requires there to be a signed document in a prescribed form itself containing all the prescribed terms and conforming to the Agreements Regulations 1983. The signature requirement exists for a number of reasons including:
- verification of the persons seeking to conclude the agreement;
  - confirmation that the consumer has had an opportunity to read and consider the terms and conditions of the agreement;
  - an acceptance of being bound by those terms and conditions.
- 6.2 Further, although in general law, the position of the signature is irrelevant, the CCA requires the signature to be effected in compliance with the Agreements Regulations 1983. The Regulations prescribe the mode of signature of regulated consumer credit and hire agreements, and contain the various forms of signature box applicable to different types of agreement. The consumer must sign within the requisite signature box, the creditor outside it. The regulation also provides for the insertion of the dates of signature (or in the case of a non-cancellable agreement the date on which the unexecuted agreement becomes an executed one). The reason for these requirements is to give particular prominence to the effect of the signature – this helps to bring to the consumer’s mind the seriousness of the commitment he/she is making, and this is emphasised by the wording in the boxes.
- 6.3 There are various forms of electronic “signature”, varying from digital signatures, a scanned manuscript signature, the typing of a name, a tape recording, the use of a PIN or Password to clicking a mouse button on a particular place on a screen.

### Issues

- 6.4 The need for the protections described above remains irrespective of the means of communication between the lender and consumer. So the “signature” requirements of the legislation need to:
- enable caution, encourage deliberation and reflection before action, and signify that the document has legal consequences;
  - provide evidence that the consumer has had the opportunity to give his/her full attention to the document;
  - record the parties to an agreement; and
  - assist in providing evidence of the intention of the parties.
- 6.5 Some of the above objectives are met not so much by the signature requirement itself, but the form requirements, such as signature boxes. We consider, however, that signature boxes are not compatible for all forms of electronic signature; an electronic signature which includes non-visible code as a central part of its authenticating function (rather

than just as a means of encoding the way in which it is to appear visibly) risks not complying with a signature box requirement.

## **Proposals**

6.6 We want to ensure that the necessary protections offered by the signature requirements of the CCA are maintained. In the same way as the CCA does not require a particular form of signature, such as a full name to be handwritten, we do not intend to preclude this or any form of electronic signature, so long as the policy objectives set out above are satisfied. Some of the issues described above could be dealt with at present by electronic means, but there are others, for example concerning evidence, which would preclude, or cause difficulties for electronic contracting. We would wish to replace these with other requirements that fulfil the same policy objectives. This is likely to mean replacement of signature box requirements with other requirements, such as relative prominence and prescribed instructions for execution to be included in the document. It might also mean a departure from the “signature” terminology to a requirement to fulfil certain criteria, which could be met by all forms of electronic signature, as well as for paper transactions. We would hope to be able to put in place a single regime for paper and electronic transactions.

## **Questions**

- 18) Do you agree that the four policy objectives of “signature” requirements, described under “Issues”, provide necessary consumer protection?
- 19) Which of the current signature requirements of the CCA either preclude, or raise doubts or difficulties for, electronic contracting and signatures?
  - a) How should such requirements be modified; or should any be removed?
- 20) How does a lender make sure a consumer has not “clicked” or “signed” on an electronic agreement by mistake or before having had the opportunity to read all the detail regarding the agreement?
- 21) How will lenders ensure they are dealing with the person identified on the application form or agreement?
- 22) Do you consider a single regime for signature requirements on paper or electronic transactions would be desirable? If not, how should the requirements differ between paper and electronic transactions?

## **7. Copies**

### **Background:**

7.1 The CCA requires consumers to be given a copy of the unexecuted agreement as well as the executed agreement. The normal process is that the consumer receives the unexecuted agreement, enabling consideration of the offer without having to make a commitment, and

then if content signs it. The consumer is then provided with a copy of the final agreement concluded between himself and the lender, enabling comparison with the unexecuted version, providing an assurance that it has not been changed, and ensuring that he/she has a record of the final agreement. Receipt of the final agreement might also trigger the starting date for any cancellation period.

7.2 We consider that the CCA copy requirements need to serve a number of functions:

- the consumer should be provided with a copy of the terms and conditions of the agreement so that he/she can consider them before deciding whether to enter into the contract;
- the consumer needs to be provided with a copy of the agreement, in the form in which it was concluded, so that he/she can ensure that it reflects the terms and conditions that were considered earlier, and have a record of the agreement;
- the consumer should be aware of whether the agreement has been concluded and on which date;
- the consumer needs to know the starting date of the contract and any cancellation period.

## **Issues**

7.3 The concept of an “executed” agreement – a document signed by the parties – might not be necessary or workable for all forms of electronic contract.

7.4 There might be ways in which the objectives set out above can be satisfied (both for paper and electronic transactions) other than by the current requirements in the CCA.

7.5 As mentioned above under Legislative Requirements, the DMFSD requires that, in good time before the consumer is bound by any distance contract or offer, he/she is provided with all the contractual terms and conditions and certain information on paper or on another durable medium. If such a requirement were applied to all CCA agreements, it would appear to make superfluous the requirement to provide a copy of the unexecuted agreement. Where the consumer did not have to return the terms and conditions, the requirement would also provide the consumer with a record of the agreement. (This objective is further met by the requirement in the DMFSD for the consumer to be able, at his request, to receive the contractual terms and conditions on paper).

7.6 However if the terms and conditions are provided to the consumer on paper and they are returned to the creditor as part of the contractual process, the consumer needs to be provided with a final copy of the agreement.

- 7.7 The consumer also needs to know the date on which the agreement has been concluded and the starting date for any period of cancellation. We need to ensure that this objective is satisfied, for example, by a requirement for the creditor to inform the consumer of the date of conclusion of the agreement and, if appropriate, a further cancellation notice (on which see further below).

### **Proposal**

- 7.8 We consider that the objectives of the current copy requirements could be met in a different way, which does not use the concepts of “unexecuted” and “executed” agreements, and which could therefore be met both by paper and electronic agreements. We need to make provision for the situation where the consumer returns to the creditor the terms and conditions of the agreement as part of the contractual process and is therefore left with no record of the final form of agreement. We also need to ensure that the consumer is aware of the date of the conclusion of the contract, (which might also be the date from which the cancellation period starts). Finally, we need to ensure that the consumer receives all the necessary information– the CCA requirement for the consumer to be given a copy of the executed agreement and of any other document referred to in it might go beyond the requirement in the DMFSD to provide a copy of certain information and the terms and conditions of the contract.

### **Questions**

- 23) Do you agree that the requirements for unexecuted and executed copy agreements could be dispensed with for all transactions – paper based and electronic? If not, to which should they apply and why?
- 24) Is it necessary, even when the consumer has completed an agreement electronically, for the lender to send to the consumer a final copy of the completed agreement?

## **8. Cancellation**

### **Background:**

- 8.1 The Act provides consumers with rights of cancellation in certain circumstances. These circumstances include where the pre-contractual negotiations included oral representations made in the presence of the consumer and the consumer does not sign the agreement at the creditor’s premises. The rights act as a protection for consumers who may have been pressurised into concluding an agreement. The lender is required to notify the consumer where the cancellation rights apply. This is viewed as an important measure, and removes the need for consumers to establish whether or not they have such a right.
- 8.2 Rights of cancellation also exist under the DMFSD, which states that the consumer has the right to withdraw from a contract within a period of 14 days counting from when the contract was concluded, or the time

the consumer received the full details of the terms and conditions (if later). Again the lender is required to notify the consumer of this right before he/she is bound by the contract.

- 8.3 The respective rights provided by the CCA and the DMFSD do not distinguish between electronic and paper transactions – in principle, those rights could apply to an agreement made in either form, but it is likely that the DMFSD in particular will affect many electronic agreements. The issues raised above in relation to the form and content of agreements, the transmission of information and documentation, and copies of agreements all affect issues relating to cancellation. Finally, the ECD Regulations give a right to rescind contracts where service providers have not complied with the requirements to enable input errors to be corrected before an order is placed.

## **Issues**

- 8.4 The issues which we think it right to consider are:
- Should all consumer credit agreements be cancellable?
  - Should the 14 day cancellation period for distance contracts be extended to all cancellable agreements, and should it start on the dates provided in the DMFSD?
  - When and how should the consumer be informed of his rights of cancellation?
  - How should the consumer exercise his right of cancellation?
- 8.5 The current rules concerning cancellation are complex. It is not always clear whether an agreement is cancellable, and these doubts might be exacerbated by the DMFSD, which will reduce the category of non-cancellable agreements.
- 8.6 The CCA generally provides for a five day period of cancellation, from the conclusion of the agreement or from when the consumer is notified that the agreement is concluded. For agreements secured on land there is a 14 day cooling off period before the agreement can be concluded. The CCA requires that a notice of cancellation rights be included in a copy of an unexecuted or executed cancellable agreement, and also to be sent separately in some circumstances.

## **Proposals**

- 8.7 We consider the rules on cancellation could be simplified (and in any event would need to be amended as a consequence of the proposals for executed and unexecuted agreements). In view of the fact that the draft revised Consumer Credit Directive states that all consumers

should have a right or withdrawal from all credit agreements we are of the view that the opportunity should be taken to make all credit agreements subject to a cancellation period of 14 days. It will, of course, be necessary to deal with how the lender recovers the money lent after the consumer has cancelled but this would be in line with current proposals in the Consumer Credit Directive

- 8.8 In our view, it is important that the consumer receives notice of cancellation rights before he/she concludes the contract. The consumer should also receive notice of his/her rights at the time the cancellation period commences – whether in the final copy of the agreement or as a separate notice. This latter issue will depend largely on which proposals on the supply of copies of agreement are taken forward.
- 8.9 A further issue is whether the notice of cancellation rights at the conclusion of the agreement can be sent electronically and, if so, whether it requires a specific acknowledgement of receipt. The question of the mode of communication is also relevant to the notice of cancellation sent by the consumer.

### **Questions**

- 25) Bearing in mind the Consumer Credit Directive and the proposal that all credit agreements should be subject to 14 days cooling off period, are there any credit agreements where a cancellation period is not appropriate?
- 26) Is it appropriate for notice of cancellation rights or a cancellation notice to be sent electronically only?
- 27) Should a final or second notice of cancellation rights always be sent to the consumer after the conclusion of the agreement?

### **Regulatory Impact Assessment**

No Regulatory Impact Assessment (RIA) has been made at this stage as this consultation document is exploring a number of options, rather than defined proposals for amending the CCA.

It will be up to lenders whether or not they offer credit contracts electronically. However there may be clear benefits and eventual cost savings for both lender and consumer in being able to offer paperless agreements.

It will be difficult to quantify the costs and benefits arising from enabling on line agreements but we would appreciate it if respondents could give us some idea of the likely costs for setting up new systems and the long term running costs and benefits that may result from our proposals.

In particular we are interested in the following:

- Cost of establishing online system
- Ability to offer lower cost products to consumers contracting online.
- Any other costs or benefits we have not anticipated
- Likely increase in business.

Please provide information on the above points.

## 4 SUMMARY OF QUESTIONS

### LEGISLATIVE REQUIREMENTS

- 1) Should we seek to apply a single regime to all credit agreements, applying the DMFSD and ECD Regulations despite their different coverage?
- 2) Do you think the sanctions contained in the ECD Regulations give consumers completing an electronic agreement sufficient protection?
  - a) If not, which sanctions contained in the CCA should be retained?
- 3) Are there any other significant issues, not dealt with in this paper, which might affect the possibility of electronic contracting under the CCA?

### The decision to contract electronically

#### 1. Legibility

- 4) Do you consider that it is necessary to make specific provision to ensure legibility of electronic communications?
- 5) Do you consider that the proposals achieve the right balance between providing minimum regulation and necessary protection for both the consumer and lender?
  - a) In what circumstances might additional protections be required?
- 6) Do you envisage all media (including mobile phones or television) to be capable of enabling electronic credit agreements?
- 7) Can you give examples of media we may not have thought about that could now, or in the future, be used to enable the conclusion of agreements?

#### 2. Record-Keeping

- 8) How should the lender ensure the consumer is able to store and/or reproduce documents?
  - a) Should the lender ask specific questions about the consumer's hardware and software and whether or not the consumer's access to the Internet is limited to, for example, a particular pc or Internet café?
- 9) Do you agree that the lender should not be entitled to charge for supplying a paper copy of the agreement and other documents relating to the contract? If not, in which circumstances should the entitlement apply?
  - a) If a charge is to be permitted, should it be left to the lender, prescribed for in legislation, or subject to a limitation?

#### 3. Post Agreement communications

- 10) Where the parties have agreed to contract and communicate electronically, is it appropriate for the legislation to require certain

documents, such as default notices or cancellation notices to be sent by post in addition to electronic means?

- a) If “yes” to what documents should these requirements apply?
  - b) Is requesting an acknowledgement of receipt a satisfactory alternative to a requirement that certain messages are sent by post?
  - c) What should happen if no acknowledgement is received by a lender to a message sent out requesting a read receipt?
- 11) Is it appropriate to provide deemed receipt rules for electronic communications and, if so, what should they consist of?
- a) Is “next working day” the correct time span for deemed receipt?
  - b) How should difficulties such as breakdowns and consumers having limited access to PCs be dealt with?
  - c) Are there any situations where deemed receipt rules should not apply?
- 12) Alternatively should the question of deemed receipt and notification be left to the lenders to stipulate in their agreements?
- 13) Should there be a duty on the lender to follow up “no responses” by attempting to communicate with consumer by different means?

#### **4. The Form of a Credit Agreement**

- 14) Which provisions of the CCA, relating to the form and content of the agreement and cancellation notices, do you consider either prevent electronic contracting, or cause doubts or difficulties for electronic contracting? Please explain why.
- 15) Do you agree that consumers contracting electronically should be required to scroll through the entire document, and / or should the emphasis be on the prominence of the key information?
- 16) Do you consider that the differences between paper and electronic media suggest that some different form requirements might be necessary for the respective media? If so, please explain which requirements might be different and the reasons why they should be.
- 17) How should we deal with the requirement in the ECD Regulations which gives consumers the opportunity to identify and correct input errors prior to conclusion of the contract, in its application to credit agreements?

#### **5. Signature Requirements**

- 18) Do you agree that the four policy objectives of “signature” requirements, described under “Issues”, provide necessary consumer protection?
- 19) Which of the current signature requirements of the CCA either preclude, or raise doubts or difficulties for, electronic contracting and signatures?
- a) How should such requirements be modified; or should any be removed?

- 20) How does a lender make sure a consumer has not “clicked” or “signed” on an electronic agreement by mistake or before having had the opportunity to read all the detail regarding the agreement?
- 21) How will lenders ensure they are dealing with the person identified on the application form or agreement?
- 22) Do you consider a single regime for signature requirements on paper or electronic transactions would be desirable? If not, how should the requirements differ between paper and electronic transactions?

#### **6. Copies**

- 23) Do you agree that the requirements on unexecuted and executed agreements could be dispensed with for all transactions – paper based and electronic? If not, to which should they apply and why?
- 24) Is it necessary, even when the consumer has completed an agreement electronically, for the lender to send to the consumer a final copy of the completed agreement?

#### **7. Cancellation**

- 25) Bearing in mind the Consumer Credit Directive and the proposal that all credit agreements should be subject to 14 days cooling off period, are there any credit agreements where a cancellation period is not appropriate?
- 26) Is it appropriate for notice of cancellation rights or a cancellation notice to be sent electronically only?
- 27) Should a final or second notice of cancellation rights always be sent to the consumer after the conclusion of the agreement?

## ANNEX 1

### Consultees approached include:

#### CHARITABLE BODIES

Age Concern  
The Campaign for Interest-free Money  
The Christian Council for Monetary Justice  
Church Action on Poverty - Debt on our Doorstep  
Church Action on Poverty North East - Debt on our Doorstep  
Help The Aged  
Mary Ward Legal Centre  
National Council for Voluntary Organisations  
One Parent Families  
Prospect Community Housing  
Royal National Institute for the Blind  
SAFE  
Scottish Churches Parliamentary Office  
Teacher Support Network  
Zacchaeus Trust

#### CONSUMER ORGANISATIONS

Birmingham Settlement  
Citizens Advice Scotland  
Community Finance Solutions  
Consumers' Association  
Consumers' Association of Singapore  
Federation of Independent Advice Centres  
Financial Services Consumer Panel  
General Consumer Council for Northern Ireland  
Gloucestershire Money Advice Service  
Institute of Consumer Affairs  
International Consumer Policy Bureau  
Money Advice Scotland  
Money Advice Trust  
National Association of Bank & Insurance Customers  
National Association of Citizens Advice Bureaux  
National Association of Citizens Advice Bureaux (North Region)  
National Consumer Council  
The National Consumer Credit Federation  
National Consumers Federation  
National Debtline  
North West London Consumer Credit Group  
Salford Anti Poverty Unit  
Salford Money Line  
Scottish Consumer Council  
Sheffield Citizens Advice Bureaux Debt Support Unit  
Welsh Consumer Council

#### CREDIT & HIRE INDUSTRY

##### ORGANISATIONS

Association for Payment & Clearing Services  
Association of British Credit Unions Limited

British Bankers Association  
British Cheque Cashers Association  
British Vehicle Rental & Leasing Association  
Building Societies Association  
Construction Plant Hire Association  
Consumer Credit Association  
Consumer Credit Trade Association  
Corporation of Finance Brokers Limited  
Council of Mortgage Lenders  
Credit Card Research Group  
Credit Services Association  
Finance & Leasing Association  
Hire Association Europe  
Institute of Credit Management  
National Association of Mortgage Brokers & Advisers  
National Pawnbrokers Association

#### CREDIT REFERENCE AGENCIES

Callcredit PLC  
Credit Data & Marketing Services  
Dun & Bradstreet Limited  
Equifax Limited  
Experian Limited

#### EUROPEAN COMMISSION/GOVERNMENT

Bank of England  
Cabinet Office  
Charity Commission  
Commission for Racial Equality  
Department of Enterprise Trade & investment  
DTI, Small Business Service  
Equal Opportunities Commission  
European Commission – Directorate General XXIV  
Fiji Ministry of Commerce Business Development & Investment  
Guernsey Trading Standards  
House of Commons Library  
Lord Chancellor's Department  
The National Assembly for Wales  
National Audit Office  
Office of Fair Trading  
Office of the Information Commissioner  
Scotland Office  
Scottish Executive  
HM Treasury  
United Kingdom Permanent Representation to the European Union  
Wales Office

#### JOURNALS

The Big Issue South West  
Consumer Law Today  
Credit & Car Finance  
This is money  
TS Today

## **LEGAL PROFESSION & SIMILAR BODIES**

The Association Of District Judges  
The Association Of District Judges - Law  
& Procedure Sub-Committee  
Faculty of Advocates  
Financial Law Panel Limited  
Forum of Insurance Lawyers  
The General Council of the Bar  
Law Centres Federation  
Law Commission  
The Law Society  
The Law Society of Northern Ireland  
The Law Society of Scotland  
Scottish Law Commission  
Sheriffs Association

## **LOCAL AUTHORITIES**

Aberdeenshire Council  
Bedford Library  
Birmingham City Council  
Blackpool Borough Council  
Blaenau Gwent Council  
Bournemouth Borough Council  
London Boroughs of Brent & Harrow  
Trading Standards  
London Borough of Bromley  
Bury Metropolitan Borough Council  
City of Coventry  
London Borough of Croydon  
Cumbria County Council  
Dorset County Council  
London Borough of Council  
East Ayrshire Council  
East Dunbartonshire Council  
Essex County Council  
Gateshead Metropolitan Borough Council  
Glasgow City Council  
South Gloucestershire Council  
London Borough of Hammersmith &  
Fulham  
Hampshire County Council  
London Borough of Havering  
Hertfordshire County Council  
London Borough of Hounslow  
Inverclyde Council  
Kent County Council  
Lancashire County Council  
Leeds Central Library  
Lincolnshire County Council  
North Lincolnshire Council  
Milton Keynes Council  
London Borough of Newham Social  
Regeneration Unit  
London Borough of Newham Trading  
Standards & Consumer Protection  
Northumberland Council  
Powys County Council  
St Helens Metropolitan Borough Council  
Sheffield City Council  
Stirling Council  
Stockport Metropolitan Borough Council  
Suffolk County Council

Surrey County Council  
London Borough of Sutton  
Swindon Borough Council  
Tameside Metropolitan Borough Council  
Tees Valley Joint Strategy Unit  
Torbay Council  
Warrington Borough Council  
West Sussex County Council  
West Yorkshire Trading Standards  
Wiltshire County Council

## **LOCAL AUTHORITY ASSOCIATIONS**

Association of Local Authorities in  
Northern Ireland  
Association of London Government  
Convention of Scottish Local Authorities  
Local Government Association  
Welsh Local Government Association

## **OMBUDSMAN**

Financial Ombudsman Service  
The Ombudsman for Estate Agents

## **ORGANISATIONS REPRESENTING SMALL**

### **FIRMS**

Alliance of Independent Retailers &  
Businesses  
Association of Independent Businesses  
Federation of Small Businesses  
The Forum of Private Business  
The Independent Food Retailers  
Confederation  
London Personal Finance Association  
The Union of Independent Companies

## **OTHER BODIES, BUSINESSES OR**

### **INDIVIDUALS**

AA  
Abbey National PLC  
Jenny Adams  
Addleshaw Booth & Co  
Alasdair Warwood Consultancy Limited  
Anthony Sharp Associates  
AON Law Division  
A P Credit Services  
Appliance World  
Ashurst Morris Crisp  
Automation Industries Limited  
Baines Wilson  
Barclays Bank PLC  
Liz Bateman  
John Battle  
Beachcroft Wansbroughs  
Bell Pottinger Financial Limited  
Benton Finance Limited  
Berryman Shacklock  
Berwin Leighton Paisner  
Biggart Baillie  
Bird & Bird  
Blake Laphorn  
Blue Rock

BMW Financial Services (GB) Limited  
 BOC Limited  
 Bond Pearce  
 John Bone  
 B P Collins  
 Bretherton Price Elgoods  
 Bristol & West PLC  
 Britannia Building Society  
 Britannic Money PLC  
 British Gas  
 British Music Rights  
 British Property Federation  
 British Sky Broadcasting Group PLC  
 British Telecommunications PLC  
 O2 (BT Genie)  
 Brodies  
 Matthew Brodrick  
 Felix Budelmann  
 Buffalo Communications Limited  
 Burness  
 Business Connect IT Centre Bangor  
 Campaign for Plain English  
 Susan Campbell  
 Capital One Bank (Europe) PLC  
 Frank Card  
 Peter Cartwright  
 Michelle Casciaro  
 Cheltenham & Gloucester PLC  
 Lee Chesterman  
 CIFAS  
 Cims Limited  
 CitiCapital Fleet Limited  
 Citigroup - The Associates  
 Clarke Willmott & Clarke  
 Clarks  
 Clifford Chance LLP  
 CMS Cameron McKenna  
 Coffin Mew & Clover  
 Comet Group PLC  
 Compliance Consultants Limited  
 Confetti Network Limited  
 Consolidated Communications  
 Consumer Credit Training & Consultancy  
 Contract Wise  
 The Co-operative Bank PLC  
 Cornhill Insurance PLC  
 Credit Web  
 Tony Cuddeford  
 Datamonitor PLC  
 David Deacon  
 Dechert  
 Deloitte & Touche  
 Denton Wilde Sapte  
 Derbyshire Building Society  
 Derbyshire Business Link  
 Deutsche Bank AG  
 Direct Line Group Services Limited  
 Dixons Group PLC  
 DLA Upstream  
 Paul Dobson  
 Dominic Houston, Dominic Houston UK  
 Dundas & Wilson  
 Peter Dunn  
 Richard Eason  
 Eastgate Assistance Limited  
 Eastgate Group Limited  
 Edwards Geldards  
 Egg/Prudential Banking PLC  
 Enigma Amystery  
 Ernst & Young LLP  
 Cowan Ervine  
 Etheios Limited  
 European Quality Assurance Services  
 Limited  
 Louise Evans  
 Eversheds  
 E-vest IT Limited  
 Etta Farrell  
 Field Solutions Limited  
 Geoffrey Fielder  
 First National Bank PLC  
 First National Motor Finance  
 Firstplus Financial Group PLC  
 Firth Park Credit Union  
 Foot Anstey Sargent  
 FOR Consultants  
 Ford Motor Company Limited  
 Four Communications PLC  
 Freshfields Bruckhaus Deringer  
 Future Mortgages Limited  
 Barry Gardiner  
 Garretts - Andersen Legal  
 Gemstone Financial Management Limited  
 Pip Giddins  
 Alan Gilliland  
 Roy Goode  
 Grattan  
 GUS PLC  
 Halfords Limited  
 Jenny Hamilton  
 Hammond Suddards Edge  
 Handsworth Breakthrough Credit Union  
 Limited  
 Harrison Curtis  
 HBOS PLC  
 HBOS PLC, Birmingham Midshires  
 Herbert Smith  
 Hugh Hercus  
 HFC Bank PLC  
 William Hibbert  
 Peter Hingston  
 Hitachi Credit (UK) PLC  
 Geraint Howells  
 HSBC Bank PLC  
 Hughes Electrical  
 Hull Community Development Company  
 Limited  
 IFG Company Limited  
 Igroup Limited  
 Ikano Financial Services Limited  
 IMPACT Communities in Partnership for  
 Action  
 Institut für Finanzdienstleistungen  
 The Institute of Chartered Accountants in  
 England & Wales  
 JCB Finance Limited  
 Alan Johnson  
 Richard Jones

Kemp Little LLP  
 Elaine Kempson  
 Craig Kennedy  
 Kensington Mortgage Company  
 Kent Reliance Building Society  
 Key Business Finance Corporation PLC  
 Kuit Steinart Levy  
 Lansons Communications  
 Law Laboratories Limited  
 Norman Laws  
 Ledingham Chalmers  
 Leeds United Football Club  
 Lester Aldridge  
 Littlewoods Retail Limited  
 LLM Communications  
 Lloyds of London  
 Lloyds TSB Bank PLC  
 Eva Lomnicka  
 Lovells  
 Macfarlanes  
 J Macleod  
 Malvern Independents  
 Marks & Spencer Financial Services  
 Limited  
 Marks & Spencer PLC  
 Martineau Johnson  
 Richard Mason  
 Stephen Mason  
 Masons  
 Paul Matthews  
 Max Planck Institute for Intellectual  
 Property  
 MBNA Europe Bank Limited  
 Joseph McAdam  
 McClure Naismith  
 Mills-Reeve  
 Monckton Chambers  
 Morgan Stanley UK Group  
 Morgan-Cole  
 John Morrison  
 The Mortgage Group  
 Mortgagecheck  
 The Motley Fool UK  
 Shalinie Nakaretanam  
 National Australia Bank Limited  
 The National Newspapers Mail Order  
 Protection Scheme Limited  
 National Westminster Bank PLC  
 Nationwide Building Society  
 Nationwide Trust Limited  
 New Economics Foundation  
 Norfolk County Council  
 Northern Rock PLC  
 Norton Rose  
 Norwich & Peterborough Building Society  
 Norwich Union  
 ntl Group Limited  
 Judy Nyaga  
 Olswang  
 Elizabeth O'Neill  
 Orange PCS Limited  
 Osborne Clarke  
 S Owens  
 Kevin Pace  
 Paid Attention  
 Palmer Hart  
 Paragon Personal Finances  
 John Patrick  
 Patterson Ford  
 Clifford Payton  
 Stephen Peat  
 Andrew Phillips  
 Chris Pilley  
 Pinnacle Insurance PLC  
 Pinsent Curtis Biddle  
 Polhill  
 Politics International Limited  
 Portcullis Research  
 Portman Building Society  
 The Post Office  
 Powergen PLC  
 Preferred Mortgages  
 Premier Mortgage Management  
 Premier Writers  
 PRM European Lobbyists  
 Provident Financial  
 Prudential PLC  
 John Purcell  
 RAC Motoring  
 Rawlins Davy  
 Renault UK Limited  
 RGMR  
 Rochdale Business Link  
 Rosenblatt  
 Ross & Co  
 The Royal Bank of Scotland PLC  
 Royds RDW  
 S & U PLC  
 Salans  
 Gurinda Sandhu  
 Scottish Amicable Life PLC  
 Scottish Transport Credit Union Limited  
 Selwood Research  
 Seven Seas Limited  
 Paul Seviour  
 Tim Sewell  
 Barbara Seymour  
 Shoosmiths  
 Sidley Austin Brown & Wood  
 Simmons & Simmons  
 S J Berwin  
 Skipton Building Society  
 Slaughter and May  
 Duncan Smith  
 Smith Grundon & Partners  
 Nick Walker, Societe Generale  
 Sonnenschein  
 Southampton FC  
 Southern Pacific Mortgage Limited  
 Sovereign Finance PLC  
 The Standard Life Assurance Company  
 Steadlands International Marketing  
 Limited  
 Jim Stephens  
 J R Stephenson  
 Stephenson Harwood  
 Steptoe & Johnson  
 Stringer Saul  
 Surrey Business Link  
 Swift Advances PLC

Taylor Wessing  
Terry Arch Mortgage Services  
Theodore Goddard  
Andy Thompson  
Brian Thornton  
Thornton WS  
John Tiley  
Time Retail Finance Limited  
Trading Computer Services Limited  
Christian Twigg-Flesner  
Unisys Limited  
Veale Wasbrough  
Virgin Management Limited  
VISA International Service Association  
Vodafone  
Volkswagen Financial Services (UK)  
Limited  
Walker Morris  
A I Warwood  
Weber Shandwick  
Wedlake Bell  
Weil Gotshal & Manges LLP  
Welcom Software PLC  
Wiggin & Co  
Jane Wiltshire  
Wragge & Co  
Yellow Pages  
Yes Car Credit  
Ian Yonge  
York & North Yorkshire Business Link  
Yorkshire Building Society

#### **OTHER ORGANISATIONS OR BODIES**

##### **REPRESENTING BUSINESS**

Association of British Insurers  
Association of Convenience Stores  
The British Chambers of Commerce  
British Hardware & Housewares  
Manufacturers' Association  
British Insurance Brokers Association  
British Retail Consortium

Confederation of British Industry  
Direct Marketing Association (UK) Limited  
Dudley Sandwell Chamber of Commerce  
House Builders Federation  
Incorporated Society of British Advertisers  
Institute of Directors  
The Institute of Management  
Institute of Practitioners in Advertising  
The Mail Order Traders Association  
The Newspaper Society  
The Radio Advertising Bureau  
Retail Motor Industry Federation  
Scottish Grocers Federation  
Scottish Motor Trade Association  
The Society of London Theatre  
Society of Motor Manufacturers & Traders  
Limited  
Wine & Spirit Association of Great Britain  
& Northern Ireland

##### **REGULATORY OR SUPERVISORY BODIES**

The Advertising Standards Authority  
Limited  
Broadcast Advertising Clearance Centre  
Committee of Advertising Practice  
Direct Mail Services Standards Board  
Finance Industry Standards Association  
The Financial Services Authority  
Independent Television Commission  
Office for the Regulation of Electricity &  
Gas (Northern Ireland)  
Office of Gas & Electricity Markets  
The Radio Advertising Clearance Centre  
The Radio Authority

##### **TRADING STANDARDS**

Local Authorities Co-ordinators of  
Regulatory Services  
London Trading Standards Authorities  
Trading Standards Institute

## ANNEX 2

### **THE CONSULTATION CRITERIA**

- 1. Timing of consultation should be built into the planning process for a policy (including legislation) or service from the start, so that it has the best prospect of improving the proposals concerned, and so that sufficient time is left for it at each stage.*
- 2. It should be clear who is being consulted, about what questions, in what timescale and for what purpose.*
- 3. A consultation document should be as simple and concise as possible. It should include a summary, in two pages at most, of the main questions it seeks views on. It should make it as easy as possible for readers to respond, make contact or complain.*
- 4. Documents should be made widely available, with the fullest use of electronic means (though not to the exclusion of others) and effectively drawn to the attention of all interested groups and individuals.*
- 5. Sufficient time should be allowed for considered responses from all groups with an interest. Twelve weeks should be the standard minimum period for a consultation*
- 6. Responses should be carefully and open-mindedly analysed, and the results made widely available, with an account of the views expressed, and the reasons for decisions finally taken.*
- 7. Departments should monitor and evaluate consultations, designating a consultation co-ordinator who will ensure the lessons are disseminated.*

*The complete code is available on the Cabinet Office's web site, address [www.cabinetoffice.gov.uk/servicefirst/index/consultation.htm](http://www.cabinetoffice.gov.uk/servicefirst/index/consultation.htm)*

### **COMMENTS OR COMPLAINTS**

If you wish to comment on the conduct of this consultation or make a complaint about the

way this consultation has been conducted, please write to Mr P Martin, DTI Consultation

Co-ordinator, Room 550, 1 Victoria Street, London SW1H 0ET or telephone him on 020

7215 6509 or mail to: [Philip.Martin@dti.gov.uk](mailto:Philip.Martin@dti.gov.uk)