



BRIEFING PAPER

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New Consumer landscape

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Summary

Since 2015, as a result of various initiatives, the consumer landscape now looks very different. There has been an overhaul of consumer law enforcement bodies alongside an overhaul of consumer law.

In 2011, the then Coalition Government published a consultation on reforming the consumer landscape. The consultation found that the landscape of bodies responsible for empowering and protecting consumers, including the provision of advice and advocacy was inefficient and confusing, leaving consumers uncertain who to turn to for help and advice when things go wrong. As a result, there was evidence of consumer detriment at national and regional level.

There have been two drivers of legislative change. First, the adoption in October 2011 of the [Consumer Rights Directive](#) (2011/83/EU). A central requirement of the Directive is that consumers be comprehensively informed before any contract is entered into. Most of the requirements of the Directive have now been implemented in the UK through the [Consumer Contracts \(Information, Cancellation and Additional Payments\) Regulations 2013](#). The second driver was the findings of a series of consultations on consumer laws held in the UK between March and November 2012. Responses highlighted areas of duplication, inconsistency and uncertainty. This led to the [Consumer Rights Act 2015](#), which came into force on 1 October 2015. The Act, which represents the biggest overhaul of consumer law for decades, sets out in one place key consumer rights covering contracts for goods, services and digital content and the law relating to unfair terms in consumer contracts and notices.

With impressive speed, the consumer protection regime has been reviewed, dismantled and completely rebuilt. The aim being to empower consumers by creating a simplified and enhanced legal regime that affords greater rights when buying goods, services and digital content. Legislative reforms have been made against a backdrop of structural changes to consumer law enforcement bodies, creating a new consumer landscape for England, Wales and Scotland. For example, the provision of consumer advice and advocacy in the non-regulated sectors has been transferred to [Citizens Advice](#). The success of this new consumer regime will ultimately depend on how well consumers and traders understand their rights and responsibilities.

This Commons briefing paper outlines the changes that have been made to the consumer landscape. It should be noted that detailed consideration of both the [Consumer Rights Act 2015](#) and the [EU Consumer Rights Directive](#) is given in separate Library notes, [SN/HA/6588](#) and [SN/HA/6608](#) respectively.

1. Introduction

The consumer landscape is the network of organisations in the UK that provides advice and help to consumers and enforces consumer protection law. The current network includes:

[National Trading Standards Board \(NTSB\)](#) (with responsibility for gathering intelligence from around the country to combat rogue traders and tackle a number of priorities, including: mass marketing and internet scams, illegal money lending and other enforcement issues that go beyond local authority boundaries).

- [Chartered Trading Standards Institute \(CTSI\)](#) (with responsibility for the Consumer Code Approval Scheme)

[Competition and Markets Authority \(CMA\)](#) (with responsibility to promote competition for the benefit of consumers, both within and outside the UK; its aim being to make markets work well for consumers, businesses and the economy).

- [Local authority Trading Standards Services \(TSS\)](#) (with responsibility for consumer protection and business education)
- Sectoral regulators (including the [Financial Conduct Authority](#); [Ofcom](#); [Office of the Rail Regulator](#); [Ofgem](#); [Ofwat](#); [Civil Aviation Authority \(CAA\)](#); and [Monitor](#) (competition only)
- [Citizens Advice](#) (offering consumer advice and consumer education).
- [The National Trading Standards Estate Agency Team of Powys County council](#) (the UK's regulator under the [Estate Agents Act 1979](#)).

Some of these organisations directly represent consumers, others work on their behalf. In addition, there are scambuster teams and [Illegal Money Lending Teams](#).

2. Background

2.1 The old consumer landscape

Previously, local authority Trading Standards Services (TSS) enforced small-scale breaches of consumer law, while the Office of Fair Trading (OFT) (now dismantled) tended to take on larger cases involving more widespread consumer detriment. Where there was evidence of traders treating consumers unfairly, the OFT's preferred approach was to secure undertakings concerning future conduct or, in some cases, injunctions under Part 8 of the [Enterprise Act 2002](#) (EA 2002).

Both TSS and the OFT were helped in these efforts by the powers they have under the [Consumer Protection from Unfair Trading Regulations 2008](#) (CPRs), which criminalise a range of 'unfair' business conduct towards consumers.

2.2 Consumer detriment

In 2008, the University of East Anglia published a report, "[Benchmarking the performance of the UK framework supporting consumer empowerment through comparison against relevant international comparator countries](#)". The report concluded that the UK consumer protection regime had two key weaknesses – uneven enforcement and excessively complex law.¹

A 2011 report by the National Audit Office, [Protecting Consumers - the System for Enforcing Consumer Law](#), concluded that consumer detriment occurs at national and regional level, but the incentives for enforcement officers was weighted towards tackling issues within their local authority boundaries.² It was estimated that the cost to those consumers affected of rogue practices (which occurs across local authority boundaries) and to the wider economy, to be at least £6.6 billion annually.³ The NAO concluded that gaps in enforcement impacts significantly on members of the public and the wider economy.

2.3 Consultation

The Government announced its intention to review the consumer landscape on 14 October 2010. This review was part of a wider government initiative to increase the transparency and accountability of all public bodies. The Government outlined three objectives in relation to intervention in the consumer protection landscape:

- to strengthen the front line of consumer empowerment and protection;

¹ '[Benchmarking the performance of the UK framework supporting consumer empowerment through comparison against relevant international comparator countries](#)', a study for BERR by UEA, 2008, [online] (accessed 14 November 2013)

² National Audit Office, [Protecting Consumers – the System for Enforcing Consumer Law](#), 15 June 2011, [online] (accessed 19 November 2013)

³ *Ibid*

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- to reduce the complexity of the consumer landscape; and
- for consumer services to be delivered more cost-effectively

According to the Government, the number and character of consumer enforcement bodies was “confusing, duplicative and therefore inefficient, leaving consumers uncertain as to whom to turn for help and advice when things go wrong”.⁴ Whilst it acknowledged that there were many good things about the individual organisations it said that, taken together, they formed a complex landscape that could be difficult for consumers to understand: “this complexity and the lack of clarity about divisions of responsibilities have led to gaps in enforcement”.⁵

Prior to reform, the number and character of consumer enforcement bodies was “confusing, duplicative and inefficient”

On 21 June 2011, the Department for Business, Innovation and Skills (BIS) (now the Department for Business, Energy & Industrial Strategy (BEIS)) published a consultation document, [‘Empowering and protecting consumers - Consultation on institutional reform’](#).⁶ This document set-out proposals for institutional reform guided by the following three objectives, to:

- reduce the complexity of the current institutional landscape;
- strengthen the effectiveness of consumer enforcement; and
- ensure a more cost-efficient delivery of consumer advice, representation and enforcement closer to the consumer front line

The consultation proposed a significant shake-up of the enforcement of consumer law in England, Wales and Scotland. In a Written Ministerial Statement, Edward Davey (then Under-Secretary of State for BIS) outlined the Government’s position (see **Box 1** below).

⁴ HC Deb 12 March 2013 c.60-61GC

⁵ *Ibid*

⁶ Department for Business Innovation and Skills, [‘Empowering and protecting consumers - Consultation on institutional reform – Consultation on institutional changes for provision of consumer information, advice, education, advocacy and enforcement’](#), June 2011, [online] (accessed 19 November 2013)

Box 1: Written Ministerial Statement by Edward Davey (then Under-Secretary of State for BIS), 21 June 2011:

The Parliamentary Under-Secretary of State for Business, Innovation and Skills (Mr Edward Davey): I am today publishing a consultation on proposals to reform the landscape of consumer institutions. A copy of the consultation document has been placed in the Libraries of both Houses and will be available on the BIS website.

The Government's objective in pursuing and implementing consumer policy is to empower consumers to make wise decisions when purchasing goods and services. Empowered consumers embrace new products and services and demand choice, thereby stimulating competition and innovation from traders as well as high standards of consumer care. It is the investment and quest for efficiency which drives innovation and growth in the economy. Consumer empowerment is therefore a vital part of the Government's growth agenda as well as a key element of its broader citizen empowerment mission. (The Department has also led the development of a cross-Government empowerment strategy which was published in April as part of the growth review.)

In this context, the consultation document sets out proposed reforms to the UK's consumer institutions (the scope of the consultation excludes those institutions focused solely on financial services or on public services such as health). These reforms are designed to strengthen the front line for consumer empowerment and protection while cutting down the complexity, confusion and duplication that accompanies the proliferation of bodies.

The proposals set out in the consultation document have been guided by the following objectives:

- *Reducing complexity of the consumer landscape* — at present, there is a plethora of publicly funded bodies involved in consumer advice, representation and enforcement. Not all of these enjoy wide public recognition, and it may not be obvious to consumers where they should go to get the advice or redress they need. The Government therefore want to simplify and streamline the institutional landscape.
- *Strengthening the effectiveness of consumer enforcement* — effective enforcement of the law is essential to protect consumers from rogue traders and unfair market practices. A recent National Audit Office (NAO) report has identified the costs to consumers, and hence the economy, of sharp practices as £6.6 billion. At present, responsibilities for enforcement are split between local trading standards and the Office of Fair Trading (OFT). Trading standards face particular challenges as a result of reduced local authority spending, while the NAO has pointed to problems of overlap and lack of co-ordination between trading standards and the OFT. The Government therefore want to clarify responsibilities and ensure better use of limited enforcement resources through more effective leadership and integration of effort around the country.
- *More cost-efficient delivery, closer to the consumer frontline* — ensuring the cost-effectiveness of consumer advice, representation and enforcement is increasingly critical as public resources become more constrained. Streamlining bodies and maximising the benefits to be achieved by linking national activity to local intelligence and front-line delivery of advice and enforcement is one of the ways in which this can be achieved.⁷

2.4 Government's decision

In April 2012, the Government published its response to this consultation.⁸ It stated that there was widespread agreement that the existing consumer landscape of information and advice bodies was confusing and should be simplified. To achieve its three objectives, the Government proposed that in the future, responsibility for each aspect

⁷ HC Deb 21 June 2011 c.3-4W

⁸ Department for Business Innovation and Skills, [“Empowering and Protecting Consumers – Government response to the consultation on institutional reform”](#), April 2012, [online] (accessed 7 November 2013)

of consumer advice, representation and enforcement should be clear and should rest principally with one of three key institutions:

- Citizens Advice,
- local authority Trading Standards services (TSS), and
- a newly established Competition and Markets Authority (CMA) created from merging the competition functions of the Office of Fair Trading (OFT) and the Competition Commission

Detailed information on these institutional changes is set-out below (see sections 2.5 and 3 of this paper).

2.5 Significant organisational changes

The Government has implemented the following institutional reforms:

- [National Trading Standards](#) (NTS) was set up in 2012 by the Government as part of changes to the consumer protection landscape. The NTS brings together trading standards representatives from England and Wales to prioritise, fund and coordinate national and regional enforcement cases. It gathers important intelligence from around the country to combat rogue traders, and tackle priorities such as internet scams, illegal money lending and other enforcement issues that go beyond local authority boundaries.
- The OFT closed its doors on 31 March 2014. Consumer law enforcement is now split between Trading Standards, Citizens Advice and the new Competition Markets Authority (CMA).

[Citizens Advice](#) (and [Citizens Advice Scotland](#)) has become the lead national, publicly funded consumer advocate; the main source of information for consumers about their rights. Crucially, Citizens Advice has taken on responsibility for representing consumers' interests in unregulated sectors across Wales and England⁹ (a role previously performed by the OFT's Consumer Direct).

[Local authorities' TSS](#), under the guidance of the NTS board, now have primary responsibility for enforcing consumer law (taking on both local and national cases).

The [CMA](#) plays a pivotal role in ensuring that markets are operating fairly and in the interests of consumers. To this end, the CMA has kept responsibility for unfair terms enforcement (for example, unfair ticket terms and conditions).

In effect, these reforms have meant replacing some organisations with others; some organisations taking on more responsibility; and others giving up some responsibility. The reforms were implemented by way of orders made under the [Public Bodies Act 2011](#).¹⁰

⁹ The process has already started, and a new advice line succeeding Consumer Direct was launched by the Citizens Advice service on 2 April 2012)

¹⁰ Section 8(1) of the Public Bodies Act 2011 provides that Ministers may make an order only where they consider that it serves the purpose of improving the exercise of public functions. Such orders must have regard to efficiency, effectiveness, economy and securing appropriate accountability to Ministers.

It was the Government's view that changing the consumer landscape in this way would create a simplified, easily accessible and nationally consistent advice service for consumers.¹¹ In addition, it was hoped that these institutional reforms would facilitate a more integrated approach to national and cross-boundary consumer threats (see **Box 2** below).

Box 2: Economic benefits of the institutional changes:

During the Grand Committee consideration of the Public Bodies (The Office of Fair Trading Transfer of Consumer Advice Scheme Function and Modification of Enforcement Functions) Order 2013, Viscount Younger of Leckie outlined the economic benefits of the Order:

For the benefit of the committee, I should like briefly to set out those economic benefits in the remaining few minutes. The enforcement proposals were estimated to have a cost of £3.2 million. The value of the benefits proved impossible to quantify, but included improved leadership and co-ordination of Trading Standards enforcement through the creation of the NTSB. There will also be better co-ordination of enforcement between Trading Standards and OFT/CMA, managed by the Consumer Protection Partnership. The transfer of consumer information, advice and education functions to Citizens Advice was assessed as delivering benefits of £6.3 million. This proposal will strengthen frontline consumer protection by forging a stronger link between the activities of Citizens Advice and provision of information, advice and education. Citizens Advice is highly regarded and respected by all, and its brand is much better known to consumers than Consumer Direct. As a result, Citizens Advice expects the volume of calls to increase over time compared to Consumer Direct. This proposal will also reduce the complexity of the consumer landscape and create opportunities for substantial synergies in data and IT infrastructure.¹²

¹¹ HC Deb 12 March 2013 c.60-61GC

¹² HC Deb 12 March 2013 c.60-61GC

3. New consumer bodies in detail

3.1 National Trading Standards (NTS)

[National Trading Standards](#) (NTS) was set-up by BIS (now BIEIS) in April 2012. It is governed by a NTS Board that has an independent Chair, Lord Toby Harris, and 10 representatives from the regional trading standards groups in England and Wales. In respect of Scotland, the [Convention of Scottish Local Authorities](#) (COSLA) has set up a [Scottish Consumer Protection National Enforcement Team](#) (SCPNET), to be in charge of enforcement in Scotland.

The NTS Board is responsible for national and cross-local authority enforcement in England and Wales and manages the appropriate distribution of government funding to national and regional projects (for instance, Scambusters, the illegal Money Lending Teams, the Safety at Ports Project and the national e-Crime Centre). It is the Government's view that the NTS Board improves co-ordination of enforcement and ensures better use of limited resources:

National funding for enforcement activities will facilitate a more integrated approach to national and cross local authority boundary threats. This activity will be more effectively co-ordinated at national level by chief Trading Standards officers. This will ensure that enforcement gaps do not arise and that activity overall is targeted to achieve better outcomes for consumers.¹³

The [NTS Business Plan and Annual Report](#) provide more information on its strategic priorities and areas of work.

The important point to note is that the NTS is different to the support provided by local trading standards services and the [Chartered Trading Standards Institute](#) (CTSI). Although the NTS works closely with these partners, its remit is focused solely on leading investigations into trading standards offences. It has put systems in place to ensure that enforcement action is co-ordinated to achieve the greatest level of protection for consumers and businesses. In particular, it has established a National Tasking Group that:

- tasks intelligence development,
- assigns investigations and enforcement work to be undertaken nationally and regionally, and
- takes decisions based on the intelligence and information it receives

It proactively tasks work around the NTS priority areas and considers requests for support that come via trading standards regional tasking groups, NTS Teams and other enforcement agencies. The overriding aim is to ensure there are no enforcement gaps or duplication between national, regional and local consumer and business protection enforcement (subject to available resources).

¹³ HC Deb 12 March 2013 c.60-61GC

3.2 Local authority Trading Standards Services (TSS)

Except in relation to unfair terms, Trading Standards has a responsibility to enforce the majority of consumer legislation, with the support of the NTS and the consumer enforcement bodies in Scotland.

To this end, the [Public Bodies \(The Office of Fair Trading Transfer of Consumer Advice Scheme Function and Modification of Enforcement Functions\) Order](#), which came into force on 28 March 2013, amends key consumer protection legislation to allow Trading Standards to take a lead role in most enforcement matters.

This Order clarifies the responsibility of Trading Standards to tackle cross-boundary threats and cases of national significance. According to the Government, this should:

- enable a more appropriate allocation of consumer enforcement cases;
- enable Trading Standards to take on more cases of national significance; and
- ensure that national activity is linked to local intelligence (for example, there may be several reports of a rogue online trader from consumers across the country)¹⁴

It should also be noted that the [CTSI](#) now has responsibility for educating business about consumers' rights. In June 2013, the [CTSI](#) launched a self-funding [Consumer Codes of Approval Scheme](#), after being asked by the Government to replace the scheme run by the OFT.

3.3 Citizens Advice

[Citizens Advice](#) has taken the lead as the national, publicly funded consumer voice; it is now the first port of call for consumers with problems to solve. In 2012, it launched the [Consumer Service Helpline](#) (a replacement for the OFT's Consumer Direct helpline) and also provides online support to consumers through [Adviceguide](#). Citizens Advice has also taken on responsibility for consumer advocacy. In effect, the national co-ordination of consumer advice, information and education about consumers' rights is now the responsibility of Citizens Advice.¹⁵

The work of Citizens Advice (and the NTS Board) will be accountable to the Consumer Minister through grant arrangements set up by BEIS. These grant arrangements will set out performance targets (to be monitored by BEIS). The bodies will be collectively accountable through the [Consumer Protection Partnership](#)¹⁶, which will also report to the

¹⁴ HC Deb 12 March 2013 c.60-61 GC

¹⁵ The [Public Bodies \(The Office of Fair Trading Transfer of Consumer Advice Scheme Function and Modification of Enforcement Functions\) Order](#) 2013 finalised the transfer of the consumer education and advice functions to the Citizens Advice service.

¹⁶ The [Consumer Protection Partnership](#) (CPP) identifies and prioritises areas where there is greatest harm caused to consumers and coordinates collective action by its members

Minister for Consumer Affairs on a six-monthly basis to ensure there are no gaps or duplication in enforcement within the reformed landscape.¹⁷

3.4 Competition & Markets Authority (CMA)

In March 2012 the Government announced the merger of the OFT and the Competition Commission to form a new single authority, the [Competition & Markets Authority](#) (CMA).¹⁸ Provision to establish the CMA, and a series of related reforms to the UK competition regime was made by the [Enterprise and Regulatory Reform Act 2013](#).¹⁹

From 1 April 2014, the CMA formally took over many of the functions of the Competition Commission and the OFT and those bodies were abolished.

The CMA's primary duty is to seek to promote competition, both within and outside the UK, for the benefit of consumers. To this end, the CMA has the powers to deal with anti-competitive business activities, for example:

- tricking consumers into contracts that could stop them changing suppliers;
- imposing excessive surcharges to change suppliers; and
- claiming other suppliers charge more than they actually do

The CMA's overriding aim is to make markets work well for consumers, businesses and the economy. It is expected to use its powers across a whole market. The CMA will usually investigate individual firms only if there's likely to be a widespread benefit from that investigation. A summary of the responsibilities of the CMA is provided in **Box 3** below.

Box 3: Summary of the responsibilities of the CMA:

The CMA is currently responsible for:

- investigating mergers which could restrict competition
- conducting market studies and investigations in markets where there may be competition and consumer problems
- investigating where there may be breaches of UK or EU prohibitions against anti-competitive agreements and abuses of dominant positions
- bringing criminal proceedings against individuals who commit the cartel offence
- enforcing consumer protection legislation to tackle practices and market conditions that make it difficult for consumers to exercise choice
- co-operating with sector regulators and encouraging them to use their competition powers
- considering regulatory references and appeals

The CMA's responsibilities are supported by a range of powers which are based in legislation, as explained in [Towards the CMA](#).

¹⁷ HC Deb 12 March 2013 c.60-61GC

¹⁸ HC Deb 15 March 2012 cc27-9WS

¹⁹ For more background on this reform see, Library Research paper 12/33, 7 June 2012 pp12-63; this paper was prepared for the second reading of the *Enterprise and Regulatory Reform Bill 2012-13*.

It is also important to note that the CMA has a statutory role comparable to that of the old OFT in relation to challenging unfair contract terms under Part 2 of the new [Consumer Rights Act 2015](#) (see **section 4** below).

Unfair contract terms and the role of the new CMA

3.5 Regulated Industries

As part of the Government's reforms of the consumer landscape, a new Regulated Industries Unit (RIU) was set-up to identify and represent consumers' interests in complex, regulated sectors, including energy and postal issues and, in Scotland, water. In 2014, this Unit was transferred to [Citizen's Advice](#), [Citizen's Advice Scotland](#) and, in respect of post and post offices in Northern Ireland, to the [Consumer Council for Northern Ireland](#).

3.6 The Consumer Protection Partnership

The [Consumer Protection Partnership](#) (CPP) was formed in April 2012. Its primary purpose is to identify and prioritise areas where there is the greatest detriment to consumers. Partners will then agree and co-ordinate collective action to tackle such detriment, using all available tools at their disposal. In effect, the purpose of the CPP is to ensure that important issues do not fall between any gaps and that there is a 'joined-up' approach to consumer issues. The partnership consists of:

- Citizens Advice (including Citizens Advice Scotland)
- Consumer Council
- Competition and Markets Authority (CMA),
- National Trading Standards Board (NTSB),
- COSLA , trading standards Scotland
- Chartered Trading Standards Institute (CTSI),
- Financial Conduct Authority (FCA) and
- representatives from Department of Enterprise, Trade and Investment (Northern Ireland)

The Government believes that the CPP comprises the right partner organisations, and that all partners have an important role to play. On the 25 April 2016, a [third report](#) on the CPP's work to date and planned future activities was published, it followed the publication of previous reports in [November 2013](#) and [January 2015](#) (see **Box 4** below).

Box 4: Consumer Protection Partnership: Third report on the Partnership's work to date and planned future activities (April 2016):

According to its [third report](#), the CPP areas of concern for 2016 are:

- **Consumer Redress in the Electronic Goods Sector** – consumers are confused about their rights when buying goods like mobile phones.
- **Scam Calls** – people are being tricked through a variety of fraudulent schemes.
- **Digital Markets** – continued rapid expansion of the internet and increased engagement between consumer and businesses online raises risks and creates vulnerabilities
- **Ticket Scams and Re-sales** – increasing consumer confidence in the secondary market.

3.7 Consumer Futures

Since April 2014, Consumer Futures²⁰ became part of [Citizen's Advice](#), with the Extra Help Unit also transferring to [Citizen's Advice Scotland](#) and responsibility for consumer representation in postal services in Northern Ireland moving to the [Consumer Council for Northern Ireland](#).

²⁰ 'Consumer Futures' was originally the operating name for the National Consumer Council, a statutory organisation created through the merger of Energywatch, Postwatch and the National Consumer Council (including the Scottish and Welsh Consumer Councils) by the [Consumers, Estate Agents and Redress Act 2007](#)

4. The biggest legislative overhaul for decades

The institutional reform outlined above was just part of a much wider reform of the consumer landscape. In addition to this overhaul of consumer law enforcement bodies, there has been a legislative overhaul.

4.1 The two drivers of change

There have been two drivers of change:

- First, the adoption in October 2011 of the [Consumer Rights Directive](#) (CRD) 2011/83/EU. The requirements of the Directive have been implemented in the UK through the '[Consumer Contracts \(Information, Cancellation and Additional Payments\) Regulations 2013](#)'.
- The second driver was the findings of a series of consultations on consumer laws held in the UK between March and November 2012. Responses highlighted areas of duplication, inconsistency and uncertainty. This led to the [Consumer Rights Act 2015](#), which came into force on 1 October 2015.

The Consumer Rights Directive (CRD)

The majority of the provisions of the CRD are 'maximum harmonisation'. This means that, subject to certain limited derogations, the UK's implementing law cannot go beyond, or below, the level of consumer protection which the provision in the Directive aims to ensure.

In respect of those few areas where application of the CRD is discretionary, the UK Government published a consultation Paper in August 2012, '[Enhancing consumer confidence by modernising consumer law in relation to the implementation of the Consumer Rights Directive](#)'.

A central requirement of the Directive is that consumers be comprehensively informed before any contract is entered into. The aim of the Directive is to give consumers improved protection when they purchase goods and services across borders. The CRD does not cover all consumer rights; it focuses on simplifying and harmonising rules in a limited number of key areas, including:

- pre-contract information rights (with particular reference to costs and terms of delivery for distance and off-premises contracts but also for on-premises contracts);
- traders obtaining the express consent of consumers for any payments which are additional to the main price for the goods or services provided under the contract;
- cancellation rights for distance and off-premises contracts;

- prohibition of excessive surcharges for consumers' use of payment cards and telephone hotlines to the trader; and
- clarification of the cancellation rights and obligations of buyers and sellers of digital products

A more detailed summary of the background to the CRD, an outline of its main provisions, and consideration of how the Directive will be implemented in the UK, is provided in a separate [Library briefing paper](#).²¹

New Consumer Rights Act 2015 (CRA 2015)

As already mentioned, the second driver for change was the introduction of the new [CRA 2015](#).

Before the CRA 2015 came into force on 1 October 2015, UK consumer rights were set out in 12 Acts (including the [Sale of Goods Act 1979](#)) and various regulations. Consumer law was unnecessarily complex, ambiguous in places and had not kept up with technological developments. As a result, consumers and businesses found it difficult to understand their legal rights and obligations. It was the Government's view that this potentially worked to undermine competitiveness and growth in the economy as a whole.

The Government published its consumer strategy in April 2011, '[Better Choices: Better Deals – Consumers Powering Growth](#)'.²² The aim being to create a simple, modern framework of consumer law across all sectors. To this end, a series of consultation documents were published in autumn 2012. Responses highlighted not only areas of duplication, inconsistency and uncertainty in law and enforcement, but also evidence of consumer detriment. A draft Consumer Rights Bill was published on 12 June 2013. This eventually led to the [CRA 2015](#) which came into force on 1 October 2015.

Part 1 of the CRA 2015 sets out in one place key consumer rights covering contracts for goods, services and digital content. It introduces important new protections for consumers alongside measures designed to lower regulatory burdens for business (see **Box 5** below).

Part 2 of the CRA 2015 gives effect in the UK to the [Unfair Contract Terms Directive](#) (the Directive)²³ and replaces the [Unfair Terms in Consumer Contracts Regulations 1999](#) (the 'UTCCRs'). The CRA 2015 applies to consumer contracts entered into, and relevant notices issued, on or after 1 October 2015.

The Government is keen to see consumers take more responsibility for enforcing their own rights

The *Consumer Rights Act 2015* represents the biggest overhaul of consumer law for decades

²¹ '[EU Consumer Rights Directive](#)', Library standard note SN/HA/6608, 16 April 2013, [online] (accessed 14 November 2013)

²² Department for Business innovation and Skills and the Cabinet Office, '[Better Choices: Better Deals – Consumers Powering Growth](#)', April 2011 [online] (accessed 19 November 2013)

²³ Council Directive 93/13/ECC on unfair terms in consumer contracts

It is also important to note that the [Consumer Protection from Unfair Trading Regulations 2008](#) (the 'CPRs') transpose into UK law the requirements of the [Unfair Commercial Practices Directive 2005](#). They provide consumers with a range of protections from unfair commercial practices which distort their decision-making. They introduce a general duty not to trade unfairly, and ban certain specified practices. A separate [Library briefing paper](#) provides more detailed information on the operation of the Regulations.²⁴

The CRA 2015 and the CPRs between them provide protection to consumers at all stages of their dealings with traders. The CPRs cover marketing and other trader activity that has an impact on consumers both before and at the time of their agreement to any contract terms, and with their treatment following any purchases they agree to make. The unfair term provisions of the CRA 2015 deal with the fairness of the contracts they enter, and therefore need to be seen alongside relevant provisions in the CPRs.

It should be clear that the CRA 2015 creates a **modern framework of consumer law across all sectors**. **If the Act is to achieve its full impact, consumers and traders will need to become adept at using the new regime**. According to Government estimates, reform of consumer law would bring quantifiable net benefits of £4 billion to the UK economy over 10 years.²⁵

I attach a Library briefing paper on the "[Consumer Rights Act](#)" (SN6588) dated 1 October 2015. This briefing paper sets out in detail the background to the Act and the main provisions of **Parts 1 and 2** (not Part 3). Specifically, it looks at new rules on consumer contracts for goods, digital content and services and unfair terms in consumer contracts and notices.

Unfair wording can distort consumers' purchasing decisions, (e.g. through misleading them about their rights or the risks they may face, omitting key information or providing unclear information).

²⁴ "[Consumer Protection from Unfair Trading Regulations 2008](#)", Library briefing paper (CBP 4678), 26 May 2016 [online] (accessed 23 November 2016)

²⁵ Department for Business innovation and Skills and the Cabinet Office, '[Better Choices: Better Deals – Consumers Powering Growth](#)', April 2011 [online] (accessed 19 November 2013)

Box 5: Core consumer rights under the new CRA 2015 regime

The new [CRA 2015](#) provides the following core consumer rights:

- Right to get what you pay for – all information about the main characteristics of the goods, including statements made in advertising or on labels, to form part of the contract.
- Right to have faults in what you buy put right – clearer tiered remedies in the event that a consumer's rights are breached, including a mandatory 30-day period in which to reject faulty goods. Traders limited to one opportunity to repair or replace faulty goods (if possible), following which the consumer can demand a discount or return the goods and demand a refund.
- Right that digital content is fit for purpose – digital content to have its own separate regime of rights and remedies to be applied both to paid-for content (including where paid for with 'virtual' currencies) and content that is provided free with paid goods, services or other digital content (e.g. apps and in-app purchases and open source software). These provisions of the CRA 2015 have been drafted to accommodate future developments (for example, content provided in return for consumer data).
- Right that traders perform services with reasonable care and skill, within a reasonable time, with the consumer obliged to pay a reasonable price. The consumer has the right to ask for a repeat performance of services not performed properly or, if that is not possible or done within a reasonable time, a right to a price reduction.
- Drawing on the recommendations of the Law Commission, the CRA 2015 replaces and expands the current rules regarding unfair terms in consumer contracts.

In a nutshell, the CRA 2015 creates a simple, modern framework of consumer law across all sectors.

4.2 And if things go wrong – there is ADR

If things still go wrong, the consumer can always try Alternative Dispute Resolution (ADR). ADR describes a range of measures (such as mediation and arbitration) designed to avoid the need to go to court to enforce legal rights. Usually these measures are a cheaper and quicker route for resolving a dispute.

The [EU Directive on consumer ADR](#) (2013/11/EU) and an EU Regulation on '[Consumer Online Dispute Resolution](#)' (No. 524/2013) were published in July 2013. The aim of the Directive is to provide in every EU Member State a fast, cheap and informal way for consumers to settle disputes with traders out of court, through the intervention of an approved ADR entity (such as an arbitrator, conciliator, mediator, or ombudsman). The requirements of the Directive were implemented into UK law by the [Alternative Dispute Resolution for Disputes \(Competent Authorities and Information\) Regulations 2015](#).

Detailed information is provided in a separate Library briefing paper, "[Alternative Dispute Resolution](#)", (CBP 7336) dated 15 October 2016. This briefing Paper outlines the background to, and the main provisions of, the new ADR Regulations 2015. Like the Regulations, this Paper is only concerned with consumer ADR (i.e. a dispute between a trader and a consumer).

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