

Summary of responses to the consultation document on making the extortionate credit provisions within the Consumer Credit Act 1974 more effective. (CCP 007/03)

1. Introduction/ Ministerial Foreword

In March 2003, the Department of Trade and Industry published a consultation paper on making the extortionate credit provisions within the Consumer Credit Act 1974 more effective.¹ This was one of a series of consultation papers published as part of the review of the Consumer Credit Act, and was sent to a wide range of lenders, trade associations, consumer bodies, regulatory and Government bodies, and other interested parties. The consultation period ended on 6th June 2003.

We received 64 responses in all. We are very grateful to everyone who took the time to comment.

In summary:

- A large majority of respondents agreed that the current definition of extortionate credit set the threshold for challenging an agreement at too high a level. There was broad support for introducing a test which encapsulated the notion of an unfair credit transaction.
- Most respondents were in favour of restrictions on the levels of costs, charges and default interest to customers in arrears.
- There was general support for including responsible lending as part of the unfair credit transaction test, provided the test was clear and flexible having regard to the different types of sectors of the lending market and the varying level of costs and risks involved.
- Respondents supported proportionate requirements for the frequency and content of account information, particularly for consumers in arrears.
- There was majority support for a simpler, quicker and cheaper new dispute resolution mechanism, outside the courts, for consumer credit cases.
- Nearly all respondents supported reform of the time order provisions to encourage greater use of them.

Responses to our consultation documents and feedback received from meetings with stakeholders have informed the White Paper, *Fair, Clear and Competitive: The Consumer Credit Market in the 21st Century*, which we published on 8th December 2003. Our proposals for a new “unfair credit transaction” test are included in Chapter 3 of the White Paper.

Gerry Sutcliffe
Minister for Employment Relations, Competition and Consumers
Department of Trade and Industry

¹ Tackling loan sharks – and more! A consultation document on making the extortionate credit provisions within the Consumer Credit Act 1974 more effective. March 2003. No: CCP 007/03.

2. Executive Summary

In July 2001, we published a consultation document, *Tackling loan sharks – and more!*, on proposals to review the Consumer Credit Act 1974. Making the extortionate credit provisions more effective was one of the priority areas for reform identified because the provisions have not operated effectively in practice and have left vulnerable consumers open to exploitation by lenders. The consultation paper on the extortionate credit provisions published in March 2003² sought views on:

- Replacing the current definition of extortionate credit in the Act with a wider concept to encapsulate unfair practices that are detrimental to the consumer
- Enabling consumers to challenge the terms of an agreement or other detrimental practices at any time throughout the term of the agreement
- Introducing a dispute resolution mechanism as an alternative to the courts
- Empowering the Office of Fair Trading (OFT) or other qualified entities to seek a declaration in the public interest that a particular credit transaction, or a particular aspect is deemed unfair
- Allowing specified third parties to bring actions on behalf of a borrower or group of borrowers e.g. OFT, consumer bodies
- Ensuring that lenders provide timely and appropriate information to consumers throughout the entire credit process
- Improving the Time Order provisions within the Act so they can be of more benefit to the consumer.

We received 64 responses from a wide range of lenders, trade associations, consumer groups and other interested parties. Seven were confidential, but the others are available for viewing in the DTI Library in 1 Victoria Street, London, SW1H 0ET (call the Open Government Unit on 020 7215 6226).

The main outcomes were:

- Most respondents agreed that amending the provisions of the Act to change the test to refer to an “unfair credit transaction” would enable agreements to be more easily challenged, appropriately balancing the interests of borrowers and lenders. However, some business respondents thought that the proposals ran the risk of having too great an impact on legitimate lenders.
- Most respondents thought the factors should be relevant during the full term but several businesses, supported by some regulators and experts, suggested that it was only the terms such as interest and charges, which were variable during the agreement, that should be relevant during the full term of the loan. Other factors such as age or capacity would only be relevant at the point when the agreement was entered into.
- Two-thirds of respondents preferred to include the factors to be considered in deciding whether a credit transaction was unfair in secondary, rather than primary, legislation.

² *Tackling loan sharks – and more!* A consultation document on making the extortionate credit provisions within the Consumer Credit Act 1974 more effective March 2003, No, CCP 007/03

- Most respondents were against imposition of interest rate ceilings.
- Respondents representing consumers, regulators and experts supported the inclusion of the concept of responsible lending, but business was concerned about the vagueness of the test and proportionality.
- Consumer bodies, regulators and experts agreed that compound interest should not be charged. Lenders were evenly divided, saying that it could constitute an incentive to pay for those who would not pay, and that it should be allowed on credit cards.
- There was significant support for a restriction on charging interest on fees/charges.
- Overall respondents supported specifying the frequency and content of account information, but emphasised proportionality and said that information should be provided more frequently when accounts were in arrears.
- Most business respondents thought that only the Office of Fair Trading (or the Office of Fair Trading and Trading Standards Departments) should be allowed to bring actions on behalf of groups; others thought that the power should be extended to those able to seek enforcement orders under the Enterprise Act.
- The majority thought that there should be a new dispute resolution mechanism, other than the courts, for consumer credit cases, and that this should be quicker, simpler and cheaper than the courts.
- Most respondents thought that the dispute resolution body should have jurisdiction over fairness; some thought its jurisdiction should be wider.
- There was a clear view that borrowers should be able to take action for as long as a debt can be enforced against them.
- There was support for reform of the time order provisions to encourage greater use of them.

The responses we received to this consultation have informed the development of policy on reforming the extortionate credit test, which is explained in Chapter 3 of the White Paper *Fair, Clear and Competitive: The Consumer Credit Market in the 21st Century* published in December 2003. This is available on the DTI website at www.dti.gov.uk.

3. Analysis of Responses

1. BREAKDOWN OF RESPONSES

We received a total of 64 responses, the breakdown of which was:

- 26 from business
- 20 from those representing consumers
- 11 from regulators and enforcers
- 7 from experts (including lawyers and professional bodies representing lawyers).

Six respondents were based in Scotland and three in Wales.

2. DETAILED SUMMARY OF RESPONSES

Two general comments are worth recording. Several of those representing consumers stressed the importance of providing access to low cost loans from non-commercial sources and improving incomes. Several businesses and business associations drew attention to their voluntary codes of practice, adherence to which would prevent the cases featured in the consultation document.

Q1: Do you agree that by amending the provisions of the Act as proposed above it will enable agreements to be more easily challenged as being extortionate in a way which balances the interests of borrowers and lenders appropriately?

The proposal was to:

- (a) Replace the existing definition of an extortionate credit bargain under section 138 with a wider test such as whether or not an agreement is an “unfair credit transaction”.
- (b) Extend the factors that the court can consider to:
 - Whether the debtor was required to make payments that were excessive;
 - Whether the interest rate charged both at the date of the bargain and subsequently was excessive having regard to interest rates applying to:
 - Borrowers in the market generally
 - Borrowers in that particular sector of the market, and
 - Other borrowers of the particular credit provider.
 - The extent to which any costs and charges were reasonable having regard to:
 - The interest rate being charged under the agreement;
 - Whether such costs and charges represent the actual loss incurred by the creditor arising out of the debtor’s default;
 - The extent to which the debtor was made aware of such costs and charges both at the date of the agreement and during the period of the loan
 - Whether the transaction involved any business behaviour or activity of the lender (or broker) which was deceitful or

oppressive, or otherwise unfair or improper (whether lawful or not);

- The borrower's age, experience, business capacity and state of health;
- The nature and degree of financial pressure to which the borrower was subjected at the time the agreement was made;
- The lender's care and responsibility in making the loan, including the enquiries which, having regard to all the circumstances of the transaction, the creditor made to ensure that the debtor could afford the loan repayments;
- The degree of risk accepted by the lender, having regards to the nature and value of any security;
- The lender's relationship with the borrower;
- Whether or not a colourable cash price was quoted for any goods or services included in the credit transaction; and
- Any other relevant consideration, such as whether linked transactions had been reasonably required.

(c) Provide for the court to be able to consider all the factors in (b) as they stand at any time during the agreement.

The consultation paper put forward the options of including the factors in the Act or in secondary legislation.

Almost all the regulators, those representing consumers and experts agreed with the two parts of the question. One regulator thought that the concept of an unfair credit transaction would set too low a threshold for court intervention, and suggested the concept of an unjust credit transaction. They recommended having separate provisions which enabled consumers to make complaints and seek redress in a wider range of circumstances than would be allowed under the "unjust" hurdle. A small number of consumer bodies took the view that nothing less than a ceiling on interest rates would have a significant effect.

Business respondents were more evenly divided. A few thought that no change to the existing regime was necessary and a smaller number answered yes to both parts of the question. Most occupied a middle ground and took the view that some change was necessary but that the proposals ran the risk of having too great an impact on legitimate lenders. One respondent mentioned the risk that the departure of legitimate lenders from the lower end of the market could increase the amount of illegal lending. Many of the concerns of business focussed round the concept of responsible lending, which is discussed in the analysis of question 7.

Q2: What factors do you consider should be taken into account in assessing whether or not a credit transaction is unfair? Is there a need for any further definition of "unfair credit transaction" either in the legislation or otherwise fleshed out in guidelines?

Most respondents used this question to comment on which of the factors listed they thought to be most important. Business respondents stressed the need to take account of risk and flexibility and one representative of consumers also stressed the importance of relative risks. Several respondents from different groups emphasised that interest rates had to be considered in the context of the particular market and not

across the board and one of the regulators stressed that action should only be taken when interest rates exceeded the norm by a significant amount.

Another theme common to members of the different groups was the importance of transparency and several businesses, together with one expert, mentioned the importance of borrowers answering honestly all the questions put to them. One expert suggested taking account of the actions of lenders and borrowers in trying to resolve difficulties and another thought the test still leaned too heavily on rates and costs and a new approach was needed.

Several respondents stressed the importance of clear guidance and of ensuring that the new regime was consistent with the proposed regulation of mortgages by the FSA. Others also commented on a possible overlap with the Unfair Terms (in Consumer Contracts) Regulations 1999.

Q3: Are there any reasons why the factors in section 138(2) – (5) should not be relevant during the full term of the loan, and if so why?

Most respondents thought the factors should be relevant during the full term but several businesses, supported by some regulators and experts, suggested that it was only the terms such as interest and charges, which were variable during the agreement, that should be relevant during the full term of the loan. Other factors such as age or capacity would only be relevant at the point when the agreement was entered into.

One regulator expanded on this point to suggest that factors such as age or capacity were only of relevance to the issue of responsible lending at the point when the loan was made but subsequent changes could be taken into account when looking at a lender's subsequent behaviour.

Q4: Do you support the principle of removing the factors from the primary legislation into secondary legislation? What are the pros and cons of each approach?

Secondary legislation was preferred to primary by two thirds of those responding to this question. The choice made did not differ noticeably across the groups. Those who favoured secondary legislation did so because of the speed and flexibility it offered. Those who favoured primary legislation did so because of the importance of the subject.

Q5: Given the above, do you feel any additional provisions are required in the CCA to deal with unfair practices?

Most considered that the proposed changes, together with other changes discussed later in the consultation document would be sufficient. There were, however, several respondents who stressed the need for strong enforcement of the licensing regime. This comment came from both businesses and consumer representatives. A small number of businesses drew attention to work in Europe on the proposed Directives on Consumer Credit and Unfair Commercial Practices. They suggested deferring reform of the CCA until the situation in Europe was clear.

Other interesting suggestions, each made by a single respondent, are set out below. Not all require legislation.

- Separate licence category for those wishing to charge more than a certain number of percentage points over base rate.
- All credit agreements should be subject to cancellation rights.
- Trading Standards Departments (TSDs) to develop ‘routine’ regulatory activity.
- Lenders to be required to compensate victims if they operate unfair practices
- Advertising targeted at low-income houses should be an offence.
- A cooling off period for doorstep loans
- Authorise lenders to deduct wages through employer on a case by case basis

Q6: Do you consider that controlling the cost of credit with specific provisions relating to interest rates should be used in the UK credit market; if so, please explain the most appropriate mechanism and provide substantiated arguments to support your view.

All except two of the business respondents were against ceilings. The five regulators and five of the six experts who responded were also against. Of the 20 respondents representing consumers 10 answered this question. Five said yes, four said no and one called for more research.

Q7: Which of the approaches outlined above requiring lenders to lend responsibly do you think would best meet the needs of consumers and business? Are there other alternative approaches which would be preferable and if so, why?

The consultation paper asked whether the legislation should include provisions to ensure responsible lending, or whether an additional “factor” (referred to in questions 1 and 2) could be whether the lender had acted irresponsibly.

The responses to question tended to focus more on the principle of responsible lending rather than discussing the different approaches outlined. Respondents representing consumers and regulators and experts supported the inclusion of a concept of responsible lending. Business was, however, very concerned over this proposal and expressed its concern in the answers to other questions as well as this one, although not all those representing business were against it.

Business respondents strongly emphasised that they did not practice irresponsible lending and did not condone it. Their concerns were twofold. The first concern was proportionality. The gross margins on small or short-term loans are often small in absolute terms and it was said that a significant increase in costs could lead to lenders leaving the market. Moreover, consumers have a concept of proportionality and questions thought fit for a mortgage transaction may be thought inappropriate if they are responding to an advertisement for a series of books.

This leads to the second and more major concern of business, which is the risk that the test might be too vague.. If the test was too strict, or the guidance lacking in precision, some respondents said that lenders might deny credit to marginal

customers. This could have the effect of increasing financial exclusion. Respondents concentrated therefore on the importance of getting the factors and guidance right and three referred to the Proposed FSA Conduct of Business Rules on mortgage lending as a model.

Q8: Do you agree that prohibiting the charging of interest on a compound basis would be a fair and effective control against the escalation of debts? If not, what alternative do you propose?

Consumer bodies, regulators and experts all replied “yes” to the question, business was evenly divided. Some lenders who favoured the prohibition did remark that it was not entirely fair to lenders and others suggested that a distinction should be made between people who could not pay and those who merely would not pay as compounding was an incentive to payment. The consumer groups highlighted the effect of compound interest where borrowers are in arrears as a contributing factor to the escalation of some debts. Another distinction made was in respect of credit cards with most businesses thinking that compounding should be permitted in respect of cards.

Q9: Can you please provide an estimate of the cost implications of prohibiting interest being charged on a compound basis

Only three respondents could attempt a quantification and their estimates of the amount that would be transferred from business to consumers varied greatly. Business felt the transfer would be significant.

Q10: Do you consider there should be any restrictions on the interest charged on arrears? If so, in what way should it be limited?

Q11: Similarly, do you consider there should be any restriction on interest charged on charges and fees? If so, in what way should it be limited?

Q12: Should all charges/fees be subject to a restriction on the interest that can be charged or is there a case for some to be excluded? If so, what charges/fees should be excluded?

Many respondents answered questions 10,11 and 12 together and their answers tended to follow the answers given to Q8 with those who favoured prohibiting the charging of compound interest also favouring the prohibition of interest on arrears and charges. Those who were opposed to prohibiting compound interest were against a prohibition in these questions but one major association of lenders who were against a general prohibition on compounding felt that limits were necessary in this area. Those respondents who, in their answer to Q8, favoured a prohibition on compounding responded to Q12 by saying that restrictions should apply to all fees and charges.

Q13: What do you consider a fair and reasonable period to allow before interest can be charged on any charges imposed beyond the initial charge for credit?

Most respondents did not answer this question and referred back to earlier answers in which they had responded either that there should be no controls on charges, or that

there should be no charges. Of those who did respond, most favoured a period of one month.

Q14: Do you consider redefining the extortionate credit terms of the Act as proposed in section 2.3.1 above (see questions 1 and 2 above) is sufficient to ensure that charges on arrears cannot be levied at an unreasonably high level?

In each group except the experts most respondents answered yes to this question although a few added comments on matters they would like to see covered specifically in the definition or in the guidance. Four of the respondents categorised as experts responded to this question. One said 'yes', one said 'probably yes', one said 'probably no' and the fourth said 'no'.

Q15: If not, what alternative controls do you consider should be applied?

Most respondents did not answer this question, primarily because they had answered yes to the previous question. A respondent that had answered 'no' to Q15 cautioned against over regulation and said the courts should be able to look at cases as a whole when deciding if an agreement was extortionate. One respondent representing consumers proposed a statutory scale of charges.

Q16: Should lenders be permitted to make charges in certain circumstances or should all costs be absorbed into the interest rate?

Respondents representing consumers were split on this issue although most did not answer. The other groups all believed that charges should be permitted to avoid the good customers subsidising the bad. Several respondents, spread across all four groups, who favoured charges emphasised the importance of transparency and some added that they should be related to costs; to the extent that charges were not related to costs they should be included in the interest rate.

Q17: Do you consider that there is a need to specify in legislation the frequency and content of account information?

Business respondents were evenly spread on this with a slight tendency towards saying that there was no need to specify. Respondents in the other groups said there was a need to specify, although several, along with some of the business respondents, stressed the need for proportionality. One business respondent drew attention to the FSA rules as a model. One expert felt that consumer research was needed.

Q18: What and how regularly should information be provided?

Suggestions in response to this question covered a range of different permutations but there was a common theme that information should be provided more frequently when accounts were in arrears. The most common combination recommended was annual statements for all accounts and monthly statements for accounts that were in arrears.

Q19: If third party action is restricted to specified bodies, what bodies should be allowed to bring actions?

The consultation document requested views on whether or not it should be possible to bring a group claim for breaches of the Act, and if so, who ought to be able to bring such claims.

Most business respondents thought that only the OFT (or in some cases OFT and TSDs) should be allowed to bring actions. Most of the other respondents favoured a wider selection of bodies with several respondents referring specifically to those bodies able to seek enforcement orders under the Enterprise Act. Two respondents favoured creating a special body for this purpose and one respondent suggested that the creation of arrangements for Alternative Dispute Resolution would remove the need for third party actions.

Q20: On what basis should a power to seek a declaration be available, and what bodies might become ‘qualified entities’?

The consultation paper suggested giving the OFT and possibly other bodies, the power to seek a declaration in the public interest, which would assist in developing precedent and may enable other borrowers to pursue their own claims for relief.

In comparison to the responses to Q19, the responses to this question showed a desire to limit the power to seek a declaration to OFT, although several of those representing regulators and consumers continued to favour the wider category of those able to seek enforcement orders under the Enterprise Act.

Most respondents did not address the issue of the basis on which the power to seek a declaration should be available. Some respondents on the business side took the opportunity to say that they did not think this power should be created at all. Those respondents who did favour the creation of the power and who addressed this part of the question, said, in essence, the power should be available when it was in the public interest.

Q21: Do you feel that there should be a reporting obligation placed on the courts and/or the licensee when claims are brought on the grounds of extortionate credit? If so, should it be extended to include the reporting of other disputes, and if so, what ones?

Most respondents were in favour of some form of reporting obligation. Among businesses the preference was for the court to report. Many businesses also made the point that only those cases where there was a court finding that a bargain was unfair or extortionate should be reported to the OFT.

Q22: If a dispute resolution body is established in an appropriate format, do you feel that judges should be able to refer a case for consideration?

Almost all the respondents answered “yes” to this question, although one of those responding “yes” looked forward to the next question and said that they would prefer

not to have a system of Alternative Dispute Resolution (ADR) at all. Two respondents said “no” and thought that cases should be dealt with by the courts.

Q23: Do you agree that there should be a new dispute resolution mechanism, other than the courts, for consumer credit cases?

One expert, three associations representing businesses and one major lender said “no” or “not convinced” in response to this question. One of the three associations expressed their concern that a system of ADR could lead to too many speculative and vexatious claims. Thirty three respondents favoured establishing a system of ADR. Most favoured an ombudsman system and seven specifically suggested using the existing Financial Ombudsman Service. The next most popular option was mediation and some respondents suggested that both mediation and an ombudsman should be used.

Q24: What are the most important ways in which the new mechanism should differ from the existing procedures?

The phrases used by respondents to describe how the system should differ from existing procedures varied. Common phrases were quicker, simpler, cheaper (or free to the consumer) expert in credit, and inquisitorial. Particular points made by representatives of business were that it should be set up to avoid a flood of unmerited claims and that there should be a route for appeals.

Q25: If there is to be a new mechanism, how should it relate to the court system? Should it be a precursor to the court, be a stage in the court process, or should it replace the court process?

Respondents in all groups divided fairly evenly on this question. Those who thought that an ADR system should be a precursor to the court system also thought that it should be optional.

Q26: What do you consider are the most important matters over which the dispute resolution body should have jurisdiction?

Respondents thought that the most important matters over which the dispute resolution body should have jurisdiction were those relating to fairness of the credit transaction. Some argued for a wider jurisdiction including any consumer credit dispute and time orders.

Q27: What do you consider is the most effective method of funding a new mechanism?

The most popular proposal was for a mixed system consisting of a contribution from the licence fee or levy on industry, and a case fee. Several respondents, not all of them representing business, thought that borrowers should also pay an element of the case fee with arrangements in place to remit part of the fee in cases of hardship.

Q28: Do you support the proposal to provide the OFT with powers to issue restitution orders as a means of compensating customers? If not, what alternative mechanisms do you suggest?

Regulators and experts were evenly divided but in the consumer and business groups, the majority of respondents favoured giving the OFT power to issue restitution orders although several of those from the business sector who said “yes”, stressed the importance of oversight by the courts. One business association that supported the proposal saw it as an alternative to the creation of a system of ADR.

In all groups most of those who opposed giving the OFT a power to order restitution did so because they believed this to be the role of the ADR system.

Q29: Do you agree that credit agreements should not be subjected to the limitations period in respect of extortionate credit agreements? If not, please explain why.

The consultation paper explained that recent court decisions have suggested that under the Limitation Act 1980, the borrower has 6 or 12 years to reopen an extortionate credit bargain, depending on the actual relief sought.

A majority of respondents, including those in the business sector, agreed with the question. There was a clear view that borrowers should be able to take action to reopen a transaction for as long as the debt can be enforced against them.

Q30: Should there be a period beyond the end of the agreement in which claims can be brought? If so, what do you consider to be appropriate and why?

Only a third of respondents answered this question. Business respondents, on the whole favoured no change. Those in other groups did favour change but the suggested period of extension ran from six months to twelve years. One constant theme was that those who favoured change, in keeping with the answers to Q29, thought that borrowers should be able to take action for as long as the debt could be enforced against them.

Q31: Do you consider the proposed changes to the Time Order provisions will enable a greater use of the Time Order provisions? If not, how do you feel the intended objectives of sections 129-136 can be achieved?

The consultation document explained that under section 129, a court can make an order giving time to a borrower to pay any monies being claimed, and that under section 136, a court can amend the terms of an agreement. It was noted that these provisions were used rarely, and reforms to encourage greater use of them were proposed.

Almost all respondents answered “yes” to the question. One respondent thought it better that such matters were dealt with by the Financial Ombudsman Service, if it were available. Several of those who said “yes” stressed the importance of publicising the availability of time orders.

Q32: Should the CCA be amended to allow lay representation (in Scotland) when applications are made for time orders?

Respondents overwhelmingly favoured allowing lay representation but several made the point that the lay representative should have some degree of competence.

Q33: Which of the proposals do you feel cannot apply to all agreements upon adoption of the revised legislation?

Business was evenly divided in its response to this question but several business respondents were clear that the proposals should not apply retrospectively to questions of responsible lending.

Q34: What do you feel is a reasonable time period after any new regulation is adopted for all agreements to comply with any revised provisions? Are there any provisions which should only be applied to new agreements concluded after the legislation comes into force?

Most respondents representing consumers favoured implementation immediately or within six months. Most respondents representing business favoured a longer period of between one and two years.

Annex 1: List of questions posed in consultation paper

Question 1: Do you agree that by amending the provisions of the Act as proposed above it will enable agreements to be more easily challenged as being extortionate in a way which balances the interests of borrowers and lenders appropriately?

Question 2: What factors do you consider should be taken into account in assessing whether or not a credit transaction is unfair? Is there a need for any further definition of “unfair credit transaction” either in the legislation or otherwise fleshed out in guidelines?

Question 3: Are there any reasons why the factors in section 138(2) – (5) should not be relevant during the full term of the loan, and if so why?

Question 4: Do you support the principle of removing the factors from primary legislation into secondary legislation? What are the pros and cons of each alternative?

Question 5: Given the above do you feel any additional provisions are required in the CCA to deal with unfair practices?

Question 6: Do you consider that controlling the cost of credit with specific provisions relating to interest rates should be used in the UK credit market; if so please explain the most appropriate mechanism and provide substantiated arguments to support your view?

Question 7: Which of the approaches outlined above requiring lenders to lend responsibly do you think would best meet the needs of consumers and business? Are there other alternative approaches which would be preferable and, if so, why?

Question 8: Do you agree that prohibiting the charging of interest on a compound basis would be a fair and effective control against the escalation of debts? If not, what alternative would you propose?

Question 9: Can you please provide an estimate of the cost implications of prohibiting interest being charged on a compound basis?

Question 10: Do you consider there should be any restrictions on the interest charged on arrears? If so in what way should it be limited?

Question 11: Similarly do you consider there should be any restriction on interest charged on charges and fees? If so in what way should it be limited?

Question 12: Should all charges/fees be subject to a restriction on the interest that can be charged or is there a case for some to be excluded? If so, what charges/fees should be excluded?

Question 13: What do you consider a fair and reasonable period to allow before interest can be charged on any charges imposed beyond the initial charge for credit?

Question 14: Do you consider redefining the extortionate credit terms of the Act as proposed in section 2.3.1 above is sufficient to ensure that charges on arrears cannot be levied at an unreasonably high level?

Question 15: If not, what alternative controls do you consider should be applied?

Question 16: Should lenders be permitted to make charges in certain circumstances or should all costs be absorbed into the interest rate?

Question 17: Do you consider that there is a need to specify in legislation the frequency and content of account information?

Question 18: What and how regularly should information be provided?

Question 19: If third party action is restricted to specified bodies, what bodies should be allowed to bring actions?

Question 20: On what basis should a power to seek a declaration be available, and what bodies might become 'quantified entities'?

Question 21: Do you feel that there should be a reporting obligation placed on the courts and/or the licensee when claims are brought on the grounds of extortionate credit? If so should it be extended to include the reporting of other disputes and if so what ones?

Question 22: If a dispute resolution body is established in an appropriate format do you feel that judges should be able to refer a case for consideration?

Question 23: Do you agree that there should be a new dispute resolution mechanism, other than the courts, for consumer credit cases?

Question 24: What are the most important ways in which the new mechanism should differ from the existing procedures?

Question 25: If there is to be a new mechanism, how should it relate to the court system? Should it be a precursor to the court, be a stage in the court process, or should it replace the court process?

Question 26: What do you consider are the most important matters over which the dispute resolution body should have jurisdiction?

Question 27: What do you consider is the most effective method for funding a new mechanism?

Question 28: Do you support the proposal to provide the OFT with powers to issue restitution orders as a means of compensating consumers? If not what alternative mechanisms do you suggest?

Question 29: Do you agree that credit agreements should not be subjected to the limitations period in respect of extortionate credit agreements? If not, please explain why.

Question 30: Should there be a period beyond the end of the agreement in which claims can be brought? If so what do you consider to be appropriate and why?

Question 31: Do you consider the proposed changes to the Time Order provisions will enable a greater use of the time order provisions; If not how do you feel the intended objectives of sections 129 -136 can be achieved?

Question 32: Should the CCA be amended to allow lay representation when applications are made for time orders?

Question 33: Which of the proposals do you feel cannot apply to all agreements upon adoption of the revised legislation?

Question 34: What do you feel is a reasonable time period after any new regulation is adopted for all agreements to comply with any revised provisions? Are there any provisions, which should only be applied to new agreements concluded after the legislation comes into force?

Annex 2: List of consultees approached

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
Church Action on Poverty Scotland - Debt on our Doorstep
Community Development Finance Association
Help The Aged
Mary Ward Legal Centre
National Council for Voluntary Organisations
Prospect Community Housing
Royal National Institute for the Blind
SAFE
Scottish Churches Parliamentary Office
Teacher Support Network
Zacchaeus Trust
Church Action on Poverty - Debt on our Doorstep
One Parent Families

CONSUMER ORGANISATIONS

Birmingham Settlement
Citizens Advice Scotland
Community Finance solutions
Consumers' Association
Consumers' Association of Singapore
East Bristol Advice Centre
Federation of Information and 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 Association
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
The Committee of Scottish Clearing Bankers
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
The 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
Coventry City Council
London Borough of Croydon
Cumbria County Council
Dorset County Council
London Borough of Ealing
East Ayrshire Council
East Dunbartonshire Council
Essex County Council
Gateshead Metropolitan Borough Council
Glasgow City 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
Kingston upon Hull City 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
Oxfordshire County Council
Powys County Council
St Helens Metropolitan Borough Council
Sheffield City Council
South Gloucestershire 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

OMBUDSMEN

Financial Ombudsman Service Limited
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

All Flintshire Credit Union
Liz Bateman
John Bone
Matthew Brodrick
Felix Budelmann
Frank Card
Michelle Casciaro
Lee Chesterman

Tony Cuddeford
David Deacon
Dominic Houston
Peter Dunn
Richard Eason
Enigma Amystery
Louise Evans
Etta Farrell
Geoffrey Fielder
Pip Giddins
Alan Gilliland
Hugh Hercus
Peter Hingston
Lorraine Hull
Richard Jones
Richard Jones
Craig Kennedy
Richard Mason
Paul Matthews
Joseph McAdam
John Morrison
The Mortgage Group
Nationwide Trust Limited
S Owens
Gurinda Sandhu
Paul Seviour
Tim Sewell
Barbara Seymour
Duncan Smith
Societe Generale
Terry Arch Mortgage Services
Andy Thompson
Jane Wiltshire

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 Committee for the Supervision of Standards of Telephone Information Services
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
Association of British Insurers
Farrar & Co
Masons
McGregor Donald
Francis Miller

Annex 3: Glossary

ADR	Alternative Dispute Resolution
CCA	Consumer Credit Act 1974
DTI	Department of Trade and Industry
FOS	Financial Ombudsman's Service
FSA	Financial Services Authority
OFT	Office of Fair Trading
TSD	Trading Standards Department