

Unfair relationships

**Enforcement action under Part 8 of the
Enterprise Act 2002**

Draft guidance - consultation document

June 2006

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PART I: THE CONSULTATION

1 INTRODUCTION

- 1.1 The Consumer Credit Act 2006 ('the 2006 Act') introduces the new concept of an unfair relationship. This means that a borrower can challenge a credit agreement in court on the grounds that the relationship between the lender and the borrower in connection with the agreement is unfair to the borrower.
- 1.2 Unfair relationships and the circumstances that give rise to them also fall to be dealt with using enforcement powers under Part 8 of the Enterprise Act 2002 ('Part 8'). These powers cover situations in which businesses infringe their legal obligations and as a result harm the collective interests of consumers.
- 1.3 The 2006 Act requires the Office of Fair Trading (OFT) to publish guidance indicating how it expects the unfair relationships provisions to interact with Part 8. This is intended principally as advice and information for businesses, their legal advisers or representatives, and consumer organisations.
- 1.4 We are publishing this guidance in draft form, to invite comments from stakeholders and other interested persons. The guidance will be finalised in the light of such comments and discussions with other enforcers. We aim to publish final guidance by 31 December 2006.
- 1.5 Part I of this consultation document describes the consultation process and lists the questions on which we would welcome views. Part II comprises the draft guidance. Part III is a list of consultees.

2 THE CONSULTATION PROCESS

Responding to this consultation

- 2.1 We are inviting comments on the draft guidance set out in Part II of this consultation document. We are keen to hear from all those who have an interest in the new unfair relationships provisions, particularly businesses (and their representatives), consumer organisations and advisory bodies, and enforcement agencies.
- 2.2 The guidance does not seek to define what is an 'unfair relationship' but rather to indicate how the OFT expects Part 8 enforcement powers to be used in this area. It is for the courts to determine whether there is an unfair relationship in an individual case. The OFT's role is strictly regulatory – we can take Part 8 action where acts or omissions breach specified legislation and harm the collective interests of consumers.
- 2.3 A list of consultation questions is set out in Chapter 3. We would welcome your views and comments on these questions as well as any other issues relating to the draft guidance.
- 2.4 When responding please state whether you are doing so as an individual or representing the views of an organisation. If responding on behalf of an organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.
- 2.5 The consultation process is in line with Cabinet Office guidelines – for more information see Chapter 4.
- 2.6 A list of organisations that have been invited to respond is in Part III. However, we would welcome comments from any organisation or individual who wishes to contribute. Please draw this consultation document to the attention of others who may have an interest.

The consultation period

- 2.7 The consultation period begins on 29 June 2006 and will run until **Friday 29 September 2006**. Please ensure that your response reaches us by that date.
- 2.8 Responses to this consultation should be sent to:
- Martin Goulden
Office of Fair Trading
Credit Policy and Reform
Freepost KE6260
London EC4B 4AH
- Phone: 020 7211 8702
- Fax: 020 7211 8874
- Email: martin.goulden@oft.gsi.gov.uk
- 2.9 If you have any queries about this consultation please contact Martin Goulden as above, or Emma Fulford on 020 7211 8237.
- 2.10 Further copies of this consultation document can be found at www.oft.gov.uk/News/Consultations/index.htm

Next steps

- 2.11 We will collate responses and publish a formal response to the consultation exercise during December 2006.
- 2.12 We aim to publish a final version of the guidance by 31 December 2006.
- 2.13 Copies will be available from the OFT website at www.oft.gov.uk

Confidentiality and data protection

- 2.14 We do not intend to publish individual responses to this consultation, but may share non-confidential information with others pursuant to the disclosure provisions of Part 9 of the Enterprise Act 2002.
- 2.15 Information provided in response to this consultation may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or other legislation regarding public access to information. Under the FOIA there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.
- 2.16 We will process your personal data in accordance with the Data Protection Act 1998 (DPA). Your personal data will not be disclosed to third parties except in compliance with the DPA and other applicable legal requirements.
- 2.17 If you want your details or any information to be kept confidential, please state this clearly in your response. We will take full account of this in the event that we receive a request for disclosure of the information, although we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your organisation's IT system will not in itself be regarded as binding on the OFT.
- 2.18 Numerical account will be taken of confidential responses in compiling any statistical summary of comments received or views expressed.

3 CONSULTATION QUESTIONS

- 3.1 We want to ensure that the guidance is clear and comprehensive for its intended users and covers all relevant matters. We would therefore like to know how easy you find it to use, whether it meets its aim and what else it might include.
- 3.2 The following is a summary of questions we would like answers to. These questions are not however intended to limit debate. We would also welcome any other views or comments.

List of questions

- Q1 Is the draft guidance sufficiently clear?
- Q2 Does it summarise the relevant legal provisions clearly and accurately?
- Q3 Does it provide an adequate summary of the OFT's approach to enforcement?
- Q4 Does it indicate clearly the kinds of matters to which the OFT may have regard in considering possible Part 8 action?
- Q5 Are there sufficient cross-references to other material?
- Q6 Does the draft guidance have any significant omissions?
- Q7 Are there any parts which need amplification or clarification, and if so, in what respects?
- Q8 Are any parts of the draft guidance not needed?
- Q9 Do you have any other suggestions for improvement to the guidance?
- Q10 Do you have any views on how the final guidance should be disseminated to those who may need to see it?

Q11 Do you have any views on how the OFT might access details of court judgments in individual cases?

Q12 Do you have any views on how the OFT should publicise such information or details of Part 8 enforcement actions?

4 CONSULTATION GUIDANCE

4.1 This consultation is being conducted in line with the Cabinet Office's Code of Practice on Consultation. The consultation criteria are listed below. The full Code of Practice can be accessed at www.cabinetoffice.gov.uk/regulation/consultation

The six consultation criteria for consultations by public bodies:

- consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy
- be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses
- ensure that your consultation is clear, concise and widely accessible
- give feedback regarding the responses received and how the consultation process influenced the policy
- monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator
- ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

Comments or complaints about the consultation process

4.2 If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to:

Sue Cook
OFT Consultation Co-ordinator
Office of Fair Trading
Fleetbank House
2-6 Salisbury Square
London EC4Y 8JX

Phone: 020 7211 8308

Email: sue.cook@oft.gsi.gov.uk

PART II: THE DRAFT GUIDANCE

1 INTRODUCTION

- 1.1 The Consumer Credit Act 2006 ('the 2006 Act') introduces the new concept of an unfair relationship. This means that a borrower can challenge a credit agreement in court on the grounds that the relationship between the lender and the borrower in connection with the agreement is unfair to the borrower. This provision is in addition to an enhanced ability for consumers to take disputes to the Financial Ombudsman Service (FOS).
- 1.2 Unfair relationships and the circumstances that give rise to them also fall to be dealt with using enforcement powers under Part 8 of the Enterprise Act 2002 ('Part 8'). These powers cover situations in which businesses infringe their legal obligations and as a result harm the collective interests of consumers.
- 1.3 This guidance indicates how the Office of Fair Trading (OFT) expects Part 8 enforcement powers to be used in relation to unfair relationships. A summary of the provisions of Part 8, and our approach to enforcement generally, may be found in *Enforcement of consumer protection legislation: Guidance on Part 8 of the Enterprise Act* (OFT512).¹

¹ Available at [www.offt.gov.uk/Business/Legal/Enterprise/part + 8.htm](http://www.offt.gov.uk/Business/Legal/Enterprise/part+8.htm)

- 1.4 This guidance is intended principally as advice and information for businesses, their legal advisers or representatives, and consumer organisations. It does not seek to define what is an 'unfair relationship' but rather to explain how the Part 8 powers might be used in this area and what factors are likely to influence the OFT's consideration under Part 8. Such factors may also be relevant to the court's consideration in individual cases involving allegations of unfair relationships.
- 1.5 This guidance does not bind other Part 8 enforcers but we will encourage them to have regard to it, and we will co-ordinate any proposed actions under Part 8 to ensure that businesses are not subjected to unnecessary multiple approaches and that court proceedings are taken only where warranted.
- 1.6 The guidance will be kept under review and may be amended from time to time to take account of court judgments in respect of unfair relationships and other relevant developments.

2 THE UNFAIR RELATIONSHIPS PROVISIONS

2.1 The new provisions relating to unfair relationships are set out in sections 140A to 140D of the Consumer Credit Act 1974 ('the 1974 Act') as inserted by sections 19 to 22 of the 2006 Act. They replace the provisions relating to extortionate credit bargains in sections 137 to 140 of the 1974 Act.

2.2 Section 140A provides that the court may determine that the relationship between a lender and a borrower is unfair to the borrower because of:

- any of the terms of the credit agreement or any related agreement
- the way in which the lender has exercised or enforced any of its rights under the agreement or any related agreement, or
- any other thing done (or not done) by or on behalf of the lender either before or after the making of the agreement or any related agreement.

2.3 In making its decision, the court must have regard to all matters that it considers to be relevant including matters relating to the individual borrower and lender. The court may also take account of things done, or not done, by an associate or former associate of the lender. The fact that a relationship may have ended would not preclude the court from making a determination.

- 2.4 The unfair relationships provisions will apply to all consumer credit agreements, whether regulated or not, with the exception of agreements which are exempt under section 16(6C) of the 1974 Act because they are regulated mortgage contracts under the Financial Services and Markets Act 2000. The new provisions will otherwise apply to agreements which are exempt from regulation under the 1974 Act or which are for amounts above the current financial limit.²
- 2.5 A 'related agreement' for these purposes would include any previous agreement with the lender which has been consolidated by the credit agreement, and any linked transaction, for example, relating to certain types of insurance such as payment protection insurance.
- 2.6 Section 140B sets out the powers available to the court where it determines that a relationship is unfair to the borrower. An order made by the court may, amongst other things:
- require the lender, or an associate or former associate, to repay any sum paid by the borrower under the agreement or a related agreement
 - require the lender, or an associate or former associate, to do or not to do (or to cease doing) anything specified in the order in connection with the agreement or a related agreement
 - reduce or discharge any sum payable by the borrower
 - direct the return of any property provided as security
 - set aside any duty imposed on the borrower
 - alter the terms of the agreement or a related agreement.

² The financial limit in section 8 of the 1974 Act will be removed as from 6 April 2008.

- 2.7 An order may be made only on an application by the borrower (or a person who has provided security) either as a stand-alone application or as part of court proceedings in relation to the agreement or a related agreement.
- 2.8 Section 140B provides that if a borrower alleges that a relationship is unfair, it is for the lender to prove the contrary. In other words, the onus of proof is on the lender to show that the relationship is not unfair, although the borrower would be expected to substantiate his claim to the court's satisfaction.
- 2.9 Section 140D requires that advice and information published by the OFT under section 229 of the Enterprise Act shall indicate how the OFT expects the unfair relationships provisions to interact with Part 8. This guidance is issued pursuant to that provision.
- 2.10 The unfair relationships provisions will apply from 6 April 2007 in relation to credit agreements entered into on or after that date. If an agreement was made before this date, the new rules will apply from 6 April 2008³ unless the agreement has been completed by then (that is, there is no longer any sum which is or may become payable). Such completed agreements will remain subject to the extortionate credit bargains provisions in sections 137 to 140.
- 2.11 The court's powers to make an order under section 140B are not limited to matters arising after the coming into force of section 140A. The court may also have regard to matters arising before that date, other than in respect of certain related agreements which ceased to apply before the end of the transitional period.

³ Schedule 3 to the 2006 Act enables the Secretary of State by order to extend the transitional period. The Department of Trade and Industry may consult separately on this.

3 APPLICATION OF PART 8 TO UNFAIR RELATIONSHIPS

- 3.1 Part 8 of the Enterprise Act gives certain enforcers (including the OFT) powers to accept undertakings from, and where appropriate to seek court orders against, businesses that infringe their legal obligations.
- 3.2 Part 8 is injunctive in nature. Its purpose is to stop practices or actions which harm the collective interests of consumers, and to deter traders from engaging in similar conduct in the future. It is not intended as a means of providing redress for individual consumers or enabling them to enforce their rights against a particular trader.
- 3.3 It is for consumers to seek redress for themselves as individuals. In the case of unfair relationships, this might be by means of an application to the court for an order against the business concerned, as described above. Alternatively, the consumer may make a complaint to the business, or to a relevant trade body or other organisation, or (having done so) may seek resolution of the dispute by approaching the Financial Ombudsman Service (FOS) which will determine disputes according to what is 'fair and reasonable'.

The role of the OFT

- 3.4 The OFT cannot take up complaints on behalf of individual consumers. Our role is strictly regulatory – we are charged with acting in the public interest, and on behalf of consumers generally, in monitoring and enforcing compliance with relevant legislation. Our aim in carrying out our functions is to make markets work well for consumers.
- 3.5 We have powers to take action under Part 8 of the Enterprise Act where acts or omissions breach specified legislation and harm the collective interests of consumers. We also co-ordinate such actions by other enforcers such as local trading standards services.

- 3.6 In addition, we operate the credit licensing regime under the 1974 Act. This requires us to be satisfied that a person is fit to engage in consumer credit activities. In doing so we must have regard to all relevant matters including whether the trader, or an associate or former associate, has contravened relevant legislation or has engaged in business practices which are deceitful or oppressive or otherwise unfair or improper, whether unlawful or not.
- 3.7 The 2006 Act broadens the fitness test to include credit competence and to specify irresponsible lending as an example of an unfair or improper business practice. It will also enable the OFT to impose requirements on licensees where dissatisfied with any matter in connection with the licensed activities, and to impose financial penalties where these are breached. We will issue separate guidance indicating how we intend to exercise our powers under the credit licensing regime.⁴

The unfair relationships test

- 3.8 It is for the courts to determine in an individual case whether the particular credit relationship is unfair to the borrower. In doing so they must have regard to all relevant matters, which will include in particular the circumstances of the individual borrower and lender and the nature of the relationship between them.
- 3.9 A finding in one case may not necessarily be repeated in another, even if the same terms or practices are involved, since the circumstances may be different. For example, in one case a lender may be found to have exploited the borrower's vulnerability or lack of understanding, or failed to provide relevant information, and so caused detriment to the particular consumer. Different facts may apply in other cases.

⁴ The licensing provisions of the 2006 Act will come into force on 6 April 2008, with the exception of sections 24 and 25 which will come into force on 1 October 2008.

- 3.10 The Act does not define an 'unfair relationship' beyond setting out in general terms the classes of factors which can give rise to such relationships. This provides the courts with maximum flexibility in considering unfairness, and avoids unduly constraining them in individual cases.
- 3.11 It is therefore not possible, in advance of any cases decided by the courts, for the OFT to provide guidance on the meaning of the test or how it is likely to be applied by the courts. We will however amplify the current guidance in the light of relevant court judgments as and when these come to our attention.
- 3.12 It is nevertheless possible to adduce some general principles based on the formulation of the statutory test in section 140A.
- 3.13 As noted above, an unfair relationship may arise by virtue of:
- (a) the terms of the credit agreement (or a related agreement)
 - (b) the way in which the lender has exercised or enforced its rights under the agreement (or a related agreement), or
 - (c) anything done (or not done) by or on behalf of the lender either before or after the making of the agreement (or a related agreement).
- 3.14 The meaning of (a) and (b) is fairly straightforward. In the OFT's view category (c) is clearly intended to be as broad as possible, to ensure complete flexibility for the courts. Anything falling in (a) or (b) would be likely also to fall within (c) but the latter extends more widely to include, for example, pre-contract business practices (such as advertising) and post-contract actions not based on a right (such as demanding sums of money the consumer has not agreed to pay). Category (c) would also encompass acts or omissions which are non-commercial or do not amount to a practice.

- 3.15 For the purposes of this guidance, it may be helpful to group the potential triggers for action under the unfair relationships provisions under two headings – **contract terms** and **business practices**. This is discussed further in Chapter 4 of this guidance.
- 3.16 There is no statutory definition of 'relationship' but the meaning of this seems clear from ordinary usage. In our view it means a connection or association between people who have some link to or dealings with each other. A relationship is a continuing state of affairs and involves and affects all aspects of the mutual dealings of the parties.
- 3.17 There is also no special definition of 'unfair' in this context. However, this is not an unfamiliar concept in consumer protection generally, or the regulation of financial services in particular. Closely related legislation and associated jurisprudence and guidance can provide tests and examples of unfairness which may be relevant to the court's consideration of a possible unfair relationship. These will not be binding on the courts but may be useful in illustrating how the courts might be likely to approach interpretation. They will also be relevant to the OFT's consideration of possible Part 8 action in relation to unfair relationships.

The scope for Part 8 action

- 3.18 The Enterprise Act distinguishes between two types of infringement:
- domestic infringements – acts or omissions in the course of business which fall into one or more of the categories set out in section 211(1) including breaches of criminal law or civil duties
 - Community infringements – acts or omissions which breach specified legislation implementing EU Directives or providing permitted additional protections for consumers.
- 3.19 In each case the infringement must also harm the collective interests of consumers. This is considered further below.

- 3.20 Against this statutory background there is likely to be more than one possible route to enforcement action under Part 8 in relation to cases involving unfair relationships.
- 3.21 Section 211(1)(d) refers to an act or omission in respect of which an enactment provides for a remedy or sanction enforceable by civil proceedings. The Consumer Credit Act is listed for Part 8 purposes in the Schedule to the Enterprise Act 2002 (Part 8 Domestic Infringements) Order 2003 (as amended), and section 140B provides for remedies enforceable by civil proceedings in respect of unfair relationships.
- 3.22 If enforcement action is brought under Part 8 against a lender on the basis that its terms or practices are giving rise to unfair relationships, it will be for the court to decide whether an enforcement order can be granted, having regard in particular to the following:
- whether any of the lender's acts or omissions fall within section 140A(1) of the 1974 Act
 - if so, whether an unfair relationship has arisen in the light of all the matters required to be considered by section 140A(2), and
 - if so, whether an act or omission has occurred that, in consequence, falls within the scope of section 211 of the Enterprise Act.
- 3.23 Acts or omissions falling within section 140A(1)(a)-(c) may also be actionable under Part 8 by reference to other enactments or rules of law mentioned in the Domestic Infringements Order, or relevant provisions of section 211(2), or as Community infringements under section 212. If enforcement action is brought on such a basis, there will be no need to satisfy the court in addition that an unfair relationship has arisen. However, any evidence tending to show unfairness to consumers would be likely to be relevant to the court's consideration of whether an enforcement order should be granted, and in what terms, as well as to the enforcer's decision on whether to initiate proceedings.

The collective interest test

- 3.24 Part 8 is not a means of pursuing individual redress. It applies only to infringements which harm the collective interests of consumers. This means that the breach must affect, or have the potential to affect, consumers generally or a group of consumers.
- 3.25 The unfair relationships provisions in section 140A apply to an individual relationship between a lender and a borrower. However, the lender may enter into such relationships with more than one consumer, and in doing so may, by virtue of acts or omissions giving rise to unfairness, have an adverse effect on a number of them.
- 3.26 It is not necessary for the harm to each consumer to be the same, or to be felt in the same way. And in some cases there may be a risk of harm which has yet to translate into actual detriment. It is not necessary to demonstrate actual loss to consumers for Part 8 action to be available.
- 3.27 In considering the scope for Part 8 action based upon the unfair relationships provisions, the OFT would consider whether there is a common factor which is likely to make a number of individual relationships 'unfair' and so harm the collective interests of consumers. It would not be necessary to demonstrate that there is more than one 'unfair relationship', or to adduce evidence to that effect, if it can be shown that the common element in the lender's behaviour may give rise to such a relationship in a number of cases.
- 3.28 For example, a lender may use standard terms in its agreements with consumers, or may operate in a common manner in respect of borrowers generally or a group of borrowers. The practice may give rise to unfairness in each case, or in a number of cases, and so may harm the collective interest. Again, it is not necessary for the practice to occur in all cases, or to have the same impact on borrowers. It may be sufficient that it gives rise to an unfair relationship in one case and has the potential to do so in others.

3.29 Each case would fall to be considered on its merits, having regard to all relevant facts and circumstances. The OFT would take into account in particular the circumstances of the individual borrower(s), the number and nature of borrowers likely to be affected, and the likely scope and impact of any adverse effects. There is no specific minimum threshold in terms of the number of consumers affected, and no obligation to establish a specific number of complaints or incidents of infringement.

4 FACTORS IN CONSIDERING PART 8 ACTION

- 4.1 As noted above, the triggers for possible Part 8 enforcement action in relation to unfair relationships may (for convenience) be grouped under two broad headings, contract terms and business practices. These are considered further below.

Contract terms

- 4.2 Section 140A(1)(a) provides that an unfair relationship may arise by virtue of the terms of the credit agreement or any related agreement. In some cases unfair contract terms may be sufficient in themselves to give rise to an unfair relationship. In other cases it may be the combination of terms taken together with business practices (whether or not relating to the operation of the terms) or other acts or omissions of the lender.
- 4.3 In considering the unfairness or otherwise of contract terms, the OFT would have particular regard to whether the term is 'unfair' for the purposes of the Unfair Terms in Consumer Contracts Regulations 1999 ('UTCCRs'). These provide that a contractual term (if not individually negotiated) is unfair if, contrary to the requirement of good faith, it causes a significant imbalance in the parties' rights and obligations under the contract, to the detriment of the consumer.
- 4.4 Infringement of the UTCCRs may be actionable both directly and via Part 8 of the Enterprise Act, as a Community infringement.
- 4.5 Account would also be taken where appropriate of the Unfair Contract Terms Act 1977 ('UCTA') which limits the extent to which civil liability for breach of contract, or for breach of duty, can be avoided by means of contract terms.
- 4.6 Schedule 2 to the UTCCRs comprises an indicative and non-exhaustive list of terms which may be regarded as unfair. For example, a term may be unfair if it has the object or effect of:

- requiring any consumer who fails to fulfil his obligation to pay a disproportionately high sum in compensation
- enabling the supplier to alter the terms of the contract unilaterally without a valid reason which is specified in the contract
- excluding or hindering the consumer's right to take legal action or exercise any other legal remedy.

4.7 There have been a number of court decisions in relation to the UTCCRs and the UCTA. In addition, the OFT has published regulatory guidance setting out our approach to enforcement of the UTCCRs.⁵ We have also issued specific guidance in relation to particular market sectors or types of contract term, some of which is relevant to credit agreements or related agreements.

4.8 For example, we have issued a statement setting out our view on the fairness or otherwise of default charges in credit card contracts.⁶ This sets out a number of general principles, which may also apply in other cases such as bank overdrafts or loan agreements. In relation to credit card default charges, the statement indicates that OFT action is more likely where the charge exceeds £12, since this is likely to exceed the lender's reasonable costs arising on default unless there are exceptional factors. It may also be in breach of the common law rule on penalties.

4.9 All transactions between commercial lenders and consumer borrowers will normally involve terms which are subject to the UTCCRs, and the OFT has no reason to suppose that the courts will give a meaning to the concept of 'unfairness' in relationships which is fundamentally different from that given in the context of contract terms.

⁵ *Unfair contract terms guidance* (OFT 311) – available on the OFT website at www.of.gov.uk/Business/Legal/UTCC/guidance.htm

⁶ *Calculating fair default charges in credit card contracts: A statement of the OFT's position* (OFT 842), published April 2006 – available on the OFT website at www.of.gov.uk

- 4.10 It is important to emphasise, however, that a term may be unfair under the UTCCRs without this giving rise to an unfair relationship. Equally, a term may not be unfair under the UTCCRs but may still trigger consideration of whether the relationship between the parties is unfair to the borrower.
- 4.11 In particular, the UTCCRs preclude an assessment of fairness in relation to terms which define the main subject matter of the contract, or which relate to the adequacy of the price or remuneration, provided that they are expressed in plain intelligible language. These are commonly referred to as 'core terms'. Such terms may nevertheless give rise to, or contribute to, a finding of an unfair relationship in individual cases. They may also be relevant to an assessment of the fairness of other terms.
- 4.12 The test of unfairness under the UTCCRs also does not apply to terms which have been individually negotiated between the parties. However, there is no such restriction in section 140(1)(a) and a court could have regard to such terms in the context of unfair relationships.

Rates and charges

- 4.13 The interest rate or APR under a credit agreement, or other charges falling within the total charge for credit, would normally be 'core terms' and so if clearly expressed would not themselves be subject to an assessment of fairness under the UTCCRs. This would not however preclude a court from taking such terms into account in deciding whether the relationship is unfair to the borrower. Equally, the OFT would be entitled to have regard to such terms in deciding whether to take Part 8 action.

- 4.14 Given that the unfair relationships provisions replace and supersede the provisions relating to extortionate credit bargains in sections 137 to 140 of the 1974 Act, it seems clear that they must be capable of applying to agreements involving excessive costs for borrowers. Section 138(1)(a) provided that a credit bargain was extortionate if it required the debtor to make payments which were grossly exorbitant, having regard to interest rates and other relevant considerations.
- 4.15 So for example, a court might decide that there is an unfair relationship by virtue of the rate of interest charged under a credit agreement or the rate or amount of other fees or charges. These may be so much higher than the rates applicable generally in the particular market sector, or payable by borrowers in similar situations, as to make the relationship as a whole unfair to the borrower.
- 4.16 The OFT considers that, in practice, a court may be unlikely to find there to be an unfair relationship solely on the basis of high interest rates or charges. Where an agreement has been entered into freely, without the consumer being in any way deceived or exploited, the court might not see a basis for treating the relationship as unfair by virtue of cost alone. But in many cases it is likely that excessive prices will be accompanied by other unfair terms or practices – for example, as to the way in which interest or fees are applied or a lack of transparency regarding their operation. Such terms or practices might be capable of being the subject of Part 8 action in their own right.
- 4.17 For example, the borrower may be unaware that a fee would be charged in a particular case, or the level of the fee, or how this might impact on the debt. He may also be unaware that rates might increase in particular circumstances, or were unlikely to reduce in line with changes in the market. The lender may have failed to disclose relevant information, or may have done so in an unclear or misleading manner. As a result, the consumer may not have entered into the transaction in full knowledge of the facts. He may also have had, in the circumstances, no real choice as to acceptance of the particular terms.

- 4.18 The OFT cannot, however, rule out the possibility that the interest rate or charges under an agreement may be so high in a particular case as to make the relationship unfair to the borrower even without any other relevant factors. In our 1991 report on *Unjust Credit Transactions* we noted that lending may be 'socially harmful' where the costs of credit substantially exceed levels which would be generated by a fully competitive market and/or are so oppressive or exploitive that no sensible person, independently advised, would find them acceptable.
- 4.19 If the consumer was misled or subject to aggressive marketing, infringement proceedings based on breach of the Unfair Commercial Practices Directive might be possible in future, independently of the possibility of action based on the unfair relationships provisions.

Business practices

- 4.20 Section 140A(1)(b) and (c) provide that an unfair relationship may arise by virtue of the way in which the lender has exercised or enforced its rights under the credit agreement (or a related agreement) or any other thing done or not done by or on behalf of the lender before or after the making of the agreement (or a related agreement). For convenience, we group these together under the heading 'business practices'.
- 4.21 For these purposes it is immaterial whether the practice in question is itself a breach of the law or may be actionable as such, although this may be relevant in determining the OFT's enforcement priorities and the appropriate mechanism for dealing with the issue.
- 4.22 Nevertheless, it may be helpful to sub-divide 'business practices' according to whether they contravene the law or may do so in future or whether they involve issues of 'unfairness' but without necessarily infringing any legal requirement.

Practices in breach of current law

- 4.23 An act or omission giving rise to an unfair relationship may also be in breach of the 1974 Act or other consumer protection legislation. As such, it may constitute a domestic or Community infringement in its own right, and may be actionable as such under Part 8.
- 4.24 For example, the lender may have failed to comply with provisions in the 1974 Act relating to canvassing off trade premises or false or misleading advertisements, or other relevant provisions. As noted above, the whole of the Consumer Credit Act is specified in the Domestic Infringements Order, and some aspects also constitute Community infringements.
- 4.25 The lender may have breached regulations made under the 1974 Act, for example, relating to advertising or pre-contract disclosure or the form and content of credit agreements or other documentation. The Act also imposes requirements in relation to post-contract transparency, including the provision of statements and other information to consumers, and the 2006 Act introduces further requirements including in respect of annual statements and notices of sums in arrears and default sums. There are also provisions relating to default under a regulated consumer credit agreement, and termination or early settlement.
- 4.26 Other relevant legislation currently includes the Control of Misleading Advertisements Regulations 1988, the Trade Descriptions Act 1968, Part III of the Consumer Protection Act 1987 (dealing with misleading price indications) and section 40 of the Administration of Justice Act 1970 relating to unlawful harassment of debtors.
- 4.27 Implementation of the Unfair Commercial Practices Directive will involve major changes to UK legislation dealing with commercial practices, but with the overall effect of broadening protection for consumers. This will increase the extent to which enforcers will have a choice of ways of using Part 8 to deal with unfair relationships.

- 4.28 Where there are multiple breaches of consumer legislation, we would look at the trader's overall behaviour in deciding on enforcement priorities and the appropriate enforcement mechanism.

Practices not necessarily in breach of law

- 4.29 It is clear from section 140A(1) that practices can contribute to unfair relationships even if they do not themselves involve any contravention of the law. In considering the 'unfairness' of such practices a court might have regard to whether they are of a kind that has been identified as unfair in the past (whether by the courts or in a regulatory context) or which is recognisably unfair according to established tests of fairness.
- 4.30 Regulatory guidance on what is or is not acceptable business practice may therefore be helpful in identifying lender behaviour falling within section 140A(1)(b) or (c) and which might attract enforcement action under Part 8 in respect of unfair relationships.
- 4.31 As noted above, section 25 of the 1974 Act (as amended) requires the OFT, in assessing fitness to hold a consumer credit licence, to take into account whether the trader, or any of its employees, agents or associates (whether past or present), has engaged in business practices which are deceitful or oppressive or otherwise unfair or improper, whether unlawful or not.
- 4.32 Such practices may relate to the marketing, conclusion or operation of a credit agreement or a related agreement, or their enforcement, or may otherwise be relevant to the relationship between the parties. The 2006 Act specifies as an example of an unfair or improper business practice a practice in the carrying on of a consumer credit business that appears to the OFT to involve irresponsible lending.

- 4.33 The OFT has issued general guidance to licensees and applicants in relation to the fitness test under the 1974 Act.⁷ This includes examples of business practices which may be regarded as unfair or improper for the purposes of section 25(2)(d) (now section 25A(2)(e)). In addition, we have issued sector-specific guidance including in respect of non-status lending, debt collection and debt management.
- 4.34 The non-status lending guidelines⁸ were published in 1997, and are due to be reviewed, but remain applicable in relation to secured lending to non-status borrowers – those with impaired or low credit ratings and who would find it difficult generally to obtain finance from traditional sources on normal terms and conditions. The guidelines also contain a number of general principles of good business practice which may be applicable generally.
- 4.35 The principles in question include the following:
- transparency in all dealings with borrowers, with full and early disclosure and explanation of terms and conditions and fees/charges
 - no high-pressure selling, with adequate time allowed for the borrower to reflect and to obtain independent advice
 - responsible lending, with all underwriting decisions subject to a proper assessment of the borrower's ability to repay, taking full account of all relevant circumstances including income and commitments.

⁷ *Consumer credit licences: Guidance for holders and applicants* (OFT329) – available on the OFT website at www.offt.gov.uk/Business/licence/publications.htm

⁸ *Non-status lending: Guidance for lenders and brokers* (OFT192) – copies can be obtained at www.offt.gov.uk/News/Publications/Leaflet+Ordering.htm

- 4.36 The general fitness guidance will be revised and reissued in the light of the changes in the 2006 Act, and we will consult on a draft in due course. We will also issue guidance, following consultation, with specific regard to the new element of irresponsible lending and what this may mean in different market sectors or circumstances.

Other relevant guidance

- 4.37 Issues of 'fairness' also arise in a number of other contexts, which may be relevant to whether business practices which do not themselves infringe the law may nevertheless involve acts or omissions giving rise to an unfair relationship and potentially also Part 8 action.
- 4.38 In particular, we would take into account whether there has been a breach of the rules or principles of the Financial Services Authority (FSA), for example, in relation to linked insurance products such as payment protection insurance which may have been sold with the loan.
- 4.39 The concept of 'fairness' is central to the FSA's regulation under the Financial Services and Markets Act 2000 ('FSMA'). One of the FSA's regulatory objectives under the FSMA is the protection of consumers, and a number of its general principles are directly relevant to fairness. These include:
- principle 6 – a firm must pay due regard to the interests of its customers and treat them fairly
 - principle 7 – a firm must pay due regard to the information needs of its customers, and communicate information to them in a way which is clear, fair and not misleading
 - principle 8 – a firm must manage conflicts of interest fairly, both between itself and its customers, and between one customer and another.

- 4.40 The FSA has published a series of papers, as part of its Treating Customers Fairly (TCF) initiative, which set out certain factors that firms should consider in ensuring that they treat their customers fairly and in accordance with the above principles.⁹ These might also be relevant to an assessment of 'unfairness' in an individual case under section 140A.
- 4.41 In considering possible Part 8 action in relation to unfair relationships, the OFT would also take into account any evidence of non-compliance with industry codes of practice. A number of such codes include specific provisions in respect of fairness and responsible lending. We may also take account of relevant guidance or 'best practice principles' issued by trade associations, and relevant findings by self-regulatory bodies such as the Advertising Standards Authority (ASA).
- 4.42 In addition, we would have regard to findings by the Financial Ombudsman Service (FOS) in individual disputes between borrowers and lenders. Where these highlight underlying principles in assessing the fairness or otherwise of individual transactions, we will take these into account in our enforcement activities including under Part 8. We will be drawing up a memorandum of understanding with the FOS, setting out our respective responsibilities and how best we can work together.

Practices that may in future be in breach of the law

- 4.43 Many business practices identified in guidance or other material as 'unfair', but which do not (or not necessarily) involve a breach of current legislation, may soon be covered more fully by the law. The UK government is required to implement the Unfair Commercial Practices Directive ('UCPD') into UK law by not later than 12 December 2007.

⁹ See in particular the FSA document *Treating customers fairly – building on progress* (July 2005), available from the FSA website at www.fsa.gov.uk

- 4.44 The UCPD will apply to all unfair business-to-consumer commercial practices, whether arising before, during or after a relevant transaction. It extends to consumer credit and other financial services, although national legislation in these areas may go further in the interests of consumer protection, and there are exemptions in respect of authorisation regimes (such as credit licensing) and contract law.
- 4.45 Article 5 of the UCPD provides that a commercial practice is unfair if it is contrary to the requirements of professional diligence and it materially distorts, or is likely to materially distort, the economic behaviour of the average consumer (or, if the practice is directed to a particular group of consumers, the average member of that group, there is also special provision for vulnerable consumers). In particular, commercial practices are unfair if they are misleading (as set out in Articles 6 and 7) or aggressive (as set out in Articles 8 and 9).
- 4.46 Annexe I to the UCPD comprises a list of misleading or aggressive commercial practices which are to be regarded as unfair in all circumstances. This may be considered of illustrative value as regards the potential meaning of 'unfairness' for the purposes of section 140A even in advance of UCPD transposition.
- 4.47 The UK legislation implementing the UCPD is not yet drafted. However, it is clear that the regime will cover unfair business practices in a much more comprehensive and flexible way than current law, and will extend to almost all business practices contributing to unfair relationships. A breach of the implementing legislation will be actionable under Part 8 in the same way as other Community infringements.

4.48 Guidance will be published in relation to UCPD implementing legislation, setting out what is likely to constitute an unfair commercial practice in particular circumstances. The OFT expects to produce such guidance in conjunction with the Department of Trade and Industry and following consultation with stakeholders including business and consumer organisations and the Trading Standards Service. In any event, we will have regard to any guidance issued in relation to the UCPD in deciding whether to take Part 8 action in respect of unfair relationships.

5 PROCEDURES IN APPLYING PART 8

- 5.1 The OFT intends to act under Part 8 in relation to unfair relationships in much the same way as it does in respect of breach of other legislation, with the overall aim of making markets work well for consumers.
- 5.2 The general principles and procedures governing such action are summarised below and in the OFT's general guidance on Part 8.¹⁰ In particular, we will weigh up the costs and risks of such action against the likely benefits for consumers and for businesses generally, and will act in a reasonable and proportionate manner. We will take account of any complaints or other evidence that we may receive, although receipt of complaints is not a precondition of Part 8 action.

The OFT's role under Part 8

- 5.3 The OFT has powers to take enforcement action under Part 8 where acts or omissions breach specified legislation and harm the collective interests of consumers. We also co-ordinate such actions by other enforcers.
- 5.4 There are three types of enforcer in relation to Part 8:
- general enforcers – the OFT, the Trading Standards Service (all local trading standards departments) and the Department of Enterprise, Trade and Investment in Northern Ireland (DETINI)
 - designated enforcers – a body designated by the Secretary of State for Trade and Industry including the Financial Services Authority, the Information Commissioner and the utility regulators
 - Community enforcers – a designated entity in another EEA state.

¹⁰ *Enforcement of consumer protection legislation: Guidance on Part 8 of the Enterprise Act* (OFT512) - available at www.offt.gov.uk/Business/Legal/Enterprise/part+8.htm

5.5 A designated enforcer may be limited to particular types of infringement or those arising within a particular market sector. Currently all designated enforcers are designated in respect of all types of domestic and Community infringement within the UK.

The OFT's approach to enforcement

5.6 In considering possible enforcement action under Part 8, the OFT follows certain general principles. These include:

- action is necessary and proportionate
- businesses should have a reasonable opportunity to put things right
- wherever possible court action will be taken only after undertakings have been sought
- action is taken by the most appropriate enforcer
- action is co-ordinated.

5.7 We also encourage other enforcers to follow these principles.

Necessary and proportionate action

5.8 We are committed to good enforcement policies and procedures in line with the recommendations of the Hampton Report.¹¹ These include a commitment to the principles set out in the Cabinet Office's Enforcement Concordat.¹² The OFT will continue to seek to achieve best practice in enforcement when the Concordat is superseded by a

¹¹ The report by Philip Hampton on *Reducing administrative burdens: effective inspection and enforcement* (March 2005) is available on the HM Treasury website at www.hm-treasury.gov.uk

¹² A copy of the Enforcement Concordat may be found on the Cabinet Office website at www.cabinetoffice.gov.uk/regulations/documents/pst/pdf.concord.pdf

statutory Regulatory Compliance Code in line with proposals embodied in the current Legislative and Regulatory Reform Bill.

- 5.9 On the basis that prevention is better than cure, and in line with the Hampton recommendations, enforcement includes helping businesses to meet their obligations through giving advice and assistance with compliance. Where formal action is required, this will be proportionate to the risks of detriment to consumers.

Reasonable opportunity and seeking undertakings

- 5.10 Except where urgent action is necessary, businesses are always given a reasonable opportunity to stop the infringement before an enforcement order is sought. In general there is a minimum period of 14 days for consultation with the business. This can however be shortened to seven days if an interim order is required. In very urgent cases, an immediate application can be made without consultation, but such action is limited to the most exceptional cases.
- 5.11 The OFT or other relevant enforcer may accept undertakings from a trader in lieu of court proceedings. An undertaking, whether to the OFT or another enforcer or to the court, will require that the trader does not continue or repeat the conduct, or engage in such conduct in the course of any business, or consent to or connive in the carrying out of such conduct by a body corporate with which he has a special relationship (for example, as a director or a controller).

Proceedings by the most appropriate body

- 5.12 We follow the principle that action under Part 8 should be taken by the most appropriate body. This means that normally where local or sectoral action is required, we would expect the relevant local or sectoral enforcer (such as the local trading standards service) to be best placed to take the action.

- 5.13 Where a number of enforcers may have scope for action we may direct which enforcer will take the action or may act ourselves. In the latter case we may decide in the event that further action is inappropriate and may close the file. Where there are established systems of statutory or non-statutory regulation in place that are likely to be effective we will generally refer complaints to the relevant regulator for action.

Action is co-ordinated

- 5.14 We will ensure that any action is co-ordinated so that businesses are not subjected to unnecessary multiple approaches, and that court action is taken only where warranted.
- 5.15 We have set up a co-ordination unit and a system for enforcers to notify proposed action under Part 8. We have also developed a number of mechanisms to co-ordinate action including the Consumer Regulations Website (CRW). This includes a restricted password protected area where Part 8 enforcers can share information about investigations.

Access to information

- 5.16 The OFT and other general enforcers have powers under Part 8 to require the provision of information (including documents) by means of a notice served on any person. We may also in appropriate cases act on behalf of a designated enforcer in requesting information.
- 5.17 A notice can be sent to enable the enforcer to establish whether to use its enforcement powers. A notice can also require information for the purpose of monitoring compliance with orders, interim orders or undertakings. If a person fails to comply with a notice within the specified time, the enforcer may apply to the court for an order requiring the person to provide the information.

Procedures under Part 8

- 5.18 Where we suspect that there has been an infringement harming the collective interests of consumers we will consider carefully whether further action is needed. In doing so we will follow the procedures outlined above.
- 5.19 Once a decision has been taken to proceed, we (or the relevant enforcer) will normally write to the business concerned. This letter will include:
- details of the activity or practice causing concern
 - the nature of the infringement and why this is considered to harm the collective interests of consumers
 - an explanation of Part 8 and reference to relevant guidance
 - an invitation to engage in dialogue with a view to the business putting things right
 - the consequences of failure to respond.
- 5.20 Any subsequent dialogue will help to determine whether enforcement action would be appropriate and what form it should take. Factors to consider will include the nature of the infringement, the intent of the business and any previous history of enforcement or licensing action, and the extent of any adverse effects on consumers. For example, whether there is targeting of consumers who are vulnerable or may suffer considerable detriment.
- 5.21 If formal action is warranted and satisfactory undertakings are not received we will consider initiating court proceedings under Part 8.

Publicity for Part 8 cases

5.22 We are committed to transparency and will usually put information on completed Part 8 cases into the public domain. Publicity will be accurate, balanced and fair. The factors taken into account when considering publicity on Part 8 cases include:

- any legal restrictions on disclosure of information
- facilitating the monitoring of compliance with undertakings or orders
- deterring other businesses from engaging in similar conduct
- warning consumers about practices detrimental to their interests
- increasing consumers' awareness of their rights and how to exercise them
- facilitating complaints about future breaches
- educating the market.

5.23 Information about completed cases is publicised by placing it on the public part of the Consumer Regulations Website (CRW).¹³ A press release may also be issued. Publicity will not normally be given to cases where we consider that no breach could properly be established.

5.24 We also intend to publicise court judgments in individual cases involving a finding of an unfair relationship, where we become aware of these, so as to inform consumers and businesses of how the courts have interpreted and applied the provisions. Details will be included on the CRW and may be referred to in a future update of this guidance.

¹³ The CRW may be accessed at www.crw.gov.uk

- 5.25 To this end, we may consider imposing a reporting requirement on licensees, as part of the credit licensing regime, to notify us of relevant court judgments and supporting information. We will consult separately about this.

Choice of enforcement mechanism

- 5.26 As noted above, the acts or omissions giving rise to unfair relationships may be actionable in their own right under Part 8, as a domestic or Community infringement. In particular, Part 8 action may be taken against unfair contract terms by virtue of breach of the UTCCRs, and following transposition of the UCPD such action will also be possible in respect of unfair commercial practices generally.
- 5.27 In such circumstances, the OFT will have a choice of enforcement mechanism, and will decide on a case by case basis which is the more appropriate. There may, however, be cases where action is possible only in relation to the unfair relationships provisions – for example, if the act or omission in question relates to excessive interest rates.
- 5.28 Where Part 8 action is possible in respect of breach of more than one legislative provision, we will assess whether to seek undertakings covering all relevant breaches or to confine the action to one or more elements. This would depend upon the facts of each case including the nature and extent of the harm to consumers and the trader's willingness to remedy the position, for example, by offering to compensate consumers who have suffered detriment.
- 5.29 In the case of unfair relationships, it may be more straightforward in terms of legal argument and procedure to demonstrate that a particular term or practice is in breach of the UTCCRs or the UCPD implementing legislation, than to show that it gives rise to an unfair relationship for section 140A purposes. This may particularly be the case until such time as the courts make judgments under section 140A indicating how in practice they intend to interpret and apply the provisions. On the other hand, there may be a public interest consideration in taking action also in

relation to the unfair relationships provisions, insofar as this may assist in clarifying the scope of the provisions which may be to the benefit of consumers, businesses and enforcers alike.

- 5.30 There may also be overlap with the credit licensing regime, in that breaches of legislation and unfair business practices which reflect on fitness to hold a consumer credit licence may also give rise to, or contribute to, an unfair relationship. Furthermore, evidence of unfair relationships will be relevant to an assessment of the trader's fitness to be licensed under the 1974 Act. In some cases it may be appropriate to take licensing action without reference to Part 8.
- 5.31 The choice of which legislation to use at which stage in a particular case will depend upon the individual facts and circumstances. We will ensure that any action is proportionate and does not subject businesses to unnecessary multiple approaches, although there may be a limited number of cases where action may be appropriate both under the licensing regime and in relation to Part 8.
- 5.32 We will issue further guidance in due course, indicating how we expect to use the various powers under the credit licensing regime, including the power in section 33A of the 1974 Act (as amended) to impose requirements on licensees. Such guidance will deal, amongst other things, with how the OFT expects such powers to interact with the use of Part 8 powers including in respect of unfair relationships. We will consult on a draft of any guidance.

6 FURTHER GUIDANCE AND CONSULTATION

- 6.1 We intend to keep this guidance under review, and will consider adding to it on an ongoing basis in the light of practical experience of operation of the Part 8 provisions in relation to unfair relationships.
- 6.2 In particular, we intend to publicise details of orders or undertakings obtained under Part 8, together with court judgments in individual cases under section 140A where we become aware of these. The guidance may be revised accordingly, to include examples of cases where Part 8 action has been taken or might be considered. Such examples may be illustrative rather than actual.
- 6.3 The guidance may also be amended from time to time to take account of relevant developments, including changes to fitness guidance under the credit licensing regime and policy and procedures on the enforcement of the 1974 Act and the UTCCRs. The guidance will also be reviewed in the light of legislation implementing the UCPD and relevant guidance.

Consultation

- 6.4 We are publishing this guidance in draft form, to invite comments from stakeholders and other interested persons. The guidance will be finalised in the light of such comments and discussions with other enforcers and the Department of Trade and Industry.
- 6.5 We aim to publish final guidance by 31 December 2006 so that it is available three months in advance of the new unfair relationships provisions coming into force. In any event, we will not initiate Part 8 action on the basis of unfair relationships until final guidance is in place and firms have had adequate opportunity to take this into account.

- 6.6 We also intend to establish appropriate co-ordination mechanisms with other enforcers, pursuant to our responsibilities under the Enterprise Act. In view of the nature of the new unfair relationships provisions, we would expect to take any initial actions under Part 8 where these involve significant legal or national issues. Other enforcers may however take action where they are the most appropriate body to do so, and we will encourage them to have regard to this guidance.
- 6.7 We would also welcome information from consumer organisations and others, so that we may consider Part 8 action in appropriate cases.

PART III: LIST OF CONSULTEES

1 LIST OF CONSULTEES

Advertising Standards Authority

Advice UK

APACS

Association of British Insurers

Association of District Judges

Banking Code Standards Board

Bar Council

Better Regulation Commission

Better Regulation Executive (Cabinet Office)

British Bankers Association

British Chambers of Commerce

British Cheque Cashers Association

British Retail Consortium

Building Societies Association

Church Action on Poverty

Citizens Advice

Citizens Advice Scotland

Civil Aviation Authority

Civil Court Users Association

Civil Justice Council

Confederation of British Industry

Consumer Action Network

Consumer Credit Association

Consumer Credit Counselling Service

Consumer Credit Trade Association

Convention of Scottish Local Authorities

Council of Mortgage Lenders

Credit Services Association

Debt Managers Standards Association

Debt on our Doorstep

Department for Constitutional Affairs

Department of Enterprise Trade and Investment in Northern Ireland

Department of Trade and Industry

Direct Marketing Association

Federation of Small Businesses

Federation of Small Businesses (Scotland)

Finance & Leasing Association

Finance Industry Standards Association

Financial Ombudsman Service

Financial Services Authority

Financial Services Consumer Panel

General Consumer Council for Northern Ireland

H M Courts Service

H M Treasury

Institute of Consumer Affairs

Institute of Credit Management

Judicial Studies Board

LACORS

Law Commission

Law Society of England and Wales

Law Society of Scotland

Legal Services Commission

Mail Order Traders Association

Money Advice Association

Money Advice Liaison Group

Money Advice Scotland

Money Advice Trust

National Association of Commercial Finance Brokers

National Consumer Council

National Consumer Federation

National Federation for Credit Counselling

National Pawnbrokers Association

Northern Ireland Authority for Energy Regulation (Ofreg)

Northern Ireland Court Service

Office of Communications (Ofcom)

Office of Rail Regulation

Office of Gas and Electricity Markets (Ofgem)

Office of the Information Commissioner

Retail Motor Industry Federation

Scottish Chamber of Commerce

Scottish Consumer Council

Scottish Court Service

Scottish Executive

Scottish Motor Trade Association

Scottish Retail Consortium

Small Business Council

Small Business Service

Society of Motor Manufacturers and Traders

Trading Standards Institute

Treasury Select Committee

Water Services Regulation Authority (Ofwat)

Welsh Assembly

Welsh Consumer Council

Welsh Local Government Association

Which?