

Empowering and protecting consumers

Consultation on institutional changes for provision of consumer information, advice, education, advocacy and enforcement

Response from Citizens Advice and Citizens Advice Scotland

September 2011

1. Introduction

- 1.1 Citizens Advice and Citizens Advice Scotland welcome the Government's consultation on reform of the consumer landscape.
- 1.2 We wish to ensure that the outcome provides consumers with access to the best possible information and high quality individual advice about their rights; that consumers have powerful advocates representing their views to the Government, industry and regulators; and that there are strong enforcement and consumer protection agencies ensuring fair and effective markets, basing this work wherever possible on evidence that our organisations obtain from providing services to consumers.
- 1.3 The Government has proposed some significant reforms to the consumer landscape so that in future the organisations which have the brief to look after and advocate for the consumer interest are those which are best known and trusted by consumers, are evidence based and have their feet firmly on the ground.
- 1.4 We agree that consumer advocates should have strong support from consumers, and citizens, if they are to have the right to speak on their behalf to influence businesses, regulators and governments.
- 1.5 To earn this support and trust, consumer advocates need to be totally rooted in and in touch with the consumer community; passionate about getting the best deal for consumers, whoever they are and whatever the issue, and competent and creative in arguing for and securing solutions. Consumer advocates should not be remote from consumers and they should support and enable consumers to advocate on their own behalf if they can and wish to do so.
- 1.6 We also agree that there is a need for change to the consumer landscape at this time.
- 1.7 Many consumers today feel extremely uncertain and their confidence has declined in the past year. For example the GfK NOP monthly consumer confidence index reports the overall consumer confidence index, at -31, is now at the lowest it has been since the downturn in 2008/09 and the early months of the 1990s.
- 1.8 Research by Which? is finding that consumers are justifiably more worried about energy and food prices than ever before. And public spending cuts and future tax levels aren't too far behind. Which? also finds that over three in four adults have reduced their spending in the last few months – entertainment, holidays and clothing were most likely to get cut.
- 1.9 In fact, the current situation has caused some people to delay major life changes, with 11% holding back on changing job and 9% on moving house.
- 1.10 For some consumers these financial pressures are, frankly, terrifying - with 5.5 million households now living in fuel poverty; over 4 million households in England, 777,000 households in Scotland and 332,000 households in Wales.
- 1.11 Other consumers are worried about a range of issues from the rising costs of care to the declining value of their pension investments or the lack of local public transport. Some consumers are totally fed up with "choice overload" and overly complex product offers from a range of markets and other consumers have no choices whatsoever.

- 1.12 And whilst consumers feel the pound in their pocket is just not punching at the same weight as it did in the past they are also paying for an estimated £6.6bn of detriment each year caused by unfair commercial practices, such as pressure selling, and scams.
- 1.13 Not surprising then that consumers told the Citizens Advice service last year that tackling scams and rip offs should be a high priority for the Government's comprehensive spending review (CSR) and in a current survey by the Citizens Advice service consumers are saying the scams they are most concerned about are cold calls from debt management companies and unethical energy selling practices.
- 1.14 Low consumer confidence means that many consumers are just not using their market power. The 2009 Consumer Focus report, Streetwise, highlighted that three in four consumers feel big companies treat them as numbers rather than people and three in five think large companies would willingly mislead them to make money. As a result:
- 3 in 4 have never used the internet to leave feedback about a company
 - 1 in 4 of the most wealthy consumers have never taken their business elsewhere due to being treated badly
 - half of the poorest consumers haven't either, and those aged 15 – 24 years old are even less likely to
 - 2 in 5 have not changed supplier after being treated badly
 - 3 in 5 have not made a complaint about bad customer service
 - 2 in 3 have still gone on to buy something even after they heard of others' bad experiences.
- 1.15 Over the horizon every economically regulated market from energy and postal services to water and public transport is throwing up long term challenges about availability and level of services, the cost and quality - significant debates and decisions being taken now about the future financing and operation of those markets will affect consumers, communities and our economies in decades to come. The consumer voice should be heard loudly in those discussions.

1.16 And their voice should be heard loudly in Wales and Scotland as well as across Great Britain.

Consumers in Wales

- 1.17 Consumers in Wales are bracing themselves for difficult times. They need an effective advocate to represent them and help them get a fair deal from services such as energy and postal markets, as well as goods, justice and redress, public services and welfare, and debt and personal finance. They need an advocate who understands the issues that they are unique in facing.
- 1.18 With a relatively high dependency on the public sector for employment – around 45 per cent of Wales' graduates work in the public sector compared with only 15 per cent of those in London – planned public spending cuts are not surprisingly making consumers in Wales despondent. Beaufort Research's Wales Omnibus Survey, released in late 2010, showed that one in three people in paid work were worried about losing their jobs and 52 per cent said they believed the general economic condition of Wales would worsen over the coming 12 months.
- 1.19 Consumers in Wales are disproportionately affected by health issues, which often prevent them working even when jobs are available. One in three report having a long-term illness

which affects their daily lives, and just over one in five people of working age have a limiting long-term illness. Health problems can cause poverty and increase consumers' costs of living.

- 1.20 The majority of those who are out of work rely on benefits to survive, meaning Welsh consumers will be particularly exposed to the impact of proposed changes to the welfare system; right at the time they are facing rising food and fuel costs.
- 1.21 It comes as no shock to Citizens Advice that a survey carried out by Oxfam Cymru, as part of a global study, suggested that 39 per cent of people in Wales had changed their eating habits in the last two years because of increased food prices and just 60 per cent reported having enough to eat on a daily basis. A growing number of foodbanks have opened in Wales to address the need for emergency food supplies.
- 1.22 Fuel poverty has long been acknowledged as a major issue in Wales.
- 1.23 According to the Wales Fuel Poverty Coalition, nearly a quarter of households in Wales experience fuel poverty. That is over 700,000 people based on the average household size. Recent announcements of further price hikes for gas and electricity have therefore given rise to great consumer concern.
- 1.24 The Consumer Council for Water in Wales has highlighted the issue of increasing water rates recently because one in six customers already say they cannot afford their bills. In September last year, the Council also pointed out that complaints to water companies in Wales had increased for the fifth year in a row, while on average across England and Wales there had been a 17 per cent decrease in the number of complaints.
- 1.25 Consumers in Wales are quite simply finding it more and more difficult to balance their income and outgoings. YouGov's Debt Tracker survey found that, while six out of ten in the South of England 'never' or 'hardly ever' struggle until pay day, in Wales those who do not struggle are the minority at just four in ten. Citizens Advice statistics for 2010/11 also show that debt enquiries in Wales have increased by 10 per cent on the previous year, whilst showing a slight decrease in England. Statistics from the Insolvency Service corroborate this trend, with Wales having a higher rate of personal insolvencies than England, at 31.8 per 10,000 of the adult population compared to 30.4.

Consumers in Scotland

- 1.26 The issues facing consumers in Scotland are similar in lots of respects – however, their impact can be felt differently due to the distinct socio-economic and geographic make up of Scotland. The rurality, remoteness and climate affecting many areas of Scotland can mean that consumers in these localities face choice and access issues in the energy, communication and retail sectors that don't affect the rest of the UK in quite the same way. Almost a third of Scottish households are in fuel poverty, compared with a fifth throughout the rest of the UK. In addition, the average household spend on electricity and gas has doubled in the last five years, impacting harshly on low income consumers. Many Scottish householders aren't even on the national grid.
- 1.27 Scotland has six of the top 10 UK towns most in debt, and personal insolvency is rising. Transport and access to goods and services is difficult for many Scottish consumers. An eighth of remote rural households have no car access, and only 14% of rural households have access to cable broadband. A third of all Scottish households cannot access the internet at

all, rising to more than half for those on low incomes. And rising prices are biting hard on particular groups in Scotland - last year, one in every eight people said they weren't coping with their finances, but this increases to almost a third of single parents, and just over a fifth of both young people and those living in relatively deprived areas.

- 1.28 Worries about the future also impact disproportionately in Scotland. Although Scotland has a slightly higher employment rate than the rest of the UK (71.9% c.f. 70.8% in England) just under a quarter of the workforce are employed in the public sector, and these jobs are reducing – they decreased by over 8,000 in the last year.
- 1.29 The complexities of consumer choice and choosing the best deal can also raise challenges for Scottish people. While coping generally with their day to day lives, nevertheless around one quarter face challenges and constrained opportunities due to low literacy levels, and within that quarter, there is a further 4% who face serious problems. The average reading age for Scottish adults is estimated to be somewhere between ages 9 and 11.
- 1.30 All of this impacts on consumer confidence and the need for strong Scottish advocacy representing Scottish interests because of the structure of the present institutional framework for supporting and representing consumers across Great Britain.

Current problems

- 1.31 For example, the Consumer Direct service is used by more than a million consumers every year but its profile with the public is too low for such an important service which not only gives advice but feeds vital evidence to consumer protection enforcement officers. And its operations have not delivered an empowering style, or been particularly well integrated with the work of other information and advice providers.
- 1.32 A number of consumer representative bodies exist to promote the consumer interest and conduct research, and a range of organisations are attempting to improve consumer education working locally and nationally. Literally hundreds of organisations are working today to advocate for consumers across our economy, from local consumer groups and fuel poverty forums to national organisations like Citizens Advice, Citizens Advice Cymru, Citizens Advice Scotland, Which? and Consumer Focus.
- 1.33 But whilst this multiplicity of organisations fosters innovation in some respects this also means that resources are locked away in too many individual standalone organisations and the potential benefits of sharing resources, from evidence and ideas to skills and back office functions, are not being realised as quickly as they are across the public sector. Too many organisations are working separately for and on behalf of consumers, with no overall clear leadership that consumers and citizens know and trust.
- 1.34 This also means that consumers are faced by a multiplicity of different information sources and websites and places to go for advice.
- 1.35 Another impact is that evidence about consumer experiences is distributed too widely and the 'hand off' between the different agencies creates inefficiencies, bureaucracy and gives consumers the impression that, apart from themselves, no-one else can or will 'own' solving consumer problems from end to end.
- 1.36 Consumer problems can have knock on effects for individuals, for example, people experiencing problems paying their fuel bills may also have other problems linked to personal

finance, including rent arrears. Services which can assist with and advocate in relation to all the interlinked problems consumers have will be more efficient for the consumer.

1.37 The dissipation of consumer support is also confusing for businesses. And it allows those businesses who do not treat consumers fairly to fall through the cracks in the system, undermining good businesses in the process.

1.38 Addressing these issues is challenging – but important.

A new approach is needed

1.39 We need to find smarter approaches in future which build on the strengths of our present system and what we know works for consumers.

1.40 The approach should harness all the available resource – whether from the public or private sector and use intelligence and evidence more effectively on behalf of consumers.

1.41 A new approach should provide leadership, co-ordination, be based on partnership and really inspire, support and empower consumers so that in future they can and do take action themselves and in communities, to prevent and resolve consumer problems and to lighten the burden to respond that is on enforcement bodies.

1.42 As the best known and trusted information, advice giving and campaigning organisations in Great Britain, the Citizens Advice service, working together with Which?, is uniquely placed to work with all governments across the UK, regulators and businesses to take forward a new approach to consumer advocacy and empowerment.

1.43 We wish to come together in partnership because there is now a significant opportunity for us to do more and better for consumers than we do today.

1.44 We also realize that we cannot do that all ourselves and partnership is key to effective delivery.

1.45 Our offer is to help to create a new approach to consumer advocacy, which plays to the strengths of Citizens Advice and Citizens Advice Scotland working together jointly with Which?.

1.46 We believe that authentic, dynamic, responsive and empowering action for consumers is more efficiently and effectively delivered in an integrated way – learning from information, advice and education activities can be ploughed quickly into advocacy and policy feedback and information, education and advice strategies can be informed by evidence and policy.

1.47 If Consumer Focus is abolished then, subject to the transfer of appropriate functions and resources to the Citizens Advice service and Which?, we will work with governments and regulators and other consumer groups to deliver a more effective system of consumer advocacy across Great Britain.

1.48 We are already well on the path to this partnership and shifting the consumer landscape towards the consumer.

1.49 The Citizens Advice service and Which? have strong and complementary track records of delivering information, advice and advocacy for consumers and are uniquely placed to help empower consumers in a new way.

1.50 Our shared vision is to create, in partnership, a comprehensive, accessible, dynamic and responsive consumer empowerment and advocacy system across Great Britain which brings together the information, advice, education and advocacy activities of the Citizens Advice service and Which?.

1.51 We have reached agreement in principle on how we might do this by playing to the different but complementary strengths and experiences of our organisations. Our approach preserves the continuing independence of Which? and harnesses the expertise, reach and holistic perspective of Citizens Advice and Citizens Advice Scotland.

1.52 We believe that consumers will benefit from our proposed partnership because working together we can deliver:

- Greater cost efficiencies in the production and reach of consumer rights information.
- More cost effective individual consumer rights legal advice.
- More effective gathering and use of evidence, drawn directly from millions of consumers being helped at the front line of casework and consumer contact by our organisations, online, over the phone and face to face.
- A more holistic perspective on consumer issues, approaching and finding solutions to these with a detailed understanding of the pressures facing consumers in both consumer and non-consumer areas.
- More powerful and dedicated resources for representing consumers in regulated markets such as energy and post.
- Enhanced policy and advocacy collaboration, ensuring that all consumer markets are effectively covered by at least one of our organisations and avoiding duplication.
- A stronger forward thinking capability to identify the big issues on the horizon, enhanced through constructive collaboration, mutual challenge and partnership.

1.53 We are already working together on the content of information for consumers about their rights, to ensure the Government does not pay for or duplicate information already freely available. We will develop links online and offline to make sure consumers freely access the best information they can. And we are already testing in Wales how the Which? Legal Service can work closely with Citizens Advice advisers to provide legal advice support countrywide. This is just the start.

1.54 In relation to sectoral advocacy, we believe that this work should be delivered through a strategic partnership where:

- Which? creates a specialist unit with appropriate governance arrangements responsible for technical and economic analysis and insight into regulated sectors, focusing on providing a detailed advocacy service to regulators, with the ability to use existing resources to complement this work.
- Citizens Advice and Citizens Advice Scotland would take on responsibility for wider and complementary advocacy in regulated sectors and beyond, providing insight based on their local networks and casework, enhanced by the ability to use existing resources to complement this work, and the creation of local consumer empowerment and advocacy capabilities.
- Which? takes on responsibility for international advocacy.
- Data, insight and strategic planning are shared between organisations to ensure that advocacy perspectives are complementary and public resource is not spent on duplicating work.
- Other functions in these sectors, such as investigations, are carried out by Which?, Citizens Advice and Citizens Advice Scotland, as required, overseen by a strategic partnership.

- 1.55 Simplifying the landscape for consumers in this way will result in a powerful evidence base to support advocacy and action with and on behalf of consumers.
- 1.56 We intend the changes to create a new impetus for other organisations that are on the side of the consumer to work together and with us. None of us has a monopoly on representing the consumer and campaigning for and getting consumers a better deal – we all have impressive track records to learn from and on which to build the future.
- 1.57 With persistently high levels of consumer detriment, a challenging economic environment and significant reductions in public expenditure affecting the level and nature of public services – including consumer law enforcement – it is essential that, together, we work to deliver the most efficient and effective system to look after the interests of consumers.
- 1.58 It is a challenging proposition because it brings major changes to our organisations but we are ready to set aside competition between our brands because the result will be a more powerful offer for consumers.
- 1.59 Our proposals for delivery in each area where action is required are outlined in responses to this consultation on the following issues:

- **Information, advice and education**
- **Advocacy**
- **Enforcement**

We also comment on the proposals for future development of self-regulation.

- 1.60 The changes proposed would need to be backed up by a good legislative framework for consumer rights, simple and low cost mechanisms for obtaining consumer redress; and a sound framework for public enforcement which can and does act promptly when needed. The Citizens Advice service would therefore urge the government to move beyond present moves to reform the consumer landscape and simplify consumer law and look at ways to really improve and enhance consumer rights in future. Such improvements could include enabling economic and market regulators to order companies who breach regulation to pay compensation to consumers affected either instead of or additional to any fines and enabling consumers to take action collectively to secure redress.

2. Information, Advice and Education

The proposal

- 2.1 The Government proposes that the Citizens Advice service should in future have responsibility for publicly-funded national advice and education of consumers, working with other organisations as needed.
- 2.2 The Citizens Advice service gives individual advice to 2.5m people each year, concerning 7.5 m problems, over 700,000 of which primarily concern consumer issues. One million people a month visit our <http://www.adviceguide.org.uk> website for information to help them resolve their problems.
- 2.3 Citizens Advice and Citizens Advice Scotland have been asked to take on responsibility for the provision of consumer advice and information (currently provided by the Office of Fair Trading via Consumer Direct) in a move by the Government to streamline the consumer landscape. Responsibility will transfer on 31 March 2012.
- 2.4 This proposal is made because the Citizens Advice service enjoys high levels of awareness and trust among the public. Through its network of local Citizens Advice Bureaux across the country it has access to unique and detailed local information about the issues causing concern for consumers. Rationalising consumer advice and education in the Citizens Advice service therefore has the potential to reduce costs, ensure that activities are targeted on key areas of concern, and provide a more accessible and recognised point of access for citizens.
- 2.5 Our approach will be based on a clear vision that puts the needs and expectations of consumers and other clients first, while providing value for money.
- 2.6 The Government's transfer of responsibility for consumer advice, information and education is not purely about cost savings – it is about making the consumer protection system easier to understand and ultimately more effective. In order for consumers to feel the benefits of the transfer, consumer advice, information and education must therefore be embedded into the wider Citizens Advice service. Beyond 2012, when we first take on responsibility for replacing the Consumer Direct service, we have a programme of work underway to open up new channels of advice by 2014, increasing the options available to clients and growing our total capacity.

Consumer information and advice

- 2.7 Today our clients can access information and advice online, by phone or face to-face. Face-to-face is by far the most mature 'channel' for the delivery of advice, though face-to-face contact is often preceded by a phone call; sometimes direct to a bureau and other times to our expanding telephone service, Adviceline, in England and Wales which is delivered through a virtual call centre that connects together different sites including bureaux and a small number of physical call centres. Adviceline covers the whole of Wales and is now rolling out in England. At the end of the first full year of operation in Wales Adviceline dealt with almost 2.5 times as many calls than bureaux in Wales answered collectively the previous year. In Scotland Citizens Advice Direct already delivers telephone advice on a variety of topics to callers from across Scotland.
- 2.8 Comprehensive information is also provided online and used widely, although clients do have to use a different channel if they require help to interpret or apply that information.
- 2.9 In 2010 Citizens Advice set out a four year strategy outlining how we will help more people to solve their problems and ensure that those in greatest need can access our services. By 2014 electronic information and advice will have grown from self-help information to include email advice and instant messaging. Our clients will be able to complete the full advice journey through any channel of their choice and they will be able to move seamlessly between channels at any point in the process, as their needs or preferences change:
- Comprehensive information will be available from us 24/7 via the internet for consumers to find information and answers they need on a wide range of consumer topics.
 - The information will include a wide range of web-based decision trees and paths to action – helping consumers to find the right advice on their question or problem and then take action, on the web, to make a choice or seek redress.
 - By capturing user data and using the features of a new Citizens Advice customer relationship management system we will explore how we can use this data to help consumers more, for example by alerting them just in time to new information that would be useful to them based on what they have told us about themselves and their needs and aspirations.
 - The website, and other education, advice and support services will be supported by strong independent, 'on your side' campaigning to get messages, warnings, alerts and advice across to consumers through local and national media – we will build on an already strong media presence to deliver expert advice and briefing for consumers using existing communications channels rather than high cost PR and paid for advertising.
 - Consumers could ideally be able to report problems very easily to regulators via the website, as well as make complaints to companies following tips and advice on the site.
 - Personalised advice will be delivered to individuals over the telephone or, if needed, face to face in every community.
 - Advice will as now continue to be delivered by a combination of volunteer and paid advisers, although the mix of advisers varies from bureau to bureau across Great Britain according to resources available. Citizens Advice bureau advisers already support individuals to resolve their problems, if they need that help. For example vulnerable consumers in particular may need direct assistance to realise their rights and secure fair treatment by service providers by making calls and writing letters on their behalf and supporting them through a formal redress process.

- Vulnerable consumers who need extra help to deal with energy debt and disconnection problems will continue to be able to access services equivalent to those of the Consumer Focus 'extra help' unit to assist vulnerable consumers liable to energy disconnections.
- 2.10 We will work in partnership with a range of organisations, especially Which?, on the content of consumer rights information, to ensure the Government does not pay for or duplicate information already freely available. We will develop links online and offline to make sure consumers freely access the best information they can. And we are already testing in Wales how the Which? Legal Service can work closely with Citizens Advice advisers to provide legal advice support countrywide.
- 2.11 Our immediate priority is matching and where possible bettering the current provision of consumer advice from 31 March 2012. We must do this in a way that is consistent with our commitment to improving access to advice and the client experience.
- 2.12 We are already well on our way to having a system in place that is capable of:
- dealing with up to 1.5 million enquiries a year
 - handling the current range of consumer enquiries (general consumer, post, energy)
 - meeting the data requirements of stakeholders including the Office of Fair Trading, local authority Trading Standards services and Consumer Focus
 - matching current performance levels
 - referring on to other organisations for second tier consumer support, for example Trading Standards or the Extra Help Unit
 - referring on within the service for those clients who have broader issues
 - generating reports for contract management purposes.
- 2.13 As a minimum, the service will:
- be delivered in line with Citizens Advice service values
 - meet stakeholders' and funders' needs and expectations (including data requirements and the ability to identify and refer details of cases where a crime has potentially been committed)
 - provide accurate and clear answers to clients
 - solve consumer problems with the minimum of passing on
 - identify other problems which might compound a consumer problem, or vice versa
 - be accessible to diverse client groups including Welsh speakers
 - refer the client to whatever channel is most appropriate to their need
 - identify the most vulnerable clients for whom face-to-face contact or further assistance from referral partners such as Trading Standards is essential
 - require clients to provide their data only once.
- 2.14 The way we deliver this service will:
- draw on the expertise of Consumer Direct
 - draw on the learning of the Citizens Advice service Adviceline projects and other phone-based gateway services
 - provide demonstrable value for money
 - improve access for clients.

- 2.15 Depending on the nature of the call, those whose problems cannot be resolved quickly and simply will be transferred to specialist consumer advice and support services, for example, Trading Standards provided services or the Extra Help Unit in the case of vulnerable consumers or those at risk of disconnection from energy supplies.
- 2.16 Joined-up working will be taking place between the Citizens Advice service, local bureaux and local Trading Standards services, in many cases building on existing relationships. This work will be aimed at identifying the need for enforcement action from face-to-face enquiries, raising awareness of local scams, ensuring that consumers are well informed before making a purchase, and fulfilling the further advice needs of those who have called with a consumer issue.
- 2.17 In addition, we are enhancing the consumer content on both our public self-help website, Adviceguide, and our online information system for advisers, Advisernet. We are also intending to work more closely with Trading Standards services to ensure that our advisers and systems add value to their work.
- 2.18 To that end, a working group has been established to help guide the implementation of the consumer advice service developments with representation from:

- Citizens Advice and Citizens Advice Scotland
- Trading Standards Institute
- Association of Chief Trading Standards Officers
- Wales Heads of Trading Standards
- Scotland Heads of Trading Standards
- Office of Fair Trading.

Its purpose is to enable the Citizens Advice service and the Trading Standards community to work effectively together on the subject of consumer advice, by creating a small forum within which key matters can be discussed and provisional decisions made. The work of the group currently involves:

- Ensuring that the consumer advice service supplier's specification and contract meets the needs of the Trading Standards community.
- Considering how best to review the collection and recording of consumer and trader data.

The group will meet regularly and in line with key events in the transition timetable.

Consumer education

- 2.19 The Citizens Advice service would, subject to resources, be pleased to take forward work based on the OFT's responsibilities for co-ordinating and delivering consumer education. We already have a strong track record in delivering community based financial education, particularly for vulnerable and low income consumers. For example, in England and Wales over 250,000 low income consumers were reached by local citizens advice bureau financial education initiatives in 2010/11, covering issues such as finding a better deal for energy or choosing a safe and appropriate savings scheme for Christmas. The Citizens Advice service

website www.adviceguide.org.uk includes leaflets and information materials that are accessed by over 1 million people every month.

- 2.20 We believe that consumers need a joined up and holistic problem-solving service which the Citizens Advice service can provide. We see consumer education as a key element of our proposals for delivering an integrated approach to consumer empowerment by providing opportunities for consumers to gain the skills, attitudes, knowledge and understanding necessary to become effective consumers from the same organisation they can rely on for advice and information, and also advocacy on their behalf.
- 2.21 For those with a consumer problem this means the Citizens Advice service will be able to provide them with information on their rights, responsibilities and choices, advice on how to achieve the resolution to problems they have, education to help consumers avoid problems and get fair deals, and advocacy to ensure a fair and robust environment for consumers.
- 2.22 Given that very limited resources are presently allocated to consumer education, these resources must be targeted for maximum impact. We expect a particular focus of our work will be on the needs of vulnerable consumers.
- 2.23 The first step will be to develop a new strategy for this work if it is transferred to the Citizens Advice service.
- 2.24 Our strategy and priorities would be based on an analysis of consumer detriment, informed by statistics and research from consumer advice and information work, survey data and practitioner input. We will also learn from and build on good practice that already exists and work in partnership with others.
- 2.25 The Enterprise Act 2002 gave the Office of Fair Trading (OFT) statutory powers to carry out educational activities. It initially published a national strategy (2004) and established planning and working groups, but in recent years the programme appears to have narrowed. We note that the OFT makes a distinction between "awareness campaigns", delivered mostly through distribution of publications, which cover consumer rights, rogue traders and scams and "education" delivered through the Skilled to Go programme, which is primarily aimed at consumers in adult literacy or numeracy classes and requires local delivery. We will want to evaluate the current programme and take forward any elements of the current strategy which are suitable.
- 2.26 A lot of good work is carried out by Trading Standards Departments and this is shared and coordinated by the Consumer Education Liaison Group (CELG). It has developed a very useful definition of consumer education which will help to guide our strategy - *Consumer education is about giving people the skills, attitudes, knowledge and understanding necessary to become an effective consumer.*
- 2.27 We will map the consumer education activities happening at a local level run by Trading Standards, citizens advice bureaux or others and to learn the lessons from previous consumer education work by evaluating outcomes.
- 2.28 In addition we believe there is much to learn from the models used to deliver local financial education.
- 2.29 We expect to undertake the following activities to help us develop and implement the strategy:
 - With support from BIS we would organise a national conference to bring together the outcomes of our mapping, stocktake and evaluation of existing consumer education activities to help us consult about and establish a strategic direction, priorities and agree methods of working between partners.
 - A rolling programme of consumer education campaigns would be developed appropriate to all parts of Great Britain which give priority to benefitting vulnerable consumers; link to evidence

of consumer detriment, or risks of consumer detriment and are supported by and enable a range of partners to engage and help deliver.

- Materials will be provided in support of these campaigns, which providers will be able to adapt and brand before local delivery. We will also support local campaigns that have been developed by others, sharing materials across the network of partners. This will include developing the database already established by CELG so that all providers can access quality materials free of charge.
- We will explore establishing a development fund, so that when a provider (trading standards department, citizens advice bureau or other provider) has developed a consumer education programme of merit this can be supported and further developed then added to the database for delivery by others.

Delivery methods for consumer education

- 2.30 There will be a range of delivery methods, ranging from remote (leaflets, online etc) through to face to face. We will target resources for maximum impact.
- 2.31 In the case of scams we know that those people who have been successfully scammed once are targeted again by scammers. To break this cycle we must ensure education materials are effective and are targeted on the right people when they are in touch with those able to help.
- 2.32 A consumer seeking advice and information on a given topic (e.g. they have been subjected to a scam or ripped off by a rogue trader) will be advised about consumer education options. For example, online this might be short films warning of the dangers of doorstep sales. On the phone or face to face this might be tips to avoid the same problem again.
- 2.33 Another key audience is the network of agencies that support vulnerable consumers. A number of projects have demonstrated the value of working with social workers, care agencies, health visitors, the police, post office and others. Professionals in these organisations can be trained to look out for the signs of vulnerable people being targeted (for example noting high volumes of unsolicited mail which could be reduced through registration with the Mail Preference Service). A lot of detriment comes through the mis-selling of mobility aids, and work with the relevant disability charities could provide an important consumer education channel for this group of consumers.

Delivery partners

- 2.34 Delivery will be through a range of skilled partners including trading standards staff, citizens advice bureau staff and volunteers, other charities and independent providers. All of these should be involved as resources permit - in one location there may be a trading standards department with skills, experience and resources to deliver local programmes, in another it might be bureaux that lead. The objective will be to ensure that all resources are utilised in a focussed way, delivered by whoever can achieve maximum impact.

Local action to reach consumers

- 2.35 A key feature of the approach the Citizens Advice service will take is delivery of consumer empowerment, including education and advocacy, at a local level. Local action across England, Wales and Scotland will:
 - create an integrated advice and support community to enable a range of organisations to pool evidence and influence policy makers
 - advocate for and represent consumers' interests locally to policy makers including through campaigns in which consumers play an active part

- campaign collaboratively with other consumer advice organisations on topical issues, providing leadership and resources
 - work closely with Trading Standards departments to ensure effective enforcement of consumer rights
 - provide data to local authorities and policy makers on how people in the community are affected by their policies and practices
 - deliver local media campaigns and communications
 - expose bad practice and give consumers a voice
 - provide supported access to the internet, giving digitally excluded consumers access to price comparison websites and best deals
 - run forums, meetings and events in the local community
 - provide support services to bureaux and other agencies on empowerment and campaigns.
- 2.36 In England and Wales Consumer Empowerment Partnerships (CEPs) would be formed whilst in Scotland a complementary approach, using the same principles, will build on the Citizens Advice Scotland Local Impact Project. The approach of all these initiatives will be to bring together networks of advice givers, educators and campaigners working together to identify issues, pool evidence, support consumers and campaign for improvements. Local impact projects and Consumer Empowerment Partnerships will work to ensure that consumers get advice and information and appropriate education programmes relevant to the local community. Through these local activities people will hear about and report scams and rogue traders, will find opportunities to develop their skills as consumers and will be able to join campaigns which tackle these issues.
- 2.37 The network of local partnerships and impact projects will report results back to Citizens Advice and Citizens Advice Scotland with evidence of emerging issues requiring policy interventions by the advocacy teams who will be aware of emerging issues that require policy interventions. Being part of a large network, these local projects and partnerships will share best practice and collaborate on national campaigns and benefit consumers on a national level as well as in local communities.

Governance structure

- 2.38 To facilitate partnership working and co-ordination we propose to establish a Consumer Empowerment Board, working with the Consumer Education Liaison Group, which will help us to set priorities, plan broad campaigns and arrange for the development of materials to deliver those campaigns. This will feed into the TSPB or equivalent national body for co-ordinating enforcement.
- 2.39 Regional and local groups will set local priorities, responding to the needs of their local communities, the prevalent problems and their level of resources and arrange for the delivery of consumer education programmes by a range of partners working together.

Responses to questions 1-5

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

2.40 The Citizens Advice service believes that by integrating the service presently provided by Consumer Direct into the Citizens Advice service, which also provides consumer advice and is better known by the public, this will make it easier and simpler for consumers to find consumer information and ultimately that will help make the consumer protection system in Great Britain easier to understand and more effective. Our plans, outlined above, will maintain and develop the service.

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

2.41 Yes. The Citizens Advice service already has plans in place to take on delivery of a replacement for the Consumer Direct service from April 2012. Supporting the delivery of that large scale telephone advice service handling consumer problems we intend to provide comprehensive information 24/7 via the internet for consumers to find information and answers they need on a wide range of consumer topics. The information will include a wide range of web-based decision trees and paths to action – helping consumers to find the right advice on their question or problem and then take action, on the web, to make a choice or seek redress. This will build on the capabilities and usage of our existing website www.adviceguide.org.uk which has 1 million users per month. We are also working in partnership with Which? on the content of information for consumers about their rights, to ensure the Government does not pay for or duplicate information already freely available. We will develop links online and offline to make sure consumers freely access the best information possible.

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

2.42 Yes. The functions carried out by the Extra Help Unit provide vital frontline support for vulnerable consumers, especially consumers facing the risk of disconnection from their energy supplies, or who have already been disconnected. The service is currently delivered by Consumer Focus, pursuant to a statutory function, and operates on the basis that referrals are made to it by the Consumer Direct service. For a number of reasons, including the fact that it is an intensive front line consumer advice and support service, it makes sense to transfer the responsibility for delivering this service to the Citizens Advice service.

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

- 2.43 Educated consumers are essential to avoid market failure. Educating consumers about their rights, responsibilities, markets and products and how to get the best deal is a lifelong learning activity and should be delivered continuously alongside other services – not in short burst campaigns - and should be delivered by a trusted credible source reaching people through all channels, including in communities.
- 2.44 In England and Wales, the Citizens Advice service would, subject to resources, be pleased to take forward and build on the valuable track record of the Office of Fair Trading in this area and work in partnership with the TSI Consumer Education Liaison Group (CELG). If resources allow we would develop and support a workforce of community based consumer empowerment advocates and educators, using a model which Citizens Advice has used successfully in England and Wales to create local financial educators. We could roll out more widely successful initiatives like Energy Best Deal (EBD), which have helped to demystify energy tariffs for consumers least likely to switch and get a better deal. The model used could be applied to other consumer problems, and help to embed the messages of the information service. Similar and complementary local initiatives will be rolled out throughout Scotland, utilising the extensive bureau network to empower local communities by delivering local campaigns and education programmes, placing consumers at the heart of our model.

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

- 2.45 Yes. We agree that it would be appropriate for co-ordination and support for business-facing **educational** activities to sit with the TSPB in future, or the JEB if that model is adopted provided the JEB has the capability to lead and guide local trading standards departments in this area of work.
- 2.46 However, as part of the consumer landscape changes we think the Government will need to clarify which organisation(s) are to be responsible for, respectively:
 - production and dissemination of 'official' **information** for business about their obligations to consumers under a variety of pieces of existing and new legislation
 - production and dissemination of '**guidance**' for businesses on how they can comply with consumer protection legislation which also outlines the policies that enforcers will adopt;
 - production and delivery of **education** for businesses.
- 2.47 **Information, guidance and education** are all different things – and guidance involves a degree of policy formulation. As policy and practice in enforcement of consumer law is

currently distributed between several hundred governmental organisations, whichever body is responsible for producing guidance must be capable of commanding support from the enforcement community.

- 2.48 We do not think it is essential that the body responsible for producing information (and guidance and education) aimed at businesses is the same body that is responsible for producing information for consumers but there will need to be close collaboration if responsibilities are spread across different organisations in terms of timing, content and methods of distribution.

3. Consumer Code Approval

The proposal

- 3.1 The consultation paper proposes that the proposed Competition and Markets Authority (CMA) would not continue operation of the OFT's current Consumer Codes Approval Scheme and that alternative options for future accreditation of consumer code approvals to be explored further including roles for BSI, Trading Standards, LBRO and private and/or third sector organisations.

Our response

- 3.2 The Consumer Codes Approval Scheme (CCAS) is part of the consumer landscape as the scheme serves to endorse 'good' self-regulatory schemes of benefit to consumers. If this scheme is not to continue then alternatives to it should be considered from the perspective of the role and benefits of self-regulation.
- 3.3 Self-regulation is an important way that consumers are assisted and protected. By committing to particular standards of business conduct either on an individual or collective basis effective self-regulation assists businesses to:
- understand and stay within the law
 - deliver a level of customer service that consumers want which **goes beyond the minimum required by law** without imposing new legal obligations
 - reduce the need for enforcement action and for legal action by consumers to gain redress.
- 3.4 Self-regulation can therefore be an important preventative part of the consumer protection landscape and if it is effective can play a significant role in helping consumers to identify the good businesses, who will treat them fairly, from those who are not committed to customer service, customer care and providing redress.
- 3.5 The consumer protection landscape has relied on self-regulation playing its part for many years. Developing and improving self-regulation has been a key element of successive government strategies to secure a balance between minimizing burdens on business and developing confident consumers, by assisting consumers to identify easily businesses they can trust to treat them fairly. One of the advantages of self-regulation is its potential ability to react more quickly to problems in a market than changing the law.
- 3.6 Modern consumer protection legislation also recognises a role for self-regulation as a part of the enforcement function. The Consumer Protection from Unfair Trading Regulations (CPRs) 2008 requires enforcement authorities, such as Trading Standards and the OFT, to look beyond traditional enforcement and to encourage other '*established means*' for the control of unfair commercial practices.¹ The Advertising Standards Authority code and the PhonepayPlus code are good examples.
- 3.7 There is also evidence of how self-regulation can work alongside enforcement to reduce and end consumer detriment. For example in 2007 the OFT worked with the Association of British Travel Agents (ABTA) to tackle misleading airline ticket price indications. A number of companies had displayed their prices excluding taxes and fuel supplements they knew would always have to be paid. The industry was warned about the problem and, where further action was required, ABTA members involved were dealt with using the ABTA code to

¹ Clause 19 (4), Part 4 Enforcement, Consumer Protection from Unfair trading Regulations 2008

reprimand and fine and OFT took action under the Enterprise Act 2002 against non ABTA member airlines. To clarify their position and to set out best practice the OFT published their policy statement on the role for self-regulation in their consumer protection work² in 2009, detailing the criteria they would use to decide on whether it was appropriate to use self-regulation code sponsors as an enforcement tool in any given case in future. This work is a valuable resource that self-regulation initiatives could use to ensure they can deliver their part in protecting consumers.

- 3.8 Self-regulation is however, a **voluntary** commitment so its role is to complement consumer protection law not to replace it.
- 3.9 Now is however the time for self-regulation to really prove its worth. Consumers facing reduced incomes in the current economic climate cannot afford to lose money as a result of making the wrong decision when they buy. Consumer protection law enforcers such as local authority Trading Standards services are facing resource challenges. In that context improving business practices could alleviate pressure to take enforcement action after the event.
- 3.10 But there are good and less good codes of practice and the CCAS has functioned to mark out the better self-regulatory commitments in a number of market places. We would like to see equivalent arrangements going forward for good codes of practice and self-regulatory commitments to be highlighted clearly to consumers. Some key elements will be essential if the benefits of self-regulation are to be delivered by any new approach going forward:
 - **Offering more than the law.** For consumers to see added value when choosing a trader on the basis of their adoption of self-regulatory standards any scheme of independent endorsement must ensure that traders are complying with all consumer protection legislation relevant to their market sector **and** that their code of practice or scheme of standards provides better protection than the law requires. The terms of the scheme rules must be clearly set out for scheme members and be transparent to consumers, so that they know what it does and does not deliver.
 - **Market coverage.** Any replacement code approval scheme needs to gain brand recognition for delivering best practice so it attracts members who want to enhance the reputation of their business and the sector.
 - **Core criteria.** Any replacement code approval scheme will need to ensure that approved codes meet minimum standards. We believe these should include compliance monitoring, processes for disciplining members who breach the code, dispute resolution schemes and staff training.
 - **Publicity.** If consumers recognise the added value of dealing with businesses that subscribe to self-regulatory standards this can incentivise firms to adopt the standards if it will improve their standing in the market concerned. To achieve this schemes need to be promoted effectively so that consumers can easily identify that a trader has adopted self-regulation and what that means, for example firms using a well recognised logo. It also needs to be very simple and easy to find out at any time which firms subscribe to particular schemes and codes and which do not.

² OFT1115 Policy statement – the role of self-regulation in the OFT's consumer protections work. September 2009

- **Future proofing.** To foster consumer confidence in the self-regulation scheme and the market sector the rules of the scheme need to be flexible and responsive to address new and emerging problems.
 - **Willingness to ensure codes address consumer detriment in the market.** In order to gain and to retain consumer confidence in the code approval scheme, the approvals body must be able and willing to take up evidence of consumer detriment with the code sponsors and ensure that codes take this evidence into account in their commitments.
- 3.11 If self-regulation in the consumer protection field is going to deliver more effectively in future it needs a new impetus to earn greater public recognition and trust.
- 3.12 Joining up and harmonizing the range of existing approval systems for business codes of practice and trader endorsement schemes would in our view be a key step to achieving this. The proposal to disband the OFT run Consumer Code Approval Scheme (CCAS) need not hamper that objective and could in practice facilitate the move to create a more comprehensive and consistent system, if local and national bodies which endorse self-regulatory schemes for businesses work together.
- 3.13 Two government sponsored initiatives and one local authority initiative currently provide processes of independent approval for business codes of practice:
- The Enterprise Act 2002 created a new requirement for the OFT to create and run a scheme for approving codes of practice across a range of business to consumer markets, the Consumer Codes Approval Scheme (CCAS).
 - TrustMark was set up by BIS in 2005 for the home repairs and improvements sector providing endorsement of individual traders.
 - Local Trading Standards services have developed a variety of local approved trader schemes.
- 3.14 The outcome of the above is that there are a multiplicity of different standards being applied and a multiplicity of different ‘badges’ which consumers are invited to look for when choosing a business to deal with and no one single well known brand. This is confusing for consumers, who may find it hard to differentiate between these independent endorsement schemes and a wide range of so-called professional badges and logos used by businesses to suggest they are competent and of quality. And it makes it difficult for advice agencies to promote the schemes to consumers.
- 3.15 As a result of the consumer landscape review we understand only limited work is now being undertaken on OFT code approval and those codes that have already been approved are uncertain about the future location of any independent oversight and endorsement. This is therefore an opportunity for a new approach to establish a single scheme or system and approach which can work at local and national level, and apply to individual traders and trade associations.
- 3.16 For some time the Citizens Advice service have proposed to the OFT CCAS, TrustMark and the local authority trading standards service network of local authority approved trader schemes that they should be working towards harmonising the schemes and amalgamating them under a single easy to recognize logo.
- 3.17 To achieve this would require development since none of the current schemes could simply adopt the OFT CCAS codes without effectively reducing the standards expected in those sectors. TrustMark might be well placed to take on a leading role at national level, in collaboration with local authority trading standards services, by extending its remit. A new and wider TrustMark could share a single logo but adopt an added word, ‘national’ or ‘local’, to

show the scope of a two part scheme and franchise local consumer protection enforcers to award the badge in their areas to businesses consumers could trust.

- 3.18 Both large and small businesses that are complying with consumer protection laws and who trade fairly should be able to join the combined scheme. Local authority trading standards services have a key role in developing any joint scheme, using their membership's proven track record for engagement with local traders including many small traders.
- 3.19 Creating a single harmonized scheme would enable more effective promotion to consumers on a wide scale through all channels.

Responses to questions 6 - 11

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

3.20 We would like to see CCAS members consider transferring their approved code to an existing alternative scheme. We believe that this should ideally be a single scheme which is approved by Government.

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

3.21 Yes. Alternatives to the CCAS already exist. But there is a risk of further proliferation and lack of harmonisation in standards and labelling which will not benefit consumers. Firstly the assured trader schemes run by local authority trading standards could be extended to cover the whole country. Secondly, the remit of TrustMark, the government-endorsed approved trader scheme covering repairs and home improvements could be extended to cover more sectors. Finally, both of these schemes could be amalgamated, thus simplifying the number of approved self-regulation schemes. This could have the added benefit of enabling improvements in consumer recognition. We would support an initiative which harmonised the various code and trader endorsement schemes in terms of standards, administration, labelling and promotion.

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

3.22 The Citizens Advice service has supported the CCAS scheme because it seemed to have the potential to improve self-regulation and provide consumers with confidence in their choices and an alternative means of redress if things went wrong. We particularly welcomed the development of core criteria at the heart of the approval process.

3.23 Over the last eight years we have engaged with the OFT and code sponsors in the code approval process. We have provided evidence of problems in the markets covered by proposed codes which we felt self-regulation needed to address and commented on draft codes of practice.

3.24 Whilst we supported the system, we have had a number of concerns about its operation:

- the time taken for codes to go through the system
- the unwillingness on occasions of either the OFT or the code sponsor to take on board consumer organisations' concerns about the content of codes during the consultation process, making consultation ineffective
- lack of consumer awareness
- some of the approved codes have had limited membership in the market they covered.

3.25 We believe that all the above need to be addressed by any successor scheme or system.

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

3.26 The option of transposing the CCAS codes into BSI standards should be evaluated against the criteria we have outlined above. This does not however appear to be the best option for preserving the CCAS scheme or developing further those codes of practice. Whilst the core criteria could in theory be transposed into a BSI standard, the approvals process does not appear to us to fit BSI's current work practices and we consider the process of approval, including consultation with consumer groups is a very important feature to establish whether the code content and specific promises given by businesses and groups of businesses is addressing issues arising in a specific market. Also currently BSI standards relate to individual business rather than trade association codes of practice. Of greater concern is that the fact that the BSI do not, to the best of our knowledge, get involved in monitoring compliance with BSI standards unless an individual business pays for a kitemark approval process.

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

3.27 As we have highlighted in our response to the previous question, the current BSI system relates to individual businesses rather than trade associations. Therefore any code certification process using the Kitemark system would probably need to involve trade associations in the development of the code and establish that they would need to be willing to test and enforce the BSI standard.

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

3.28 Whilst we can see the potential for Primary Authorities to be involved in the handling of certification processes for approval of self-regulatory codes of practice if this route is chosen it must deliver consistency and significant coverage. There is a risk that if approval of self-regulatory schemes for particular sectors of the economy is devolved to individual Primary Authorities this could result in inconsistency unless the work was being undertaken within an 'umbrella' of a policy framework, like the core criteria for the CCAS which aimed to ensure comparability between sectors. We are also not clear how consumer advocates would contribute to a Primary Authority led system of code approvals.

4. Advocacy

The proposal

- 4.1 The government proposes that there should be a single focus for the coordination of publicly-funded consumer advocacy functions. A single unit, run by the Citizens Advice service and acting in partnership with other expert providers as appropriate, should take over responsibility for:
 - all Consumer Focus functions in relation to gas, electricity and (except Northern Ireland) postal services
 - key, non-sector specific advocacy functions of Consumer Focus
 - sectoral consumer bodies for water (in England and Wales), transport, communications and legal services, if the relevant Departments and Devolved Administration responsible for those bodies so decide.
- 4.2 Redress schemes could be set up by business for consumers in the water, rail, coach, bus and tram sectors to mirror those in the energy and postal services sectors, if the relevant Departments and Devolved Administrations so decide.
- 4.3 Consumer Focus's functions in respect of postal services consumers in Northern Ireland, undertaken by its committee known as Consumer Focus Post, are proposed to be transferred to the General Consumer Council for Northern Ireland.

Our response

- 4.4 We agree with the Government that there should in future be a single focus for the co-ordination of publicly-funded consumer advocacy functions which:
 - is able to do everything that Consumer Focus is able to do today in relation to both economically regulated markets and the wider economy
 - builds on the track record of Consumer Focus and harnesses the strengths of other organisations which are better known by consumers and have more contact with consumers
 - has more impact than the present arrangements domestically and internationally
 - reduces overlap and duplication in costly research and analysis
 - enhances the available evidence base with consumer intelligence, puts consumers at the heart of consumer advocacy and involves consumers in policy and advocacy
 - is able to advocate for consumers experiencing problems today and also engage effectively with and influence longer term market developments which are 'over the horizon', particularly in regulated markets
 - is integrated with and complemented by information, advice and education services
 - works in close partnership with consumer protection enforcers and regulators at local and national levels.
- 4.5 We agree that the Government should move to enable an alternative approach to be delivered by other organisations which are better known and trusted by consumers and this would simplify the landscape for consumers and policy makers.

- 4.6 By working with the Citizens Advice service and Which? the Government could enable a more active dynamic and responsive system of consumer protection with consumers themselves and communities playing a stronger role.
- 4.7 We would help to get consumers actively looking after themselves and doing this better at a time when resources for formal enforcement are reducing.
- 4.8 Working nationally across Great Britain and locally the Citizens Advice service would take the lead in delivering the consumer interface of the Government's consumer empowerment strategy - covering information, advice education, advice and advocacy.
- 4.9 Consumers will be advised quickly by us, or be able to discover for themselves, if their case is one that should be reported to a regulator so they can take enforcement action, or simply to help them build up a dossier of evidence.
- 4.10 Client data from all our frontline channels will be captured and analysed – with 'hot topics', non compliances and rogue trader rip offs flagged regularly and promptly to relevant regulators. Specialist investigations research and analytics functions based in the Citizens Advice service would work closely with the enforcement community.
- 4.11 Policy analysis and representation and advice to governments and regulators would build on the research and reporting function. Working in partnership with Which? and other organisations as appropriate the Citizens Advice service would act as a respected consumer voice across a wide range of topics – drawing on the evidence from service delivery and polling the public directly about their views – channelling consumers' views into responses to government consultation, fielding representatives for working groups across government which are working on shared solutions.
- 4.12 The Citizens Advice service would use the evidence and contacts with consumers to input to business product and service development - both at a national and local level and across a variety of markets – aiming to prevent problems for consumers as a result.
- 4.13 The power to investigate problems and make a supercomplaint would be used where appropriate to secure significant change and we would establish working protocols to avoid duplication.
- 4.14 With resources and the appropriate legal provisions to enable this, class actions/multiple redress could also be led by us in future.
- 4.15 Together we could lead in advising governments across Great Britain on the state of consumer detriment and empowerment – drawing on our many millions of touchpoints with the public in communities, on the internet and over the telephone, and particularly those hardest to reach.
- 4.16 The Government's consultation paper states that

'Consumer advocacy is about representing consumer interests and promoting consumer rights on a wide spectrum with businesses, regulators and Government, the European Union and internationally. Effective advocacy requires strong research, analysis and investigation combined with effective influencing and negotiating skills to deliver better outcomes for consumers'
- 4.17 The Citizens Advice service already has a strong and growing track record of policy advocacy which delivers better outcomes for consumers, using the evidence gleaned from advising millions of people every year to advocate and campaign for policy changes that benefit the population as a whole. And the Citizens Advice service is increasingly involving the public directly in campaigns.

4.18 Between 2009 and 2011 Citizens Advice helped over 15 million people through the influence of our policy work. The Citizens Advice service policy advocacy has a high impact and extends across a wide range of policy areas and markets including:

- fuel poverty
- energy market redress schemes
- post office services
- basic bank accounts
- unfair commercial practices
- access to business conduct information
- access to NHS Dentistry
- contact centre standards
- cash back offers
- mortgage and secured loan arrears
- private parking firms
- responsible lending.

Key policy advocacy successes for consumers include

- **Consumers gain £14.2m per annum from doorstep selling rights :** All consumers buying goods in their own home got new cancellation rights in October 2008 – a change recommended by us in our 2002 Supercomplaint on doorstep selling which was backed up by the Office of Fair trading. The government estimated this would benefit consumers to the tune of £14.2m per annum.
- **6.5m people a year get a better deal on payment protection insurance :** Consumers purchasing payment protection insurance are now getting a better deal than before our Supercomplaint about this market was made in 2005. That complaint prompted investigations by the Office of Fair Trading and the Competition Commission which revealed that 6.5 million consumers were being overcharged by £1.4 billion a year. Single premium policies have now been banned, 24 companies have been fined a total of nearly £13 million by the FSA for misselling PPI, consumers are now getting better information from suppliers and regulators and 60,000 consumers have been prompted to make complaints and seek redress from the Financial Ombudsman Service for mis-selling of this product. Changes to regulatory requirements will mean that the 6.5 million consumers expected to purchase a PPI policy each year will be getting a better deal.
- **750,000 energy customers who use prepayment meters better off :** In 2006 Citizens Advice asked all the energy companies with old fashioned pre-payment meters that still used tokens to speed up their programmes to re-calibrate these meters when prices rose. Consumers with these meters were facing significant 'catch up' debts simply because the company had taken a long time to update the charging information in their meter. British Gas agreed to change its policy so that new charges did not apply until the meters had been re-calibrated – benefitting 150,000 customers. Replacement programmes for these meters were sped up. Following a significant campaign involving 140 MPs in 2007 Ofgem ordered all the energy companies to re-calibrate token meters within one month of price changes. This

campaign benefitted 150,000 British Gas customers and 600,000 electricity customers of three different companies.

- **2.4 million people in 600 communities get free to use cash machines :** A campaign led by Citizens Advice in 2006, and supported by the Chair of the House of Commons Treasury Select Committee secured the installation of 600 free to use cash machines in the most deprived areas in the UK without access to free ATMs. The population of these areas totalled 2.4 million people.
- **Poor claims handling practices ended :** Citizens Advice reports on problems with the no-win-no-fee claims market resulted directly in the introduction of a new system to regulate claims handling intermediaries in the Compensation Act 2006 after self-regulatory initiatives failed. Regulatory action by the Claims Management Regulator resulted in over 450 businesses withdrawing their applications for authorisation and over 650 businesses have voluntarily surrendered their authorisation. Effective action has been taken against businesses operating without authorisation.
- **324,000 private tenants get new rights:** In 2009/10 Citizens Advice led campaigns to get the private members legislation, Mortgage Repossessions (Protection of Tenants) Act, passed. The campaign was led by evidence of growing numbers of tenants evicted because their landlord had not paid the mortgage on their property – even though the tenant had paid their rent, often via a letting agent. This new law will bring peace of mind to 324,000 tenants who will no longer risk eviction without notice if their landlord is repossessed.
- **A Tenancy Deposit Scheme has been introduced by the Scottish Government:** This scheme stops landlords unfairly withholding peoples' deposits at the end of a tenancy.
- **50 DWP phone lines free of charge to mobile phone users:** twin campaigns by Leeds Citizens Advice supported by Citizens Advice and by Citizens Advice Scotland persuaded the Department for Work and Pensions to negotiate with mobile phone companies to ensure that mobile phone users are not charged for calls to DWP helplines. High call costs were deterring people from claiming benefits or reporting changes of circumstances. The change of policy led to many more people with mobile phones calling DWP helplines. Before the change, 15 percent of helpline calls came from mobile phones. Just over six months later, this had risen to 52 percent. This is saving money for those who only rely on mobile phones, and makes life more convenient for millions of callers who can now call free from their mobile phones.
- **15,000 Scottish DLA claimants are better off:** Citizen Advice Scotland's DWP Disability Living Allowance consultation response highlighted issues for over 300,000 Scottish disability living allowance claimants. The response helped reverse government welfare policy on claimants losing their mobility component of DLA when they are in residential care.
- **300,000 ESA/IB claimants across Scotland directly benefited** from Citizens Advice Scotland's sustained campaign on ESA including the unfit for purpose report, media releases and appearances, lobbying and consultation response. Over half our 'unfit for purpose' recommendations were included in the Harrington Review.

A partnership approach

- 4.19 Partnership is and will be key to effective advocacy for consumers. A partnership board will be established between the Citizens Advice service and other key partners, including Which?, to oversee our partnership and agree priorities.
- 4.20 The Citizens Advice service will work to establish local activity. In England and Wales Consumer Empowerment Partnerships – led by Citizens Advice bureaux and Citizens Advice Cymru – will be networks of advice givers and campaigners working together to identify the issues, pool evidence and educate, warn and support consumers, with appropriate alternative arrangements in Scotland.
- 4.21 Data about consumer problems gleaned from our contact with the public will be shared with the consumer protection enforcement community, from local trading standards services to economic and market regulators to help them do their job.
- 4.22 Our information and education resources would be available across the information and advice and consumer protection sector and would reduce duplication and cost of separate production.
- 4.23 This would need to be backed up by a good legislative framework for consumer rights, simple and low cost mechanisms for obtaining consumer redress; and a sound framework for public enforcement which can and does act promptly when needed. The Citizens Advice service would therefore urge the government to move beyond present moves to simplify consumer law and look at ways to really improve and enhance consumer rights in future. Such improvements could include enabling economic and market regulators to order companies who breach regulation to pay compensation to consumers affected either instead of or additional to any fines and enabling consumers to take action collectively to secure redress.
- 4.24 The Citizens Advice service, working in partnership with Which? and other trusted consumer organisations would support, engage and educate individual consumers and work with government, regulators and local consumer protection enforcers to ensure that intelligence about consumers' experiences and views are fed into the policy and enforcement solutions and strategies. We would also ensure that consumers' interests are represented to all governments across Great Britain.
- 4.25 We would do this by creating a comprehensive, integrated, accessible, dynamic and responsive partnership.
- 4.26 It would consist of the following features:
 - **information and advice** for consumers
 - **education** and consumer empowerment activity
 - **advocacy** and representation of consumers' interests to support policy makers and regulators
 - **a partnership** model for determining strategy and delivery.
- 4.27 We have reached agreement in principle on how we might do this by playing to the different but complementary strengths and experiences of our organisations. Our approach preserves the continuing independence of Which? and harnesses the expertise, reach and holistic perspective of Citizens Advice and CAS.
- 4.28 We believe that consumers will benefit from our proposed partnership because working together we can deliver:

- greater cost efficiencies in the production and reach of consumer rights information
 - more cost effective individual consumer rights legal advice
 - more effective gathering and use of evidence, drawn directly from millions of consumers being helped at the front line of casework and consumer contact by our organisations, online, over the phone and face to face
 - a more holistic perspective on consumer issues, approaching and finding solutions to these with a detailed understanding of the pressures facing consumers in both consumer and non-consumer areas
 - more powerful and dedicated resources for representing consumers in regulated markets such as energy and post
 - enhanced policy and advocacy collaboration, ensuring that all consumer markets are effectively covered by at least one of our organisations and avoiding duplication
 - a stronger forward thinking capability to identify the big issues on the horizon, enhanced through constructive collaboration, mutual challenge and partnership.
- 4.29 We are already working together on the content of consumer rights information, to ensure the Government does not pay for or duplicate information already freely available. We will develop links online and offline to make sure consumers freely access the best information they can. And we are already testing in Wales how the Which? Legal Service can work closely with Citizens Advice advisers to provide legal advice support countrywide.
- 4.30 In relation to sectoral advocacy, we believe that this work should be delivered through a strategic partnership where:
- Which? creates a specialist unit with appropriate governance arrangements responsible for technical and economic analysis and insight into regulated sectors, focusing on providing a detailed advocacy service to regulators, with the ability to use existing resources to complement this work.
 - Citizens Advice, Citizens Advice Cymru and Citizens Advice Scotland take on responsibility for wider and complementary advocacy in regulated sectors, providing insight based on their local networks and casework, enhanced by the ability to use existing resources to complement this work, and the creation of local consumer empowerment and advocacy capabilities.
 - Which? takes on responsibility for international advocacy.
 - Data, insight and strategic planning are shared between organisations to ensure that advocacy perspectives are complementary and public resource is not spent on duplicating work
 - Other functions in these sectors, such as investigations, are carried out by Which?, Citizens Advice and Citizens Advice Scotland as required, overseen by a strategic partnership.

Responses to questions 12 - 19

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

- 4.31 Yes. We support the vision of combining sectoral advocacy functions so that this will deliver a better outcome for consumers. This will ensure that advocacy in one area is informed by developments and challenges in other areas, resulting in a more joined-up and intelligent regulatory and policy environment for consumers, Government and industry.
- 4.32 We believe a strategic partnership between Citizens Advice, Citizens Advice Scotland and Which? - the most trusted and publicly recognised organisations operating in this area - to deliver these sectoral advocacy functions would significantly enhance consumer information, advice and advocacy, and we are confident that the system would work better than it does today as a result of this partnership, subject to greater clarity from various parties about the resources available and other essential detail.
- 4.33 We believe that consumers in regulated industry sectors would benefit further from our proposed partnership because working together we can deliver:
 - greater cost efficiencies in the production and reach of consumer rights information
 - more cost effective individual consumer rights legal advice
 - more effective gathering and use of evidence, drawn directly from millions of consumers being helped at the front line of casework and consumer contact by our organisations, online, over the phone and face to face
 - a more holistic perspective on consumer issues, approaching and finding solutions to these with a detailed understanding of the pressures facing consumers in regulated consumer, non-regulated consumer and non-consumer areas
 - more powerful and dedicated resources across Great Britain for representing consumers in regulated markets such as energy and post
 - enhanced policy and advocacy collaboration, ensuring that all consumer markets are effectively covered by at least one of our organisations and avoiding duplication
 - a stronger forward thinking capability to identify the big issues on the horizon, enhanced through constructive collaboration, mutual challenge and partnership.

Question 13 Do you agree with the design principles for the regulated industries unit as set out in paragraph 4.34?

- 4.34 Yes. We agree that these design principles represent a sensible approach for how consumer advocacy should work in future, subject to further consideration with relevant regulatory bodies and other stakeholders. We see these as applying to the function of consumer advocacy in regulated sectors more generally, but a single Regulated Industries Unit as conceived by the consultation document would not be the most effective delivery mechanism.

4.35 A strong partnership between Citizens Advice, Citizens Advice Scotland and Which? covering advocacy in regulated sectors – working in accordance with these principles – would achieve the outcomes that effective consumer representation requires today and in the future by playing to the different but complementary strengths and experiences of our organisations. This approach would preserve the continuing independence of Which? and harnesses the expertise, reach and holistic perspective of Citizens Advice and Citizens Advice Scotland.

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

- 4.36 We believe that changing how consumer advocacy is delivered has significant potential to improve outcomes for consumers, but that a strategic partnership between Citizens Advice, Citizens Advice Scotland and Which? would offer a stronger service for consumers, government, regulators and industry.
- 4.37 We believe it makes sense to focus resources for general government funded advocacy within Citizens Advice and Citizens Advice Scotland, working in partnership with Which? to share insight, approaches and information to minimise duplication and ensure strategic coordination.
- 4.38 While we agree that advocacy in regulated industries sectors does require an enhanced approach, due to the essential and complex technical nature of much of the work, we think it would be a mistake to isolate advocacy in these areas from wider insight about the pressures facing consumers.
- 4.39 We therefore think that this work should be delivered through a strategic partnership where:
- Which? creates a specialist unit with appropriate governance arrangements responsible for technical and economic analysis and insight into regulated sectors, focusing on providing a detailed advocacy service to regulators, with the ability to use existing resources to complement this work.
 - Citizens Advice and Citizens Advice Scotland take on responsibility for wider and complementary advocacy in regulated sectors, providing insight based on their local networks and casework, enhanced by the ability to use existing resources to complement this work, and the creation of local consumer empowerment and advocacy capabilities.
 - Which? takes on responsibility for international advocacy.
 - Data, insight and strategic planning are shared between organisations to ensure that advocacy perspectives are complementary and public resource is not spent on duplicating work.
 - Other functions in these sectors, such as investigations, are carried out by Which?, Citizens Advice and Citizens Advice Scotland as required, overseen by a strategic partnership.

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

- 4.40 We recognise that Northern Ireland already has different arrangements and agree with the proposals for moving responsibilities to NI specific consumer bodies.
- 4.41 In relation to non-regulated sector advocacy, we believe it makes sense to focus government funded advocacy in the Citizens Advice service in Wales and Scotland as it is for England. The Citizens Advice service operates at a national and a local level and is best placed to do this.
- 4.42 The proposed approach to advocacy in regulated sectors should be able to advocate strongly for all consumers, regardless of where they live in Great Britain, when dealing with regulators for energy and postal services. In relation to advocacy for consumers of regulated industries, we note that neither Scotland nor Wales has individual or separate regulatory systems for energy or post from that affecting England. However, the economic and social and public policy differences affecting consumers of these markets in Wales and Scotland mean that it is very important that Welsh and Scottish consumers have a strong voice towards decisions being taken at a Great Britain level affecting energy and postal services. In cases where there are national or devolved differences in the practices of the regulatory regime or impact upon consumers, we believe that these interests should be properly represented by dedicated staff working in Scotland or Wales where appropriate.
- 4.43 The possible Citizens Advice, Citizens Advice Scotland and Which? partnership referred to at Question 12 would include a commitment to ensuring an effective and appropriate consumer advocacy capacity and capability in Scotland and Wales.
- 4.44 Citizens Advice Cymru would lead on advocacy for consumers in Wales. It has devolved responsibilities within the Citizens Advice organisation, it is managed by the Director, Citizens Advice Cymru and governed by a separate Committee in and for Wales. The Committee in Wales, working with the Director, Citizens Advice Cymru has fully delegated responsibility to set and monitor our advocacy work arising from policy and legislation as it relates to citizens and consumers in Wales. This means that decisions on the priorities for advocacy work on behalf of Welsh consumers will be made in Wales. We will need to review and make changes to the committee's terms of reference to ensure they are appropriate to enable us to deliver the functions of Consumer Focus if and when they are transferred to us and are in discussion with the Welsh Government to ensure our arrangements meet their requirements. We believe that this will ensure that Welsh consumer interests will be specifically protected in the proposals to transfer responsibilities to the Citizens Advice service.
- 4.45 It is our intention that work in Wales will be undertaken on devolved and non-devolved matters as they impact on consumers in Wales. Our proposals for the delivery of advice are that our delivery is undertaken in Wales and bilingually for consumers from Wales. In terms of advocacy work we are currently proposing that, as currently within Consumer Focus and subject to retaining all the funding, the same proportion of funding will be devolved to advocacy work undertaken in Wales.
- 4.46 Citizens Advice Cymru has worked with and been answerable to the National Assembly for Wales and the Welsh Government on other matters. For this reason we are content to have a close relationship with and appropriately report to the National Assembly for Wales on consumer matters. It is also important that the organisation undertaking consumer advice and advocacy in Wales works closely with and reports to the UK Government since much of the

work related to the consumer landscape will relate to non-devolved matters. It is vital that the impact on the Welsh consumer is reflected in UK and GB policy work. For this reason the strength of a Wales based body, with decision making at a Wales level, but with the strongest influence and link to the bodies undertaking this work in England and Scotland and across Great Britain will advantage the Welsh consumer. Citizens Advice and Citizens Advice Scotland and Citizens Advice Cymru working together, and with Which? offers this advantage.

- 4.47 While being part of the Citizens Advice family, Citizens Advice Scotland is nevertheless an independent charitable organization based in Scotland, working for the people of Scotland and is Scotland's largest independent advice network.
- 4.48 Scotland has a distinct legal and political system which influences the way in which consumer issues affect people across the country. Whilst consumer policy is reserved to the UK Parliament, many issues that affect consumers are devolved to the Scottish Parliament, including housing, legal services, health and social care. Advocacy for consumers in Scotland must address the Scottish Parliament on devolved issues and represent consumers in the UK Parliament with a distinctively Scottish voice. A detailed understanding of consumers in Scotland and their issues is needed to advocate on their behalf. Citizens Advice Scotland and our member bureaux have an understanding of Scottish consumers, grounded in the evidence gained from the thousands of consumers who seek frontline advice every day, allowing our service to have a strong voice on their issues.
- 4.49 We believe that the service is ideally placed to build on our role with local Scottish communities. The network of bureaux, and the trust the public has in the citizens advice brand - according to an Ipsos MORI survey of our Scottish clients, 98% said they felt able to trust the confidential service – will enable the service to give national prominence to consumer education campaigns as well as to promote campaigns at a local level through front line advice services.
- 4.50 In addition, advocacy is not a new concept to the Scottish service. We are already a powerful force for change, campaigning at national and local levels. We conduct policy research on consumer and other issues, reflecting the Scottish experience and context, and we have a strong track record of changing policy and improving people's lives – both at UK and Scottish levels. Not only does the Scottish public have a strong level of trust in our organization but 6 out of 10 of our Scottish clients are aware that the CAB service "influences government and other large organisations" through our behind the scenes advocacy work. In addition 100% of MPs and MSPs considered we influence both social policy and government, and around 80% of Westminster and Holyrood civil servants felt that we do. These proposals will reinforce our role as an integrated service, to be seen more widely than our client base as an authoritative voice speaking on behalf of Scottish consumers. As with Wales, decision making at a Scottish level, with the strongest influence and link to the bodies undertaking this work in England and Wales will advantage the Scottish consumer. Working across the Citizens Advice service, we will be able to contrast and compare the Scottish experience with the rest of GB. We will lead on issues that are relevant to Scotland, highlighting regional as well as national differences. Advocacy needs to have an evidence base, and our evidence on consumer issues is second to none in Scotland. We believe that advice, empowerment and advocacy are interlinked and should be provided within an integrated service. This places the consumer at the heart of advocacy and Citizens Advice, Citizens Advice Scotland, Citizens Advice Cymru working together with Which? offers this advantage.

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

4.51 We believe that the information gathering powers are important, and appropriate arrangements should be made to ensure that the benefits of these powers are not lost following the abolition of Consumer Focus. A partnership between Citizens Advice, Citizens Advice Scotland and Which? would have within it clear arrangements for ensuring the careful, proportionate and effective use of such powers in a coordinated manner, effectively reducing duplication of effort.

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

4.52 We support the proposal to establish redress schemes in as many sectors as possible and note that it may already be possible to do this in relation to water and sewerage services in England and Wales and passenger transport. We also note that in Scotland water consumers have already got access to an ombudsman scheme for dealing with their complaints about water services. Supporting this proposal is not in any way to criticise the commitment to and effectiveness of complaint handling of sector consumer advocacy bodies where they continue to handle complaints themselves. But there would be two clear benefits from establishing further redress schemes. First it would provide all consumers with equivalent redress systems in relation to utilities and essential services they use which included an independently made and binding decision, including award of compensation or redress for consumers. It seems odd that consumers have this right in relation to energy but not in relation to water services, except in Scotland. Second, it would simplify the redress system for consumers because more sectors would have the same approach and process for complainants to follow and ideally would enable the creation of a harmonised 'gateway', one-stop shop portal for consumers to make complaints through. This simplification could remove one of the barriers to consumers seeking redress that the system may seem too complex, and enable co-ordinated action to improve awareness.

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

4.53 Yes.

Question 19 Do you agree that the Postal Services Redress Scheme should continue to apply in Northern Ireland to ensure that Northern Irish consumers retain the same access to redress as consumers elsewhere in the United Kingdom?

4.54 Yes. this seems sensible.

5. Chapter 5 – Enforcement of Consumer Protection Legislation

The need for Enforcement

- 5.1 Enforcement of consumer protection law is a vital part of the consumer landscape. Unless consumer protection law is enforced effectively rogue traders will flourish - ripping off consumers, denying them their statutory rights and undermining responsible businesses and the economy as a whole.
- 5.2 The level of consumer detriment resulting from unfair treatment of consumers by businesses is too high in our view, estimates range from £3.3bn to £6.6 billion, in 2008 and 2009 by Consumer Focus and the Office of Fair Trading respectively. As a consequence of the recession we would expect these figures to be higher in 2011 (see Desperate Times; Desperate consumers, Citizens Advice, July 2011).
- 5.3 The range of issues causing consumer detriment is extremely wide – from unfair contract terms and hidden charges, to poor quality of service and lack of redress in all sectors of the economy from building services to banking services. There are also deliberate scams and rip offs. There are many issues for regulators to address, caused by a large number of businesses big and small, and affecting many millions of consumers in different ways.
- 5.4 Establishing more effective enforcement of consumer protection law to remedy, and prevent, this significant consumer, and economy wide detriment is, therefore, a really critical element of the consumer landscape and a key test of the proposed reforms will be whether the enforcement system will be better able to tackle consumer detriment efficiently in future. It is important in today's economy because at least £6bn costs are being paid by consumers which they cannot afford to lose. And its £6bn going to businesses that are performing badly towards consumers, robbing better businesses of market opportunities.
- 5.5 The Government rightly identifies a number of features of the current system for enforcing consumer law which serve to reduce the effectiveness of the system.
- 5.6 The primary issue identified by BIS is that responsibilities for gathering evidence and taking action are divided between hundreds of local authorities on the one hand, and national bodies such as the Office of Fair Trading and sectoral regulators on the other.
- 5.7 In addition some national, short term projects created by government aim to tackle consumer detriment in particular areas such as illegal money lending and scams. As a result gaps appear as it is not clear which organisation will actually tackle an issue and priorities are not co-ordinated. These problems are particularly arising where an enforcement issue is best dealt with nationally. This complex, patchwork system does not in practice form a comprehensive quilt covering the whole country. There are risks that in some cases nothing is done and in other cases scarce resources are not being deployed effectively, and there may even be duplication.
- 5.8 The National Audit Office in its recent report '*Protecting consumers – the system for enforcing consumer law*' have highlighted other aspects of concern including:
 - The overall scale of so-called 'consumer detriment', particularly that caused by doorstep crime, is **not being properly evaluated**, leading to the inefficient allocation of resources.
 - Although much consumer detriment occurs at the regional and national level, incentives on consumer law enforcers are presently weighted against a coordinated approach which goes beyond local areas.

- The governance arrangements for the consumer law enforcement ‘system’ are not clear, evidenced by separate and incompatible intelligence databases being developed.
- A framework for prioritizing and allocating cases, introduced by the Office of Fair Trading, is not being applied as intended and formal structures for supporting the model are not in place in seven of eleven regions, and there is still a lack of clarity over who should be taking cases forward.

And both the Government and the NAO identify significant resource challenges including:

- resources allocated to local trading standards services by local authorities already vary significantly between local authority areas
 - total resources available from local authorities for Trading Standards Services are projected to reduce from £213 million to between £140 million to £170 million by 2014
 - central government resources of £34 million to tackle crime which crosses the borders between local authorities, is relatively low compared to the scale of the problem.
- 5.9 Flat and reducing levels of local resources is expected to mean that in future local Trading Standards Services will have reduced willingness and capability to address issues which are not local to their service. Currently BIS estimate that 70 per cent of consumer detriment arises as a result of practices that are cross-border, in the sense that the issue is not confined to one local area.
- 5.10 In this context it is clear that the present system for enforcing consumer law needs to change.
- 5.11 The Citizens Advice service has evaluated the government’s proposals for change by reference to the consumer perspective. From a consumer perspective an effective consumer law enforcement system that they can have confidence in has the following attributes:
- The system has **clear goals** to the effect that the outcomes achieved must **primarily benefit consumers**, and enforcement is used to protect consumers, and particularly vulnerable consumers, from rogue traders, unfair practices and other instances where businesses disregard their legal obligations.
 - Where the system relies on multiple organisations to deliver the **goals must be shared**, and operational systems and processes must be in place to ensure those are achieved.
 - **Consumers experiences should drive the system** – evidence from consumers is actively sought, captured, analysed and shapes decisions about what, when and how the enforcement system should respond.
 - **Consumers can use and engage with the system easily**, it is responsive to them as individuals, in groups and communities, with consumers only needing to provide the same information once and when they have reported problems they are kept informed about any decisions and action being taken.
 - Enforcement bodies **should not hesitate to act** where it is clearly appropriate to do so, expecting to prosecute where appropriate.
 - **Prevention** is as important as after the event remedies and is a key feature of enforcement practice.
 - The system is **responsive and dynamic** – it secures wider solutions for example by using the evidence of non-compliance to change business and market behaviour, clarify or improve laws that can be side stepped or secure the necessary level of deterrence to those who would deliberately flout their legal obligations.
 - The system is **accountable to consumers and citizens**.

The Proposed Solution

- 5.12 To address the problems identified with the current system of enforcement we understand the Government is proposing to:
- Establish a Trading Standards Policy Board (TSPB) to lead prioritisation and co-ordination of national, regional and cross local authority boundary consumer enforcement work, this would develop the co-ordination and leadership roles currently held by the Office of Fair trading in this area.
 - Expect that national enforcement will be undertaken by Primary or Home Authorities and expanded regional teams, with, in addition lead regions/and or authorities on specialist issues. Resources for national and cross boundary threats would be effectively transferred from the Office of Fair Trading, delegated to the trading standards community to manage and deploy and ring-fenced and an indemnity fund is proposed to support local authorities in decisions to take on high risk cases.
- 5.13 Relevant evidence, work plans and market analysis would be shared between the TSPB and the proposed Competition and Markets Authority (CMA) but also the most significant consumer bodies in the future consumer landscape, Which? and Citizens Advice.
- 5.14 The CMA would be able to take action on breaches of consumer law which have an impact on competition, making the CMA a consumer and competition law enforcement body.
- 5.15 A system for market studies and supercomplaints would continue with the CMA having the central role to initiate market studies and consider supercomplaints.
- 5.16 These changes are proposed in the context of other highly relevant changes principally the transfer of a number of responsibilities and functions to the Citizens Advice service from the Office of Fair Trading and Consumer Focus. These are:
- Responsibility for delivering the Great Britain wide telephone based consumer advice service currently known as Consumer Direct. This service currently handles over 1.5m calls from members of the public every year seeking advice on consumer problems and reporting experiences of unfair trading by businesses. According to the recent NAO report Consumer Direct data is the second most important source of intelligence for local consumer law enforcers. Thus the Citizens Advice service will in future have the primary responsibility for collection and national analysis of this data as well as providing individual advice to consumers who use the service, and transferring individual cases of potential enforcement action to the appropriate body.
 - Responsibility for co-ordinating consumer education presently resting with the Office of Fair Trading.
 - Delivery of functions presently held by Consumer Focus to undertake research into and investigate matters on behalf of consumers and represent their interests.
 - Delivery of in depth research into consumer detriment in particular markets currently carried out by the OFT.
- 5.17 The proposals also depend on Which? and the Citizens Advice service continuing to hold a range of functions in relation, in the case of Which? to challenge unfair contract terms and in relation to all these organisations having designations to make supercomplaints.
- 5.18 In the context of the overall proposals for reform to the consumer landscape, including the transfer of a range of responsibilities and functions to the Citizens Advice service and establishing the Competition and Markets Authority (CMA) with a different remit to that of the Office of Fair Trading we consider the proposal for establishing a TSPB to manage

enforcement priorities across Great Britain has a number of strengths which make it the proposal outlined by government which best fits the wider changes to the consumer landscape proposed. It also comes closest to addressing the criteria we have set out, in terms of likelihood of responsiveness and accountability to consumers, and citizens, as well as appearing to be the model most likely to bring about greater co-ordination between local trading standards and national enforcement activity. For the Joint Enforcement Board (JEB) model to match it would require some development, including to the proposed objectives for the CMA so that consumer protection is a primary objective, not a residual one.

- 5.19 The proposal to establish the TSPB will not address all of the problems that the NAO report and BIS consultation have identified. But it could help to significantly improve co-ordination between local and national services and as a result reduce the risk of local regulatory services, which are under resource pressures, taking on national cases when they need not do so. It would develop closer partnership working with consumer advice and advocacy organisations than currently exists or would appear to be proposed by the Joint Enforcement Board (JEB) model.
- 5.20 Other proposals, particularly the proposal to establish a JEB (either under the management of the CMA or as a standalone organisation) might be able to deliver as effectively but the JEB proposal would need to be developed further to show how evidence, expertise and insight from consumer organisations would be brought to bear on decision making and how the model would work effectively with and really help to co-ordinate the work of the local consumer protection enforcement system with the system of national enforcement.
- 5.21 For so long as we continue to have local regulatory services – and we note the government’s commitment to this being a matter for local authorities – then looking to create better co-ordination between those local services is an appropriate place to start to address the issues identified in the NAO report.
- 5.22 We note that the Welsh Assembly Government policy is committed to create a national trading standards service for Wales and thus the landscape at a local level will be changing. We encourage the Westminster Government to work in partnership with local government and the governments in Wales and Scotland to promote not only the benefits of local regulatory services to consumers, businesses and the local economy but the importance of those services working as part of a single system across Great Britain. Establishing the TSPB might assist with that.
- 5.23 A number of underlying issues will remain whichever model is chosen, for example levels of resources available for local consumer protection enforcement and, too, a low level of expenditure relative to the scale of the consumer detriment. Those issues remain outstanding and are a significant cause for concern.

Responses to specific questions on enforcement

Question 20 which option for reform do you prefer and why?

- 5.24 On the basis of the proposals outlined in the consultation paper Option 3 – the Trading Standards Policy Board has a number of merits by comparison with the other options, provided the TSPB has sufficient capacity and resources to deliver its brief effectively. Option 3 would be the option most likely to develop the capability of the professional trading standards community to co-ordinate their enforcement work beyond local issues, and make the decisions on priorities for national enforcement action needed to tackle consumer detriment. It gives access to the CMA to tackle structural problems in markets, including the use of consumer protection enforcement powers in appropriate situations. We particularly welcome the proposal that the TSPB will work closely with the Citizens Advice service, and Which? to consider evidence from frontline advice services in shaping priorities. We would expect the relationship we would have with the TSPB to include joint decision making about complementary activities, short of formal enforcement action such as consumer education initiatives which might alert consumers to risks in the economy.
- 5.25 We note the comments in paragraph 5.69 and 5.70 of the consultation which highlight the potential shortcomings of the JEB proposal which would be more ‘distant’ from the local trading standards services and local councils, and less likely to achieve development towards integration and co-ordination of activities between the network of local services. These shortcomings could potentially be addressed if the JEB proposal was developed further so that it had equivalent features to those proposed for the TSPB.

Question 21 – In relation to option 3 do you agree with the principles outlined?

- 5.26 We support the principles for the TSPB to operate outlined in paragraph 5.54 and would expect those to apply if an alternative model is selected. We would also suggest that whichever model is adopted consumer groups are actively involved in decision making and some of the principles we have outlined are adopted, in particular:
- The body should have **clear goals** to the effect that the outcomes achieved must **primarily benefit consumers**.
 - Where the system relies on multiple organisations to deliver the **goals must be shared**, and operational systems and processes must be in place to ensure those are achieved.
 - **Consumers experiences should drive the system** and decisions made – evidence from consumers should be actively sought, captured, analysed and shape decisions about what, when and how the enforcement system should respond.
 - **Consumers should be easily able to use and engage with the system that the body is part of** - it is responsive to them as individuals, in groups and communities, with consumers only needing to provide the same information once and when they have reported problems they are kept informed about any decisions and action being taken.
 - The system is **responsive, dynamic** and innovative– it secures wider solutions for example by using the evidence of non-compliance to change business and market behaviour, clarify or

improve laws that can be side stepped or secure the necessary level of deterrence to those who would deliberately flout their legal obligations.

- The system is **accountable to consumers and citizens.**

Question 21 – Do you think this model would deliver effective enforcement against large businesses tempted to break the law?

5.27 If the TSPB model is chosen and is recognised as the relevant national enforcement body and directs the use of resources for national enforcement it should be no less able to deliver effective enforcement against large businesses than the current arrangements. The body and local trading standards services will, however, need to be sufficiently resourced to undertake effective intelligence gathering and enforcement to feed into the national decision making. Our concern here is that the model relies on all local authorities. We are concerned that none of the models address issues of local authority resourcing levels, although the TSPB proposal has the most potential to engage councils in a ‘shared’ system of decision making and reduces the risk of local services taking on national cases inappropriately or without back up.

Question 21 – Which areas of enforcement activity warrant specialist national teams?

5.28 The Citizens Advice service has strongly supported national and regional enforcement initiatives, particularly Scambusters and the illegal moneylending teams, to tackle consumer detriment which is not confined to one area of the country. We would urge the Government to ensure that these services continue providing specialist interventions supporting local enforcement work. This would mean putting the funding for these initiatives on a long-term firm footing (currently these services are subject to time limited funding).

5.29 There could be a need for specialist teams for estate agency and unfair contract terms in order to take over the OFT’s current responsibilities in this area. These could be contracted out to individual local authorities. If regulation of consumer credit does not go to the FCA, there will also need to be a large specialist team on credit, although regulation of this significant market in the economy is a very different task to general consumer protection law enforcement and our preference would be that consumer credit is regulated by the FCA in future.

Question 21 – Do you think that an indemnity fund to enable local authorities to take the risk of losing cases is desirable and deliverable?

5.30 Yes, but it needs to be sufficient for the purpose. The existing fighting fund for cross-boundary cases is only £250,000. As the consultation identifies, a big case could cost £200,000, so this would mean only taking one case per year. This is not sufficient.

- 5.31 As public funds are limited, we agree that it would be worth investigating whether it would be more cost effective to establish a scheme for pooling legal risk through insurance.
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Question 22 Would you prefer to maintain the status quo in terms of powers and responsibilities, but with improved collaboration between OFT/CMA and Trading Standards? If so, would one of the JEB models be the best thing? Which one and why?

- 5.32 No. It will not address any of the issues identified by the NAO study or be adapted to the wider changes proposed for the consumer landscape, including the transfer of functions to the Citizens Advice service. We agree with the Government's analysis of why this would not resolve current problems.
- 5.33 As indicated above the Trading Standards Policy Board (TSPB) model as described has the most potential to secure greater co-ordination between national and local enforcement activities as well as including consumer organisations in the process of decision making. If the JEB model is selected it would need to be developed so that the key features outlined for the TSPB are incorporated.
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Question 23 In relation to the various JEB models, how would you ensure effective trading standards participation in the JEB? Should other organisations be involved in the JEB, either as members or as participants in discussions? Do you think that this option would deliver integration of enforcement across local, regional and national levels?

- 5.34 We note the comments in paragraph 5.69 and 5.70 of the consultation paper which highlight the potential shortcomings of the JEB proposal which would be more 'distant' from the local trading standards services and local councils, and less likely to achieve development towards integration and co-ordination of activities between the network of local services. These shortcomings could potentially be addressed if the JEB proposal was developed further so that it had equivalent features to those proposed for the TSPB. That should include the role envisaged for consumer organisations, including the Citizens Advice service in helping to shape priorities. We appreciate the JEB proposal (with delivery responsibility for national enforcement sitting with the CMA) would involve less change and potential disruption to ongoing case work but the JEB models as presently described seem to simply introduce a further layer of decision makers with no obvious benefits for enforcers or consumers. We do not see how the JEB models proposed would help to integrate and co-ordinate enforcement at local, regional and national levels and this is one area where change is needed in the context of resource constraints at all levels.

Question 23 Would retention of such unrestricted consumer enforcement powers and responsibilities affect the CMAs singularity of purpose and distract it from its core competition remit?

5.35 We would expect the CMA will be guided to use its powers by having regard to its objectives and purpose. If the CMA is primarily a competition authority that would mean consumer protection enforcement would be ancillary to that purpose and need not distract it. We therefore support the CMA being given consumer protection powers to resolve problems with markets that competition law alone cannot address comprehensively. This will enable the CMA to deliver more efficient solutions to the issues that it is set up to tackle.

Question 24 – How can your preferred new model best work with businesses?

5.36 We note it is proposed that the TSPB has an operating principle to develop a strong partnership with business representative bodies in order to ensure dialogue and feedback and that this could be achieved, for example, through LBRO's Business Reference Panel which could facilitate engagement of TSPB with business representatives or help in prioritisation. In practice there will be a wide variety of sector trade bodies that the TSPB could relate directly to and work with to develop consensus on approaches to compliance and prevention and understanding on enforcement. It is not clear that the LBRO panel should be the only channel for the TSPB to have dialogue with business groups.

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

5.37 Yes. This seems appropriate to achieve efficiencies, provided there is effective co-ordination with the TSPB and its members on intentions to use these powers and the businesses concerned and the CMA draws on knowledge and expertise in the TSPB and wider enforcement community.

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

5.38 In an option 3 based model the CMA should only use its enforcement role in cases where there has been a market investigation or market study and the action to be taken by the CMA has been discussed and agreed with the TSPB, to minimise the risk of duplication.

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

5.39 Yes. We do, however, feel strongly that the CMA will need to have regular dialogue with the TSPB in order to develop consistent approaches, and to learn from the wider consumer enforcement community who will have more up to date market intelligence. A mechanism to make decisions on and allocate cases and issues that might otherwise fall into a gap between the responsibilities of the new bodies should be established.

Question 28. Do you agree that the CMA should retain responsibility for mixed market studies?

5.40 Yes. It must, however, consult with the TSPB and the Citizens Advice service at an early stage to ensure that all relevant problems are addressed in those market studies.

Question 29. Do you agree that in an Option 3 – based model, the Citizens Advice service should in future be responsible for pure consumer detriment analysis, and that the CMA should not perform pure consumer market studies?

5.41 If we are sufficiently resourced to do so the Citizens Advice service could take on the role currently undertaken by the Office of Fair Trading to undertake research studies which are largely about consumer detriment and consumer protection issues. This would build on the role envisaged for us in the revised consumer landscape whereby we are the primary holder of data about the problems which consumers have sought advice on via our services across Great Britain. We already undertake in depth research, advocate solutions and work with business and government to secure agreement to these solutions.

Question 29. In such a case, do you agree that the CMA should stop performing market studies once it identifies that there is no structural problem in such markets, and do you think there should be a duty on the TSPB to prioritise cases referred by the CMA?

5.42 Not necessarily because there may still be elements of the problem that will require CMA attention, but which are not initially obvious in a complex and ever changing market.

5.43 We are concerned that if TSPB has a duty to prioritise what amounts to a CMA referral, this could destabilise the mechanisms for allocating and monitoring enforcement. Discussion and reasoned justification about further action should be part of a joined up approach. Such discussion should, however, be prompt to avoid unnecessary delays on important issues of consumer detriment.

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

5.44 Yes. We believe that all three bodies will need to be working closely together in order to tackle all the elements of the problem and to avoid duplication of effort.

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

5.45 Yes. This would enable the system to be responsive to emerging issues without locking up resources in a single organisation. Having to bid for the fund would ensure a business case was made for its use. Given the wide range of markets that might need investigating and researching at any one time and the cost of new in-depth research we would suggest an amount of at least £1million should be ‘reserved’ for this purpose in any one year. The fund could be allocated by the TSPB in response to evidence based bids and proposals from consumer bodies with arrangements for deployment of unused funds to other purposes if the funds have not been used within the year.

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

5.46 Yes, provided it is adequately funded so that trading standards are not deterred from tackling breaches of consumer protection legislation from large well resourced businesses. We support “established means” enforcement, e.g. the Advertising Standards Authority and the premium phone rate regulator Phonepayplus. They do not usually need a back up enforcement provision because everyone in that market knows that the regulators will back up any decisions they make with enforcement if necessary.

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

5.47 Yes. The TSI already undertakes significant activities in these areas.

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

5.48 Whether the international and general policy responsibilities should sit with the TSI organisation or an alternative, e.g. the TSPB, it will require a national infrastructure to support it. We recommend further exploration to establish which is most capable of delivering what is required.

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

5.49 Yes. This will be necessary as a tool to avoid duplication and achieve co-ordination in some cases. If Option 3 is selected this could be vested in the Trading Standards Policy Board, but the Board would need to be a legal entity.

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

5.50 On the basis of the proposals in the consultation paper it would not be appropriate if the CMA is not central to the consumer law enforcement system, it is proposed to be an enforcer but not the lead body. It should, however, be represented on this group as it will have some consumer protection enforcement powers. We believe that if option 3 is selected the Trading Standards Policy Board would be best placed to take on this role.

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

5.51 Yes. Super-complaints are a valuable means by which consumer bodies can highlight market problems and they have resulted in significant changes to benefit consumers and markets. It is appropriate to the proposed CMA's role to assess such complaints and decide how they should be handled.

Question 38. Do you think that the supercomplaints process should be extended to require the TSPB to issue a reasoned response if the subject matter of the complaint relates to consumer enforcement?

5.52 Yes. For example our recent supercomplaint on loan finding companies might be partially resolved through enforcement of existing consumer credit, consumer protection and data protection law.

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

5.53 Yes. We see no reason why this would not be possible, for example Staffordshire Trading Standards is the claims management regulator for the Ministry of Justice.

Question 40. Do you agree that the proposed changes to the consumer enforcement landscape should go ahead if the creation of the CMA is delayed?

5.54 Yes. It is important and urgent to begin to address some of the issues highlighted by the NAO report.