The Money Charity Response – HM Treasury Consumer Credit Act Reform (March 2023)

The Money Charity is a Financial Wellbeing charity whose vision is to empower people across the UK to build the skills, knowledge, attitudes and behaviours to make the most of their money throughout their lives, helping them achieve their goals and live a happier, more positive life as a result.[1]

We welcome the opportunity to respond to HM Treasury's consultation on the reform of the Consumer Credit Act.

In this response, we set out our Key Points, make some overall comments on the issue then answer the questions posed in the Consultation Paper.

[1] See box on back page.

Answers to consultation questions

Question 1: Do you agree with these proposed principles, and do you have views about tensions between them or relative prioitisation?

While we agree that the proposed principles sound sensible, we were surprised to see the absence of any explicitly consumer focused principle. We recognise that some of the principles do reference consumer protections, however we feel that there should be a high-level, Consumer Duty type principle that is specifically designed to protect consumer rights. We feel that two of the other principles, “Deliverable” and “Proportionate” are too focused on protecting good outcomes for firms. It may not be necessary to change or remove these principles, however they should be balanced with a principle that focuses on protecting good outcomes for consumers.

Question 6: Do you support the conclusion of the Retained Provisions Report that most Information Requirements could be replaced by FCA rules without adversely affecting the appropriate degree of consumer protection, and that it is desirable to do so? Are there any additional factors the government should consider given the context changes since the report’s publication in 2019?

We support the conclusion of the report and agree that would be beneficial for Information Requirements to be replaced by FCA rules. Moving CCA information requirements to be under the remit of FCA regulation rather than government legislation will allow for quicker responses where changes and additions are needed. This will ultimately allow more consumer protections to be introduced more quickly if they are needed.

Question 7: In what circumstances is it important that the form, content and timing of pre-contractual and post-contractual information provided to consumers is mandated and prescribed? What are the risks to providing lenders more flexibility in this area?

We recognise that there are risks and benefits to each argument here – by allowing lenders more flexibility in this area, there is the risk that some firms will provide incorrect information. On the other hand, allowing firms more flexibility could also facilitate innovation in how this information is given to consumers. A firm may devise a more efficient way of presenting the information that is more beneficial for both parties. For example, presenting the information that is clearer and easier for consumers to understand. If the information remains mandated and prescribed by the FCA, there is less risk that the information will be incorrect, however this format may be inaccessible to some consumers, as it may be less comprehensible. Prescribed wording also allows consumers to compare credit products more effectively, as the wording should in theory be the same across all products. We suggest that it would be sensible to strike a balance here, with some parts of the necessary information remaining mandated and prescribed in order to reduce the risk of incorrect information, and to make it easier for consumers to compare credit products. However, this balance should be kept under review, as it is equally important that the information remains accessible and comprehensible to consumers.

Question 8: The Consumer Understanding outcome in the Consumer Duty posits that consumers should be given the information they need, at the right time, and presented in a way they can understand it. Does the implementation of this section, and the Consumer Duty more broadly, go some way to substitute the need for prescription in CCA information requirements?

As discussed in our response to question 7, prescribed wording in CCA information requirements allows consumers to more effectively compare credit products. The implementation of the Consumer Understanding, and more broadly the Consumer Duty, while greatly beneficial for other reasons, does not resolve this. Some wording should remain mandated to allow consumers to more easily compare credit products.

Question 13: If it is possible to amend the FCA's FSMA rule-making power to enable FCA rules to replicate the effect of rights and protections currently in the CCA, what is your view on the risks and benefits of doing this?

In our view, the benefits of allowing the FCA rules to replicate the rights and protections currently in the CCA greatly outweigh the risks. Giving this power to the FCA would allow them to amend and change regulations more easily than it is currently possible to do under the more rigid legislation of the CCA. Ultimately, this will allow for consumer protections to be introduced and implemented more quickly.

Question 17: To what extent do the FSMA and FOS regimes make the unfair relationship provisions unnecessary? If these provisions are to be kept in legislation, with other rights and protections moving to FCA rules, does this create more complexity and confusion for lenders and borrowers and what will the effect on innovation in the sector be?

We suggest that the unfair relationship provisions are kept in the legislation rather than moving to FCA rules. These are important consumer protections, the need for which are not negated by the FSMA and FOS regimes.

Question 22: Are there any provisions that are outdated because the practices they pertain to are not used anymore, or would removing some CCA provisions lead to the return of these practices?

While it is likely that the removal of some CCA provisions could lead to the return of some criminal practices, these provisions are only ‘outdated’ in the sense that they are so effective in preventing criminal practices to such an extent that they no longer happen and that it may become difficult to remember the original context in which they were introduced.

Question 23: What is your view on the merits in increasing the standard of conduct for consumer hire agreements to make them comparable to those for consumer credit?

In the name of maintaining the highest level of consumer protections possible, we argue that the standard of conduct for consumer hire agreements should be as high as possible for every product.

Question 25: How can this reform ensure that firms provide information to consumers which is accessible for a wide range of financial literacy and numeracy levels?

One sixth of UK adults (which is about 9 million people) have a reading age of 11 or below[2]. This means that millions of adults in the UK may struggle to make informed decisions when presented with the kind of information that is given to consumers by firms about credit products. It is therefore vital that the information that is provided to consumers is accessible to a wide range of financial literacy and numeracy levels – crucially, that those of the lowest capabilities are able to make sense of the information. If they are unable to make sense of the information, there is a risk that they will become excluded from accessing credit products, which when used appropriately can have a hugely beneficial impact on financial wellbeing. The best way to avoid this potential for financial exclusion would be to ensure that when providing information to consumers about credit products, firms cater to those consumers with the lowest capabilities. As mentioned in the consultation paper, overly complex language should be simplified, including reducing the use of unnecessary technical terms. Information should be written in a clear way that is not overwhelming to consumers – this could also mean reducing the amount of information that is given to the minimum amount necessary.

Question 26: In what ways should this reform ensure that consumers’ mental health and wellbeing is support throughout the consumer credit products lifecycle?

[2] ‘Reading and financial capability: Exploring the relationships’, National Literacy Trust, February 2019.

Consumers with mental health problems and other specific vulnerabilities should be kept in mind when developing credit products. As discussed in our response to question 1, the CCA should include a high-level principle that is designed to increase consumer protections. This could include specific reference to mental health, other specific vulnerabilities and overall wellbeing.

The Money Charity is the UK's Financial Wellbeing charity providing education, information, advice and guidance to all.

We believe that everyone achieves Financial Wellbeing by managing money well. We empower people across the UK to build the skills, knowledge, attitudes and behaviours to make the most of their money throughout their lives, helping them achieve their goals and live a happier, more positive life as a result.

We do this by developing and delivering products and services which provide education, information and advice on money matters for those in the workplace, in our communities and in education, as well as through influencing and supporting others to promote Financial Capability and Financial Wellbeing through consultancy, policy, research and media work.

We have a 'can-do' attitude, finding solutions to meet the needs of our clients, partners, funders and stakeholders.

Tel: 0207 062 8933

hello@themoneycharity.org.uk

https://themoneycharity.org.uk/