



Consultation Response: Consumer Green Paper – Modernising Consumer Markets June 2018

Citizens Advice Scotland (CAS), our 60 member Citizen Advice Bureaux (CAB), the Citizen Advice consumer helpline, and the Extra Help Unit, form Scotland's largest independent advice network. Advice provided by our service is free, independent, confidential, impartial and available to everyone. Our self-help website Advice for Scotland provides information on rights and helps people solve their problems.

In 2015/16 the Citizens Advice network in Scotland helped over 310,000 clients in Scotland alone and dealt with over one million advice issues. With support from the network clients had financial gains of over £120 million and our Scottish self-help website Advice for Scotland received over 4 million unique page views.

Introduction and context of response

Citizens Advice Scotland (CAS) welcomes the Consumer Green Paper. The Scottish Citizens Advice network is the lead consumer agency in Scotland, and we are pleased to see that consumer issues are getting priority attention from the UK government. Many of the commitments in the Green Paper indicate a welcome move towards simplicity, transparency and fairness for consumers. This is very much in line with our vision.

There are a number of specific issues we would identify as being particularly good for consumers in Scotland. Namely,

- The emphasis on consumer rights in general.
- Measures to help people switch provider, and to make sure loyalty is rewarded not penalised.
- The focus on particular support for vulnerable consumers.

Scotland is increasingly a consumer society. Every day we see people seeking advice on consumer issues. Some issues are of real concern for consumers: a recent survey¹ undertaken for CAS found that 48% of Scots are concerned about energy bills, and 50% are worried about the price of food.

We believe that more can and should be done to encourage a stronger and more overt commitment to increasing consumer-centric culture and behaviours across sectors, at a strategic and operational level. We apply a set of seven consumer focused principles (access, choice, safety, information, fairness, representation, redress), which we use to assess policy and practice, and to communicate with regulators and service providers, on what more is needed to drive better outcomes for consumers.

¹ Pilot Tracker Survey 2018 (unpublished)

We believe that the application of high level consumer-focused principles will incentivise more consumer-centric behaviour within organisations and support the development of improved consumer outcomes which can then be measured. We are currently working with Scottish regulators and service providers to implement consumer-focused principles within energy, post and water sectors.

Consumer Principles



1. In which regulated markets does consumer data portability have the most potential to improve consumer outcomes, and for what reasons?

We believe that data portability from a consumer perspective will provide individual information on how a person uses services that will allow consumers: to more accurately measure their use, or time of use of services, to reduce their charges for measured utilities such as energy or telecommunications; to make switching easier; to access additional support if they are vulnerable through increasing the portability of data between various priority service registers; to avoid accumulating debt. Greater control by consumers of their own data will allow them to

instruct that data is transferred for specific purposes that they believe will deliver additional benefit, across service sectors.

Furthermore, we believe that additional information will allow suppliers to offer consumers more appropriate services. Consistent metrics will allow for more accurate and comprehensive comparisons and ease of switching. Additionally, there is a need for greater transparency for consumers into specific charges, which at present is opaque, when they are dealing with 'bundled' services. We believe that as well as for active consumers, the market needs to work for those that do not actively switch.

However, it is essential that increasing the portability of data is balanced with robust and clear data security to protect consumers' interests, confidence and their rights, and that the correct permission is sought from consumers to move and use their data. Recent research by the Scottish Government² highlighted that more needs to be done by private companies to win consumer trust with regard to how they use consumers' data; and by public services to improve the trust of those in receipt of benefits or those living in lower SIMD areas.

Example from the Energy Sector

The arrival of smart meters is turning the energy industry from one that has been relatively data-poor into one that is data-rich. The digitisation of consumer data, which smart meters enable, will help to facilitate transition to a smarter and more flexible electricity system – as set out by Ofgem and the Department for Business, Energy and Industrial Strategy (BEIS)³ and the Scottish Government.⁴

BEIS and Ofgem have outlined plans to increase the availability of variable renewable energy⁵ through smarter controls and more demand side flexibility and management. Although likely to focus on business and industrial users first, flexible markets that use techniques such as *demand side response* (where energy users change their consumption based on price signals) are also being directed towards domestic consumers and will heavily rely on the availability and portability of their energy data. Well-designed flexibility markets have the potential to give consumers the choice of whether, how and how much they wish to participate in the balancing of the electricity network – ensuring that supply balances with demand. Discussion between industry stakeholders are currently focusing on how consumers can participate in such electricity grid balancing and be financially rewarded, as this may help to reduce the need to invest in broader electricity network reinforcements. As highlighted by a study by Imperial College London and The Carbon Trust, it is predicted that the UK could save £17- 40 billion across the electricity system by 2050 by deploying flexibility technologies – such as demand side response.

The use of digitised 'portable' consumer data will facilitate a number of other components of the transition in the energy sector:

² 'Scottish Social Attitudes Data Trust 2017', Scottish Government

³ www.ofgem.gov.uk/publications-and-updates/upgrading-our-energy-system-smart-systems-and-flexibility-plan

⁴ The Scottish Government Energy Strategy <http://www.gov.scot/Publications/2017/12/5661>

⁵ **Renewable** energy source that is non-dispatchable (cannot be dispatched at the request of power grid operators or of the plant owner according to market needs) due to its fluctuating nature, like wind power and solar power, as opposed to a controllable **renewable** energy source such as hydroelectricity, or biomass

1. The transition of Distribution Network Operators (DNOs) to Distribution System Operators (DSOs) – Allowing network companies to actively manage the network to make greater use of storage, demand side response, energy efficiency, use of heat networks and other actions that deliver better value to consumers than traditional network reinforcement.
2. Targeted Charging Review – Reviewing network charging arrangements that relate to fixed and sunk costs⁶ to ensure that the network meets the interests of consumers both now and in the future⁷.
3. Half Hourly Settlement – Using smart meters that can record electricity consumption information every half hour of the day and transmit it, industry can use this information for settlement instead (the process of reconciling the difference between energy purchased by suppliers and the energy sold to customers). This means that suppliers will have a much more accurate picture of consumption and demand, and can match their purchases accordingly.⁸

Many of the above programmes rely on consumers consenting to their data being used, which should not be taken for granted. As highlighted in our *Personal data empowerment report*⁹, energy consumers like to have control over their energy usage data and appreciate transparency about who has access to their data and for what purposes.

It must also be considered that not all consumers will have access to smart meters and smart technologies that produce data that allows them to access the benefits of a smarter and more flexible system. As highlighted in our report *Smart Move: taking stock of the smart meter rollout programme in Scotland*¹⁰ technical issues mean that consumers in flats or those with restricted meters will likely have to wait longer to receive smart meters. There is also a risk that smart technology disadvantages certain vulnerable households who may struggle to interact with new systems if they have limited numeracy/literacy or technical skills. It is essential that vulnerable consumers are provided with the appropriate support to allow them to access the benefits of a smarter more flexible energy system.

2. How can we ensure that the vulnerable and disengaged benefit from data portability?

Currently data that is stored on priority services registers is not portable, requiring consumers go through a re-registration process every time they switch. CAS research¹¹ found that in principle, vulnerable consumers largely support the sharing of priority register data on their

⁶ Fixed or sunk costs: the costs that don't vary with network usage and have already been incurred; such as past investment in underground cables.

⁷ <https://www.ofgem.gov.uk/publications-and-updates/targeted-charging-review-significant-code-review-launch>

⁸ <https://www.ofgem.gov.uk/news-blog/our-blog/how-half-hourly-settlement-will-help-cut-energy-bills>

⁹ <https://www.citizensadvice.org.uk/Global/Public/Corporate%20content/Publications/Personal%20data%20empowerment%20report.pdf>

¹⁰ https://www.cas.org.uk/system/files/publications/smart_move_-_taking_stock_of_the_smart_meter_rollout_programme_in_scotland.pdf

¹¹ Not yet published Citizens Advice Scotland 2018 'Research into simpler registration for consumers in vulnerable situations'



specific circumstances, within and between different regulated industries, which would negate them having to input it each time they switch. However, they also caveated that certain conditions would require to be fulfilled, such as guarantees that their data would not be misused.

Within the telecommunications sector, CAS research¹² highlighted that although there is an increase in the number of people using computers, one third of bureaux clients are excluded from the internet or computers. And, for those who may have access, they often have limited capacity due to lack of confidence and low proficiency. Digital exclusion can relate to levels of deprivation: two of the three most common barriers relate to money – broadband costs, and phone and data costs. We believe that in order to benefit society's most vulnerable consumers using data portability, more is needed to increase proficiency levels and access to computer and internet services for both older segments of the population and residents living in more deprived areas where proficiency is lowest.

We are aware that although services can be made accessible, they may not always be taken up by consumers, therefore further thought is required into how to encourage greater uptake or consider alternatives for those that may otherwise be excluded by markets geared up to a digitally based economy.

Furthermore, we believe that data portability will make it easier for essential service providers to identify cheaper deals for their customers and notify them. We believe that it should be compulsory for them to do so.

3. How can we ensure these new services develop in a way which encourages new entrants rather than advantaging incumbent suppliers?

No comment at this time.

4. What is the best way to publish performance data so that it incentivises firms to improve and can be used by consumers when taking decisions? Should firms also offer discounts or compensation for poor performance?

We welcome the proposal to develop performance metrics and digital comparison tools for energy, communications, water and financial sectors. We are of the view that what gets measured is more likely to get improved, and even more so when performance scores are made publically available.

Online rating tools to assess the performance of energy companies beyond just pricing can push service providers to do more to mitigate poor practices that impact upon consumers' experiences of an industry, such as making bills clearer or improving ease of contact. Citizens Advice has developed an online tool¹³ for consumers to assess the performance of energy companies outside of pricing.

Where essential services exist in a commercial market, we call on the availability of a levy-funded price comparison site for consumers that provide free and independent advice that strengthens consumer confidence in the information they receive.

¹² 'Disconnected' Citizens Advice Scotland 2018; 'Bridging the Digital Divide' Citizens Advice Scotland 2016

¹³ <https://www.citizensadvice.org.uk/about-us/how-citizens-advice-works/citizens-advice-consumer-work/supplier-performance/energy-supplier-performance/compare-domestic-energy-suppliers-customer-service/>

We believe that service providers should take full responsibility for automatically paying compensation when they fail to deliver services to a satisfactory level or cause consumers detriment through poor practices. Recent action by regulators within the telecommunications¹⁴ and rent-to-own sectors¹⁵ has resulted in improvements in how compensation is paid. Often the onus is placed on the consumer to prove that compensation is due and then to successfully pursue it; this can cause stress and consumers giving up on pursuing, and losing out on what they are due. We believe that more is needed to ensure automated payments become standard practice by service providers, beyond regulatory intervention for example, for consumers who are due payment protection insurance payments.

5. Is there a need to change the current consumer advocacy arrangements in the telecommunications sector? If so, what arrangements would be most effective in delivering consumer benefits, including for those who are most vulnerable?

Is there a need to change the current consumer advocacy arrangements in the telecommunications sector?

There is a need to change the current consumer advocacy arrangements in the telecommunications sector. A number of factors contribute to that need:

1. Telecommunications is an essential service for consumers and small businesses. Social and economic participation increasingly relies on mobile and broadband services. For example, 4 in 10 consumers use the internet to access public information or public services, while more than 6 in 10 bank online.¹⁶ Telecommunications infrastructure is as vital as that of energy or transport¹⁷, but current consumer advocacy arrangements do not mirror those of other essential services.
2. Consumer advocacy arrangements have not changed since 2003, but the telecommunications sector has evolved rapidly, both in technology and market terms, in that time. Neither the iPhone or Facebook had been launched in 2003 and google was only publically listed in 2004. These three examples are evidence of the pace of change in the telecommunications sector, which consumer advocacy arrangements should reflect, but currently do not.
3. Average weekly household spend on telecommunications services in the UK is more than double that on water¹⁸, yet water consumers have dedicated, independent, well-resourced consumer advocates, while telecommunications consumers do not.
4. The existing and potential detriment in the telecommunications sector is high, with Citizens Advice estimating consumer detriment to be £4.2 billion a year in the

¹⁴ <https://www.ofcom.org.uk/about-ofcom/latest/media/media-releases/2017/automatic-compensation>

¹⁵ <https://www.fca.org.uk/news/press-releases/rent-to-own-provider-brighthouse-14-8-million-redress-249000-customers>

¹⁶ https://www.ofcom.org.uk/data/assets/pdf_file/0018/105507/internet-use-attitudes-bulletin-2017.pdf

¹⁷ For example, the digital minister Margot James has said that “accessing the internet is a necessity” and that high speed broadband is one of the “essential services like water and phone lines” (also confirming phone access as an essential service): <https://www.gov.uk/government/news/countdown-to-high-speed-broadband-for-all-begins--2>

¹⁸ Based on ONS figures, average weekly water charges are £7.40, while combined telephone, internet and mobile charges are £16.50 on average:

<https://www.ons.gov.uk/peoplepopulationandcommunity/personalandhouseholdfinances/expenditure/bulletins/familyspendingintheuk/financialyearending2017>

telecommunication markets, which is higher than any other consumer market¹⁹. Inequality in telecommunications service provision or access (including the “Digital Divide”) can exacerbate other inequalities. Work by Citizens Advice lays out many examples of this²⁰.

5. A number of important decisions are being made in the telecoms sector, or are soon to be made, including:
 - The design of the broadband Universal Service Obligation
 - How mobile spectrum will be allocated
 - How BT and Openreach will evolve, and their relationship with one another
 - How full-fibre rollout will be delivered

These decisions will affect not only current consumers, but consumers for generations to come, and often have extremely technical elements. However, the overwhelming majority of participants in these decision making processes are large telecoms firms without a sufficient consumer counterweight to balance those discussions.

Recent Ofcom intervention is evidence of existing consumer detriment within the telecommunications industry, and CAS research²¹ highlighted that nearly a half of low income consumers are using more expensive ‘pay as you go’ methods for their mobile phone, compared with more affluent consumers. Use of the internet at home is also lower among low earners than higher earners, where it is nearly 100%. And just last year, Ofcom had to fine two different telecoms providers a combined total of over £3.5million²²²³.

CAS has already stated the links between telecommunications (including telephone, broadband, radio, television and mobile services) and other issues elsewhere²⁴. As more and more vital public services move online (e.g. the online only Universal Credit system), access to reliable and affordable telecommunications services becomes more and more essential, particularly for low income households.

Current consumer advocacy arrangements reflect neither the centrality of telecommunications in contemporary life nor the severity of potential detriment when things go wrong.

What arrangements would be most effective in delivering consumer benefits, including for those who are most vulnerable?

CAS recognises and supports the existing Communications Consumer Panel’s work to meet its

¹⁹ <https://www.citizensadvice.org.uk/about-us/policy/policy-research-topics/consumer-policy-research/consumer-policy-research/consumer-detriment-counting-the-cost-of-consumer-problems/>

²⁰

[https://www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer%20publications/Access%20denied.%20FINAL%20January%202018\(1\).pdf](https://www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer%20publications/Access%20denied.%20FINAL%20January%202018(1).pdf)

²¹ [‘Paying more to be poor: the poverty premium in energy, telecommunications and finance’ Citizens Advice Scotland 2016](#)

²² <https://www.ofcom.org.uk/about-ofcom/latest/features-and-news/plusnet-fined>

²³ <https://www.ofcom.org.uk/about-ofcom/latest/features-and-news/ee-fine>

²⁴ E.g. in our work plan for this year, discussing links between postal services and telecoms

(<https://www.cas.org.uk/publications/consumer-futures-unit-work-plan-2018-19>), or our research into digital exclusion, which showed the links between digital access and benefits access

(<https://www.cas.org.uk/publications/launch-disconnected-understanding-digital-inclusion-and-improving-access>)



objective “to protect and promote the interests of consumers, citizens and small businesses in the communications sector by giving advice to Ofcom, the EU, Government, industry and others”. We would like to see the Panel continue its work as part of a much broader, comprehensive approach to consumer advocacy in the telecommunications sector, involving an independent consumer advocate equivalent to existing arrangements in, for example, energy – another area of critical infrastructure.

An effective consumer advocate in the telecommunications sector should be:

- independent from business, governments and regulators, both structurally and practically;
- well financed with full time staff members able to proactively monitor, research and respond to issues, drawing the issues and possible solutions to the attention of decision makers;
- integrated with other areas of consumer advocacy in order to reduce duplication and identify where issues intersect across sectors;
- capable of identifying “grassroots” consumer issues and concerns, particularly for those consumers who are most vulnerable, with mechanisms for bringing these to the forums where they can be addressed;
- Able to proactively raise emerging issues of consumer detriment.

Additionally, current consumer advocacy arrangements in the telecommunications sector do not fully reflect the particular needs of, and challenges facing consumers in Scotland. The latest budget, published by the Communications Consumer Panel, shows a total spends of around £370,000. Should this funding be distributed on a per capita basis, this leaves the Panel with approximately £30,000 to carry out work on Scottish specific issues. It is unreasonable to expect the single Panel member for Scotland to effectively identify and address the particular needs of telecommunications consumers in Scotland.

For example, Ofcom found that while outdoor telephone calls can be made from 70% of the geographic area of the UK, that’s true for only 40% of the geographic area of Scotland²⁵. Mobile data is only available within 31% of Scotland’s geographic area. In the same report, Ofcom found that of the 1.1 million UK premises which do not have access to decent broadband, a disproportionate 13% are located in Scotland. This is almost double what a per capita share would look like. Similarly, areas in Scotland regularly top lists of worst broadband speeds in the UK²⁶.

As such, truly effective consumer advocacy arrangements in the telecommunications sector would include a dedicated consumer advocate for Scottish consumers, fulfilling the criteria above, but also with adequate resource and expertise to:

- recognise and consider the diversity of Scotland’s geography and demographic distribution;
- seize opportunities and address challenges presented by Scotland’s diversity;

²⁵ Page 5, 1.13 (d) https://www.ofcom.org.uk/_data/assets/pdf_file/0024/108843/summary-report-connected-nations-2017.pdf

²⁶ <https://www.bbc.co.uk/news/uk-scotland-highlands-islands-40408376>

- represent the particular needs of Scottish consumers within a UK-wide framework when required;
 - engage directly with the Scottish Government where relevant, as well as Scottish local authorities;
- address the persistent and particular detriment experienced by Scottish consumers in the telecommunications sector.

Arrangements for consumer advocacy in the telecoms sector that meet all the criteria outlined here would be most effective in delivering consumer benefits, particularly for the most vulnerable in society.

6. How can the government support consumers and businesses to fully realise the benefits of data portability across the digital economy?

We believe that further consideration should be given by the UK Government on how it can support further use of the collaborative economy model to deliver greater societal benefit, including supporting community groups to provide their own solutions, and the change it could support in rural areas.

Regularly reviewing existing consumer protections and updating them to ensure they are effective is necessary and good practice. Markets change, and if the optimum service for consumers is to be provided, then they need to be helped to keep pace with that change. The pace of technological development has highlighted the need to strengthen consumer protection in the digital world. In addition, Brexit has highlighted the need for all government departments to review how they maintain effective policies that protect the public interest.

CAS is currently conducting research into experiences of consumers accessing additional support provided by essential service providers, and how the process of registering across sectors for additional forms of support could be improved. Support is currently available for vulnerable consumers across various industries but this often requires personal data to be registered many times.

7. As technology continues to develop, how do we maintain the right balance between supporting innovation in data use in consumer markets while also preserving strong privacy rights?

No comment at this time.

8. What challenges do digital markets pose for effective competition enforcement and what can be done to address them?

Greater consumer protection is required within some emerging markets, particularly those that allow customers to buy and sell from each other, such as Amazon Market or EBay, or where consumers think they are buying from a legitimate company when they are not. Whilst the benefits for consumers and to the economy of the collaborative economy are potentially significant, it is important that protections and practices are put in place to ensure that consumers, providers and workers do not suffer from any poor practice or policies.

Case: A consumer was scammed by a fake post on an accommodation website by a trader in Hong Kong. They paid £850 to this trader. The company confirmed it is a scam on their website, but neither the company nor bank is able to do anything. The case was referred to Trading Standards but it may be hard to enforce any rights as the trader is based in Hong Kong. There are a large number of similar cases reported to bureaux.

9. Is the legal framework that covers consumer-to-consumer transactions appropriate to promote consumer confidence?

Please see our response to Question 8.

10. In what circumstances are personalised prices and search results being used? In which circumstances should it not be permitted? What evidence is there on harm to consumers?

No comment at this time.

11. Should terms and conditions in some sectors be required to reach a given level of comprehension, such as measured by online testing?

We believe that more needs to be done by suppliers to demonstrate that they are applying a simpler and more easy-to-use system for consumers to ensure they receive the information they need in as user-friendly a way as possible. Online purchasing is a significant concern to CAS. It is often designed to be quick and easy, and at times it can be too easy for consumers to confirm that they have read and understood complex terms and conditions before confirming their purchases. Not all consumers will take the time required to check detail within the seller's terms and conditions if they appear too cumbersome or complex in terms of layout or language. Too often, suppliers will use the fact that the terms and conditions are a legal contract, or apply a 'get out' clause, to defend poor practices following the purchase of goods or services, which cause consumer detriment.

User testing is a fair and robust means of testing to see if information is available, simple, accurate and useful. It could be applied to testing terms and conditions.

CAS is a member of the Consumer Protection Partnership and we look forward to discussing these issues further with other key stakeholders.

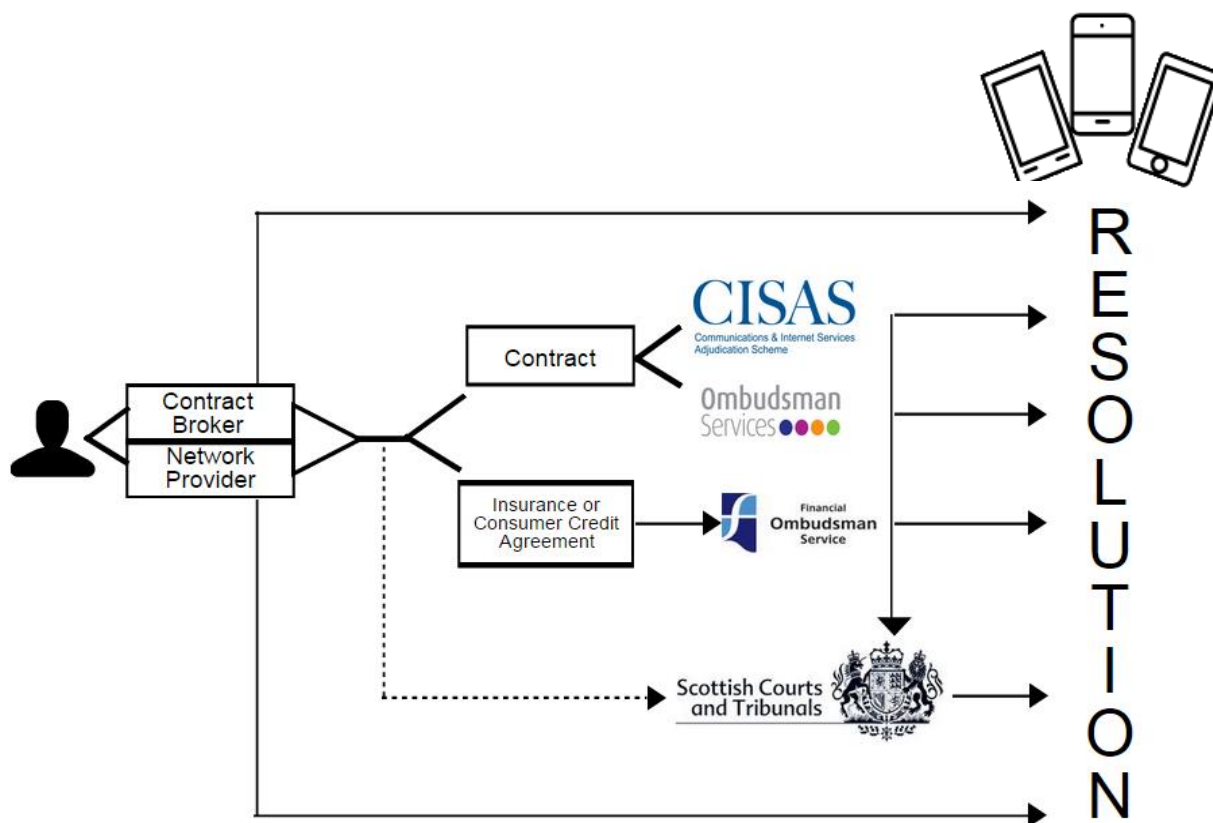
12. How can we improve consumer awareness and take-up of alternative dispute resolution?

In 2014, the Department of Business, Innovation and Skills published a report highlighting that 22% of all consumers had experienced one or more problems with goods or services purchased in the last 12 months. Despite 87% taking action to resolve their issue, less than half of problems (48%) were resolved. If issues are to be satisfactorily resolved for consumers, it is essential that routes to redress are accessible and successful, and are designed around the needs of consumers, not organisations.

CAS is a strong supporter of the 2013 EU Directive on alternative dispute resolution in consumer disputes²⁷ aims to improve complaint handling and redress. We believe that consumers should have access to simple, efficient, fast and low-cost ways of resolving disputes with traders outside of a court setting. However, we also support that ADR should be allowed to run concurrently with a court process and should not be a barrier.

However, CAS research²⁸ conducted in 2016/17 highlighted that routes to resolution can be highly complex and difficult for consumers to navigate. There is no single journey to achieve redress and for many consumers who lack enough resilience to pursue an issue, they will probably not achieve a satisfactory outcome. More needs to be done to simplify the landscape and to place the onus on service providers to demonstrate that they have done everything within their power to put right what has gone wrong, such as clear signposting and access to ADR, clear and simple information on the ADR process, an overt commitment to resolving issues as quickly as possible, etc. In addition, services providing ADR functions should meet consistent guidelines, across all sectors, to ensure consumers have access to fair resolution processes of a consistent quality.

Example: Mobile phone contract²⁹ – consumer journey to redress



²⁷ Directive 2013/11/eu of the European Parliament and of the Council, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:165:0063:0079:EN:PDF>

²⁸ Unpublished research

²⁹ If a mobile phone is purchased as part of a contract, issues with the handset can be considered alongside issues with the contract. If a mobile phone has been purchased as an individual item, see 'Retail'. Whether a complaint is taken to the Communications and Internet Services Adjudication Scheme (CISAS) or Ombudsman Services will depend on the service provider.

Additionally, harmonisation of the initial steps of dispute resolution across all sectors would improve the likelihood of consumers' ability to take a dispute forward, and in turn make consumers more familiar and confident with seeking redress. ADR should be intended to empower the consumer, and therefore it should be the consumer's decision whether or not they wish to access an ADR process.

ADR also relies on industry membership. In the postal industry, for example, the ADR POSTRS has just four members, and in the related, and ever expanding world of retail (online and otherwise), just a handful of organisations are full members.³⁰

Generally, consumers need to be made more aware of the availability of ADR, and support to help them to achieve without having to resort to legal action. The use of services designed to support consumers to seek redress such as 'Resolver', which provides templates and process guidance for consumers, can help resolve complaints and addresses the characteristics of doing so across different sectors.

In addition, services provided by frontline agencies such as Citizens Advice bureaux can take up an issue on the consumers' behalf.

Finally, we are of the view that there must continue to be a mechanism that supports consumers that continue to seek redress when a company has ceased to trade, such as the Helms cases in the Green Deal, when complaints to the Ombudsman were not taken up as there was no company to pay the Ombudsman's fee.

13. What model of alternative dispute resolution provision would deliver the best experience for consumers?

No comment at this time.

14. How could we incentivise more businesses to participate in alternative dispute resolution?

No comment at this time.

15. Should there be an automatic right for consumers to access alternative dispute resolution in sectors with the highest levels of consumer harm?

We believe that where there is the potential for consumer harm, such as within the high-cost credit industry (such as Bighthouse) or the funeral industry, where some firms target older and more vulnerable consumers, one required measure of redress should be affordable access to clear and simple ADR.

Not all consumers want to go to court and we do not believe that they should be forced to when an issue can be resolved through effective ADR. Leaving consumers with the only option of pursuing legal action, when they may not have the capacity to do so can often result in them not pursuing a resolution. Particular sectors that are problematic in this respect include private car parking which provide consumers with unclear or misleading information which can then

³⁰ POSTRS membership info: <https://www.cedr.com/postrs/member-companies/> RetailADR membership info: <https://www.retailadr.org.uk/corporate-members/>

result in the issue of substantial fines of up to £200, many unenforceable. In addition, CAS has found evidence that despite lodging papers and harassing clients for payment, the firms may not turn up to court.

ADR is proven to be less stressful than legal action; it also introduces accountability and often allows issues to be resolved more quickly and easily.

CAS believes that 'the polluter pays' should, in principle, be applied to ADR in that the party found to be at fault covers any expenses, however this would not apply to vexatious and frivolous complaints.

16. What changes are needed to ensure local and national enforcers work together within an effective framework for protecting consumers?

We believe that there are a number of important and emerging issues where a more collaborative approach between local and national enforcers, and developing a framework of shared outcomes, would offer greater protection for consumers, such as:

- Trading standards issues where the recipient lives in a different geographical zone from the supplier where there can be a lack of joined up approach by local and national enforcement authorities, where poor redress support and enforcement can impact upon consumers and cause detriment. For example, Highland Council Trading Standards receives multiple complaints each week related to non-compliant delivery information or practices for goods ordered online. This usually involves an extra charge being levied for the delivery of an item based on the delivery address. However, these charges appear to be applied indiscriminately, with little relation to the actual cost of delivery and there is a considerable lack of clarity around when and why these charges are applied, with some mainland consumers being told, for example, that their address incurs an "offshore" charge. As the retailer in question is rarely based in the Highlands Council area, the case can only be resolved with the help of another Trading Standards in a different primary authority, often based in England. As the complainant is not a resident in the retailer's authority area, and the local authority may not be receiving complaints of the same nature from its local consumers, the issue is often of far lower priority for that Trading Standards. This means that such disputes are challenging and lengthy to resolve.

17. Do you agree with the initial areas of focus for the Consumer Forum?

We welcome the introduction of the Consumer Forum. We believe that as well as regulators and government, the Consumer Forum must also have a strong consumer focus, not just an economic or legal one. The adoption of a robust framework of consumer-based principles, such as those set out in our introduction, will support the development and delivery of consumer-centric aims and outcomes.

Processes need to make sure that peoples' consumer rights are protected, whatever the constitutional arrangements. A CAS survey found that 47% of Scots are concerned about leaving the EU. And of those, 69% are worried about the cost of food and other essentials, and 39% identified consumer rights in general as a concern. We are of the view that measures are required to be put in place to ensure sufficient consumer protection after any constitutional



changes.

We welcome attention within the Green Paper to scams and subscription traps. CAS regularly sees the severe consumer detriment that scams can cause, which impact hundreds of thousands of people every year, particularly those that are vulnerable and socially isolated. Similarly for those that fall prey to subscription traps, in addition to interventions that address advertising and advice and support from banking institutions, we would like to see more being done to reverse the trend of consumers finding themselves in such traps using increased information and awareness campaigns, helping them to identify and avoid such traps.

We believe that within profit making markets, competition and market forces do not in and of themselves deliver satisfactory consumer outcomes, and do not replace the need for robust regulation and legislation to protect consumers.

18. Have the 2014 reforms to the competition regime helped to deliver competition in the UK economy for the benefit of consumers?

No comment at this time.

19. Does the competition regime provide the CMA and regulators the tools they currently need to tackle anti-competitive behaviour and promote competition?

No comment at this time.

20. Is the competition regime sufficiently equipped to manage emerging challenges, including the growth of fast-moving digital markets?

No comment at this time.

21. Do you agree with the approach set out in the draft Strategic Steer to the CMA? Are there any other areas you think should be included?

No comment at this time.