

Consumer Focus response to the BIS consultation Empowering and Protecting Consumers

September 2011

Introduction.

1. A critically important review

We welcome the Government's review of the institutional consumer landscape. We strongly support the over-arching objective of improving consumer empowerment through better functioning markets operating within a clear framework of regulation and legal protection and advice. Private markets and public services are undergoing significant change and this review provides the opportunity to design a system fit to meet the challenges of the 21st Century and to take advantage of the opportunities which can benefit consumers as a result of changes in private markets and public services. There is much that can be done to improve the coherence and effectiveness of the current system – by rationalising and streamlining publicly funded provision, by improving consumer representation in essential markets and public services, by strengthening the effectiveness of consumer enforcement and by delivering more cost-effective advice closer to the consumer.

2. Consumer Focus and the review

Throughout the consultation exercise we have not argued for the interests of Consumer Focus as an organisation, but instead put the interests of consumers first. This is ultimately the only objective that matters. However, we would regret any decision to abolish Consumer Focus if it was not part of a set of changes which can lead to better empowerment of consumers and protection of their interests. We set out in this document a number of challenges which the changes must meet if consumers are to benefit from the Government's proposals. In separate but linked documents we will present evidence drawn upon 36 years experience of how consumers can be empowered and protected and set out our analysis of the key challenges ahead in markets subject to economic regulation. We will publish these papers in October.

3. What the review needs to achieve

The current review provides an opportunity to reshape advice, advocacy and enforcement in ways which can best meet the challenges of changing markets and public services across the UK.

Consumer Focus has proposed to BIS the following nine questions which must be answered positively and fully if consumers are to benefit:

1. Will the new arrangements deliver a system which is stronger and more effective than that which exists now in terms of protecting consumers and promoting their interests across the economy?

2. Will there be sufficient powers, resources, capacity and intellectual capability in the new system to enable this to be done?
3. Will the form of the new system allow for proper accountability to funders, both taxpayers and industry, and to Parliament and the public for the use of money and the discharge of statutory powers?
4. Will the new system be sufficiently durable and flexible to address new issues and concerns as markets develop in unknown and novel ways in future?
5. Will the interests of consumers (including small business users) on complex 'upstream' policy issues in regulated industries be properly represented?
6. Will the new system enable sector specific consumer bodies to be brought together in an orderly way to maximise effectiveness, impact and value for money?
7. Will the new system be capable of ranging across the economy in a risk based way, with ability to read across from one sector to another, and with the independent statutory powers to protect consumers which Parliament has given to Consumer Focus?
8. Will the public money available for consumer functions be effectively spent, having regard to the value of prevention rather than cure?
9. Will the central capability to analyse markets that aren't working for consumers and advocate on behalf of all consumers where markets are UK wide, whilst recognising specific advocacy needs in Wales, Scotland and Northern Ireland, be retained or will we end up with a more fragmented and less effective system?

4. Meeting the challenges

1/ Will the new arrangements deliver a system which is stronger and more effective than that which exists now in terms of protecting consumers and promoting their interests across the economy?

1.1 In our view, the Government's analysis has been unduly focused on institutional change, rather than on the primary analysis of what needs to be done to empower and protect consumers now and in the future. The danger is that the undoubted need for institutional change has driven the analysis and detracted from a proper examination of what consumer advice, advocacy and enforcement needs to deliver to empower consumers. The decision on which organisation is best placed to deliver a particular function should be taken after Government has identified what needs to be done, not before. The choice of form should follow the function required, and if form is chosen first the danger is that function will follow form. Government should consider what arrangements would constitute the most efficient and effective vehicle for the consolidation of the functions, powers, responsibilities, resources and accountabilities from across a range of other publicly funded statutory bodies.

1.2 We are concerned that the proposals will not meet the challenges of today's markets and services and the changes which are taking place. Whilst the preferred solutions presented may be feasible in institutional terms, they do not necessarily represent the most effective or most efficient way to achieve the government's core objectives.

1.3 Among other objectives, Government wants to maintain the functions of Consumer Focus, in particular our detailed work in energy and post. It wants the new arrangements to be a foundation for the consolidation of other sectoral functions to reduce costs and enhance impact. It wants to align more closely the benefits of local representation of consumers with national and international interventions in markets and services.

1.4 Success in transferring the functions, focus and work of Consumer Focus into other bodies will require that our successors are able to deliver the functions and that such a transfer satisfies the criteria we have identified.

1.5 The Citizens Advice service is a large and complex network of independent charities supported by a central structure. The focus of its advocacy is driven by its charitable objectives and by the evidence of millions of clients who present themselves to the bureaux. It has a well established and trusted brand, primarily in relation to debt, legal and welfare benefits issues. However, it does not have significant experience of working on those complex market and regulatory issues, or wider public sector improvement debates, that do not derive from its focus on advice for, often disadvantaged, citizens dealing with today's problems.

1.6 We have argued that there is a serious risk that the important role that Consumer Focus plays in influencing strategic market and policy issues across complex regulated sectors of the economy and public services which do not relate directly to bureaux client experience, will not flourish in the Citizens Advice service and that the requirement for appropriate public scrutiny and accountability will not be met. This is not meant to denigrate the excellent, and sorely needed, services which the Citizens Advice service provides.

1.7 We agree with the proposal for consolidating publicly funded **consumer advice** into the Citizens Advice service. The Citizens Advice service provides a strong, flexible and trusted foundation on which to consolidate other advice provision and will help make Citizens Advice the "go to" place for advice. The transfer of Consumer Direct, Consumer Focus's Extra Help Unit and the consumer education functions of the Office of Fair Trading has the potential to provide a simpler and more intuitive advice resource for consumers and for Welsh speakers to be able to access an equal service. In Annex 1 we set out some broader comments on advice.

1.8 This consultation provides the opportunity to build a system of **consumer law enforcement** fit for the 21st Century. The publication of the BIS consultation coincided with the publication of a National Audit Office report on consumer enforcement which found that 'the system for system for enforcing consumer law is not delivering value because the architecture to bring together what is a very fragmented delivery landscape is not functioning properly and the Department (BIS) has few levers to directly influence policy delivery ". Given the closeness of the publication dates of the two documents, it would be wrong to treat the proposals in the consultation document as a full response to the NAO report.

1.9 However, in our view the problems identified by the NAO require decisions which will achieve a greater degree of national coordination, if not control, of trading standards, a more rational system to allocate resources in proportion to detriment and stronger accountability to Parliament. Further arguments are at Annex 2.

1.10 The current enforcement regime has a high degree of flexibility to respond to a range of consumer problems or market failures. This includes criminal and civil enforcement, consumer education, and self-regulation. This flexibility and the capacity to apply the range of interventions is important and should be maintained within the new arrangements.

1.11 There are significant risks in splitting up the OFT's analytical capacity. The proposal that the OFT/CMA would be limited to carrying out a market study only in cases where there are structural or competition issues and that Citizens Advice Service would do so where the issue is found to be related to consumer behaviour is flawed. Consumers need effective remedies to market failure. The CMA should look to whole markets, with a holistic assessment of problems, the ability to act swiftly and to deploy a wide range of remedies.

1.12 Many of the key consumer problems at national level are complex and market-wide, involving the business models of national and multi-national businesses. Sometimes competition powers may need to be used alongside, or as an alternative to, consumer powers. The ability to examine markets from both a consumer and competition perspective is a unique feature of the current regime which cannot be split into pure 'consumer' studies and 'others'.

1.13 The current system where the OFT conducts studies in markets, or parts of markets, which are failing consumers, enables a single body to look beyond individual breaches of consumer or competition law and assess the best way of remedying problems. The OFT currently brings together both competition and consumer analysis to publish authoritative reports balancing the market and consumer perspectives. It is often extremely difficult to know at the outset of a market study whether a given issue is a consumer, a competition or a "mixed" problem.

2. Will there be sufficient powers, resources, capacity and intellectual capability in the new system to enable this to be done?

2.1 The UK has an internationally admired reputation for strong consumer representation. At least part of this reputation is based on the work that different consumer bodies have undertaken. Their functions have been diverse ranging from providing consumers with information to conditioning major transformations or reforms of markets. They include:

- Influence policy design and implementation
- Influence legislation
- Pre-empt detriment before it happens
- Shape government thinking
- Assess pilots
- Compare performance
- Encourage innovation by sharing best practice
- Develop self-assessment frameworks and toolkits
- Harness consumer behaviour to improve performance
- Negotiate with individual companies to put things right
- Broker industry-wide solutions
- Collaborate with regulators
- Initiate regulatory intervention

- Establish legal duties
- Represent consumers on decision-making bodies
- Establish new legal powers
- Put information directly in the hands of consumers
- Enable consumer confidence and choice
- Enable others to support consumer choice
- Prompt and assess consumer and community engagement
- Bring consumers face-to-face with decision-makers
- Join up existing consumer services

2.2 Many of these functions are undertaken by a range of consumer advice and advocacy bodies. The Citizens Advice service has a strong record in many of them. Other areas, for example those concerned with the structure of consumer law, the operation of complex markets and shaping of regulatory decision making are of a different character, but no less important. It is vital that they survive and flourish in the new arrangements.

2.3 In order to represent consumers in complex markets the following capacity would need to exist:

- deep knowledge of markets and the ability to analyse them from a consumer perspective and take into account the needs of a range of consumers;
- an understanding of how economic, technological and social changes are affecting markets;
- a high level of understanding of regulatory frameworks, processes and tools;
- strong economic, legal, technological, and consumer policy and research skills and expertise including data analysis.
- access to high quality research, market intelligence and other forms of evidence such as complaints data and casework providing insight into the consumer experience of markets
- the ability to identify current, emerging and likely future sources of detriment
- intellectual framework to analyse evidence and produce reasoned perspectives, for example balancing short- and long-term consumer interests and the
- the ability to learn from experience in different sectors;
- the ability to put views persuasively, build effective relationships, challenge received wisdom and influence industry, regulators, EU institutions and Government.

3. Will the form of the new system allow for proper accountability to funders, both taxpayers and industry, and to Parliament and the public for the use of money and the discharge of statutory powers?

3.1 As a Non Departmental Public Body (NDPB), Consumer Focus is accountable to Parliament and its Accounting Officer is personally accountable to Parliament for spending the funds provided to the organisation either from taxpayers or levies on industry. Parliament has also given Consumer Focus heavyweight powers to force companies, regulators and Government to disclose information and Consumer Focus is also accountable to Parliament for the way it uses these powers. The Government's proposals are to provide these funds to charities, which while they have their own accountabilities, principally to their Board, are not accountable to Parliament. We think the loss of accountability to Parliament

in this important area would be highly regrettable. We strongly urge Government to ensure that our successor, particularly in regulated industries, are held accountable over the long term for the delivery of effective advocacy in regulated sectors where they spend levy funds.

4. Will the new system be sufficiently durable and flexible to address new issues and concerns as markets develop in unknown and novel ways in future?

4.1 Private and public markets are changing and there is no guarantee that what has worked in the past will work in the future. Nonetheless it is important to learn from what has and has not worked. We will publish a paper which distils key perspectives and insights from Consumer Focus and its predecessor organisations on our experience of championing the interests of consumers over the last 36 years. The paper seeks to identify those emerging themes and patterns of detriment which new consumer arrangements will need to meet.

4.2 It is critically important to look to the future. Our analysis suggests that the following areas of focus will be particularly important in ensuring that consumers get a good deal and decision-makers make the right choices:

- New approaches to consumer empowerment
- Effective advocacy across regulated sectors and public services, and at EU and international level
- Smart regulation, focused on consumer outcomes.
- Evidence-based insight into the diversity of consumer experience and behaviour

4.3 Without strong, clearly focused consumer advocacy, consumer interests will all too often be neglected or considered as an afterthought. Such advocacy needs to highlight all aspects of consumer experience, based on the best available research and intelligence, and looking across sectors and departmental boundaries for best practices and lessons learned. It can vary in method from 'think tank' to 'watchdog' to 'lobbying' and can adopt range of styles according to need – from stern critic to critical friend.

4.4 This can involve getting the right legal and policy frameworks in place, influencing particular decisions, working to improve provider performance, taking direct action on specific instances of detriment, embedding the consumer interest in decision-making processes, and empowering consumers. The government has rightly recognised that empowering people doesn't happen on its own – more active intervention is often needed to get things moving.

4.5 The proposals do not connect closely enough with the sorts of challenge and opportunity to increase individual, collective and strategic consumer empowerment that have emerged from the *Better Choices, Better Deals* White Paper. It is key that the proposed changes are completely aligned with the drive to increase consumer empowerment in relation to private markets and public services

4.6 We are concerned that aspects of the current proposals might quickly become outdated. Advice will remain critically important, especially for vulnerable consumers, but we would urge much greater consideration of how the reform of the institutional landscape can promote the kind of empowerment approaches which can help to condition and develop markets which are more responsive to consumer needs and aspiration. A modern, forward-looking strategy for the consumer landscape should have such issues at its heart

4.7 As consumers become better connected through social networks, they grow more powerful and behaviours change – changing the dynamics of markets and the economy in the process. Consumers share information within and across networks about the products they are buying and about the companies behind those products and services.

4.8 Consumers are also seeing the development of intermediary tools that have the potential to give them greater control over their data and put it to work in their interest and on their terms; as well as ‘apps’ that can bring greater convenience to the customer experience by cutting through the confusion of choice and simplifying pathways to redress, for example.

4.9 Not everyone will benefit immediately or directly and these new developments by no means hold the solutions to every consumer problem. It is clear though that they do provide exciting opportunities to strengthen the consumer interest and rebalance where power lies between providers and consumers.

4.10 As well as changing consumer behaviour, they should also change the behaviour of the consumer bodies. This is a function that Consumer Focus has been leading on

5 Will the interests of consumers (including small business users) on complex ‘upstream’ policy issues in regulated industries be properly represented?

5.1 We support BIS Ministers’ arguments to bring together sector regulators into a Regulated Industries Unit which would address consumers’ medium to long term interests in essential regulated industries. This would deliver better value for money by saving on back office costs and common services and would be more effective by identifying synergies and common issues.

6 Will the new system enable sector specific consumer bodies to be brought together in an orderly way to maximise effectiveness, impact and value for money?

6.1 We support the government’s proposal to streamline the landscape of consumer advocacy. Consumer Focus argued in 2010 for a consolidation of the publicly funded sector specific consumer bodies into one body, a Regulated Industries Unit, in order to save public money, rationalise public bodies and critically to create the most effective brigading of skills and resources to tackle common issues across a range of sectors and to build on synergies.

6.2 Consumer Focus was established in 2008 as the result of a previous review of the consumer landscape. This review initially looked across a very wide range of sectors and types of activity, covering a range of Whitehall departments, but as the process developed the scope of the proposed changes was progressively reduced. The result was that it was just the advocacy bodies linked to BIS’s predecessor department that were merged by the Consumers, Estate Agents and Redress Act 2007, although provisions were included to incorporate the Consumer Council for Water. The Act brought the National Consumer Council (including the Scottish and Welsh Consumer Councils), energywatch, and postwatch together to form Consumer Focus. From the outset, it became clear that the 2008 changes were an incomplete solution to the challenge of creating the strongest possible body representing all of consumers’ interests across the economy. For this reason Consumer Focus has been a keen advocate for organisational change, starting well before the Government’s current review. The failure to include the wider group of publicly funded

consumer bodies in 2008 was a missed opportunity which the current review should not repeat, but it seems likely that history will repeat itself.

7 Will the new system be capable of ranging across the economy in a risk based way, with ability to read across from one sector to another, and with the independent statutory powers to protect consumers which Parliament has given to Consumer Focus?

7.1 If the Government's review fails to bring together the existing range of publicly funded advocacy bodies it will represent a missed opportunity to create a body with the capacity to work across markets and to apply learning in one market to others. In 2007 Parliament gave Consumer Focus strong powers to force companies or regulators to disclose information which it requires to fulfil its remit to protect consumers. These are important powers which must not be lost to bodies which seek to protect consumers. We believe that it is vital that any organisation which takes on the functions of Consumer Focus has these powers. This is one of the options raised in the Consultation. The other option raised by BIS is that the powers would be held by another public body. It is envisaged that the RIU could approach this public to use the powers on its behalf. We feel that this would not give the RIU sufficient independence. We strongly favour the powers being held by the bodies who are tasked with representing consumers as this gives them the independence they need to meet consumers needs.

8 Will the public money available for consumer functions be effectively spent, having regard to the value of prevention rather than cure?

8.1 We are concerned about the implications for consumer representation of transferring our functions to bodies whose primary function is to provide advice and assistance to individuals, i.e. the Citizens Advice service. Our work at Consumer Focus is largely about prevention, and where it is about advice we support its transfer to the Citizens Advice service. We seek to prevent problems occurring by working with industry, regulators and Government to ensure that policies and products are designed in a way that consumers get a fair deal, for example our work on Smart Meters which will be installed in every home in a few years. Very few people are reporting problems with Smart Meters today but they will do so tomorrow if we cannot ensure that consumer interests are built into policies which are being designed today. We also argue that one gets the greatest value for money by preventing problems happening in the first place i.e. through effective 'upstream' work.

9 Will the central capability to analyse markets that aren't working for consumers and advocate on behalf of all consumers where markets are UK wide, whilst recognising specific advocacy needs in Wales, Scotland and Northern Ireland, be retained or will we end up with a more fragmented and less effective system?

9.1 Both in terms of advocacy and enforcement there is a danger of fragmentation of resources and loss of synergy in empowering and protecting consumers. Consumer Focus's UK wide remit and pan economy powers enables it to spot common issues, read across sectors, apply learning from one part of the economy to another. We also represent the views of consumers in Brussels where many relevant policies are decided and where BEUC- the European Consumers Organisation say Consumer Focus has "a very strong reputation with EU and international decision makers" and that we are "key in providing expertise and advocating the consumer perspective on issues that constitute a high priority

on the EU agenda". We worry about the potential advocacy gap in complex markets and services where issues are not complaints driven and where there is no industry funding. We fear that lessons from one regulated industry will not be applied to others unless the Government shows vigour and determination to set up a Regulated Industries Unit. We are encouraged to hear that Which? may play a role in international advocacy given their strong track record in this area although we await details of what that might involve.

9.2 The Government has said it is open to alternative proposals for consumer advocacy in Scotland and Wales. At Annex 3 we set a number of principles which will underpin the success of consumer advocacy bodies in Scotland and Wales. Northern Ireland has its own consumer body and these principles reflect what works well there.

Conclusion

In summary, while we support the objectives of the review there are a number of critical weaknesses in certain areas of the government's preferred option which undermine those objectives:

- The proposals only rationalise consumer advocacy within BIS's responsibilities. They are insufficiently ambitious to realise the considerable gains impact and value for money that a more radical, cross-government programme of reform might achieve.
- They risk a dilution in the resources, capacity and effectiveness of advocacy and enforcement in respect of complex and national markets
- They risk becoming focused on those trends in consumer detriment that can be identified through complaint data
- They risk losing focus on, and a capacity to deal with, emerging and challenging new areas of market failure
- They risk reducing the level of accountability to parliament and consumers for the use of public money and significant and important legal powers, e.g. the power to force companies, regulators and government to divulge information.

Annex 1

Advice

1.1 We agree with the proposal for consolidating publicly funded **consumer advice** into the Citizens Advice service. The Citizens Advice service provides a strong, flexible and trusted foundation on which to consolidate other advice provision and will help make Citizens Advice the “go to” place for advice. The transfer of Consumer Direct, Consumer Focus’s Extra Help Unit and the consumer education functions of the Office of Fair Trading has the potential to provide a simpler and more intuitive advice resource for consumers and for Welsh speakers to be able to access an equal service.

1.2 To be successful, government will need to ensure that the Citizens Advice service has the resources and support necessary to make the transition work and then to deliver an expanded service. We are particularly concerned that support available to vulnerable energy and post consumers through the Extra Help Unit and the dedicated capacity within Consumer Direct, is protected in the new arrangements. In addition, a consolidated database of consumer complaint and queries that should result from the transfer will achieve wider benefit to consumer welfare goals if specified consumer groups, regulators and others are given good access to this data and are able to interrogate disaggregated data. As the NAO have pointed out (ref), Consumer complaints and intelligence logs do not in isolation provide an assessment of the threat to consumers. Raw data needs to be analysed so that it can be turned into intelligence..“

1.3 There are many similarities in the needs of consumers across Great Britain in relation to most markets, including energy and post although there are also differences. Consumers’ experience of public services varies more widely. Issues such as access to support for remote communities are particular issues in Scotland and Wales, but they are not unique to these nations. However, as consumer advocacy arrangements in Scotland and Wales may be different to those in England, and as one of the objectives of the review is to maximise the synergy between advice and advocacy, it will be important to ensure that the availability of data on Scottish and Welsh consumer priorities is easily available to national advocacy bodies even if the advice and advocacy functions are not integrated into a single institution.

1.4 While Consumer policy in general is a retained issue, it makes sense to organise and coordinate the delivery of advice, support and aspects of advocacy as close to consumers as possible. That would require Scottish and Welsh Governments to fund and deliver consumer education and advice in Scotland and Wales as in Northern Ireland.

Annex 2

Enforcement

2.1 This consultation provides the opportunity to build a system of consumer law enforcement fit for the 21st Century. The publication of the BIS consultation coincided with the publication of a National Audit Office report on consumer enforcement which found that ‘the system for system for enforcing consumer law is not delivering value because the architecture to bring together what is a very fragmented delivery landscape is not functioning properly and the Department (BIS) has few levers to directly influence policy delivery “. Given the closeness of the publication dates it would be wrong to treat the proposals in the current consultation are not intended to be a full response to the NAO report.

2.2 However, in our view the problems identified by the NAO require decisions which will achieve a greater degree of national coordination, if not control, of trading standards, a more rational system to allocate resources in proportion to detriment and stronger accountability to Parliament.

2.3 The proposals for either a Trading Standards Policy Board or a Joint Enforcement Board could both achieve improvements to the current system if properly established and resourced. However, the real benefit they will bring relate to solving national and regional problems and will not provide a joined up consumer enforcement strategy from international, to national, through regional, to the local level. Of the two we favour the Joint Enforcement Board because it is a lower risk approach building on the existing strength of the OFT, which we hope will be preserved in the new Competition and Markets Authority, in collaboration with Trading Standards.

2.4 As is the case with the advocacy proposals, there is an immediate attraction of delivering enforcement action ‘closer to the consumer’. It is our view that the proposals tend to stretch the ability of local delivery to provide appropriate enforcement action on complex and national issues and the cooperation models are not a replacement for an effective national agency with the capacity to act. We believe that there are limits to the ability and capacity of local trading standards to deliver effective enforcement action in national and complex cases. As with the advocacy proposals this has nothing to do with the value and commitment of individuals or locally focused institutions, but has everything to do with the diversity of market failure, industry behaviour and the sorts of enforcement action that should follow.

2.5 We are concerned that the proposals may lead to the loss of central, national capacity on consumer law enforcement. The OFT has over 70 highly skilled professionals working on areas as diverse as international enforcement, unfair contract terms and internet crime. Under the current proposals these services would be provided by local authorities. While some local authorities could do excellent work in these areas, fragmenting the OFT’s assets risks a loss of central capacity and would be a less stable regime over time.

2.6 However, this should not be seen as an argument for the status quo. OFT and Trading Standards have not always worked well together and there needs to be improvement. On balance we prefer the approach which seeks to improve existing

structures rather than create new ones. It should be noted however that neither of these proposals appear relevant to the Scottish context, where clear proposals are yet to be put forward on national enforcement and coordination.

2.7 We would recommend that BIS should take the opportunity of consultation responses to consider more radical options for the reform of the enforcement regime. We believe that the Welsh Government's proposals for a national trading standards service have merit and as it develops it should be evaluated to judge its ability in England and Scotland. Northern Ireland already has a service covering the six counties.

Annex 3

Representation of consumers in Scotland, Wales and Northern Ireland

3.1 Whilst the Government has said that it is open to alternative proposals for consumer advocacy in Scotland and Wales the Consultation document proposes to transfer the role of Consumer Focus in:

England and Wales to Citizens Advice;

Scotland to Citizens Advice Scotland

Northern Ireland to the General Consumer Council for Northern Ireland (GCCNI).

3.2 We fully support the transfer of our post functions in Northern Ireland to GCCNI. This is a sensible move that would build upon the strengths of GCCNI. Coordination between an RIU which would be responsible for Postal Services in the GB context and the GCCNI could be well managed through a Memorandum of Understanding.

3.3 We also welcome the government's openness to consider alternative solutions to the proposal to transfer Consumer Focus functions to the Citizens Advice service in Scotland and Wales.

3.4 Consumer Focus operates in a devolved context in order to fully represent the interests and priorities of consumers in Scotland and Wales in decision making in both devolved and reserved matters.

3.5 The Consumers, Estate Agents and Redress Act 2007 requires Consumer Focus to establish national committees. Consumer Focus Scotland and Consumer Focus Wales exercise powers under the Act insofar as they apply in Scotland and Wales. However, Consumer Focus Scotland and Consumer Focus Wales are not solely requirements of the 2007 Act. They reflect more than 30 years of respected and powerful advocacy for consumers in Scotland and Wales, are an integral part of the policy environment in those nations and play an important role in the public life of the two nations.

3.6 We believe that consumer advocacy arrangements in Scotland and Wales must have the active support of devolved administrations, that they should be able to advocate directly on devolved matters, including public services, and effectively represent the particular interests of consumers in relation to reserved issues, markets and services.

3.7 The institutional form for such bodies should not only follow their consumer advocacy functions, but should provide a high and direct degree of accountability to consumers in Scotland and Wales for the actions that they take on their behalf. We believe that the institutional form of consumer advocacy in Scotland and Wales should be agreed between UK Ministers and Ministers in Scotland and Wales.

3.8 There are a number of principles which will underpin the success of consumer advocacy bodies in Scotland and Wales.

1. **Governance** - they should have distinct national governance arrangements, responsible for the identification of consumer priorities, work planning and resource allocation.

2. **Accountability** - they should be publicly accountable for their work on behalf of consumers through the Scottish Parliament and the National Assembly for Wales
3. **Functions** - they should retain the statutory powers, representative, research and investigative functions that Consumer Focus Scotland and Consumer Focus Wales are currently able to deploy
4. **Focus** - they should work across the economy including on emerging issues and contribute fully to consumer policy development in a devolved, GB or UK context.
5. **Resources** - they should have sustainable funding to allow them to represent the priorities of consumers in relation to devolved and reserved issues including specifically on issues which may be the responsibility of a GB Regulated industries Unit and funded through industry levies. They should have the capability to undertake forward looking research to provide a strong evidence base for advocacy.

Selected Consultation questions

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

Consumers need trusted sources of advice and information. Our research shows that consumers appreciate being able to resolve a range of issues through a single advice agency. The consolidation of publicly funded advice and support services into a brand such as the Citizen's Advice service would provide a more intuitive advice solution for consumers across a wide range of issues and from a single trusted source.

We fully support the government's proposals in this area.

- 2. Do you agree that the OFT's consumer information role should be transferred to the Citizen's Advice service?**

Yes.

We support the government's proposals to transfer responsibility and resources for consumer information from the OFT to the Citizens Advice service.

Effective consumer information will benefit from being developed and delivered by an agency which is closer to consumers and closer to the way that consumers experience and use information materials. It should also enable a faster response, to observed trends in consumer detriment.

- 3. Do you agree that the Extra help Unit should be transferred to the Citizens Advice service?**

Yes.

The Citizens Advice service is a natural home for the Extra Help Unit. Bureaux already deal with these issues and the consolidation of services into one organisation should improve the quality of advice provision from bureaux staff and the referral of appropriate issues through to case handlers in the EHU. In both cases consumers with immediate and serious issues with their energy supplier would be more likely to receive the appropriate level of support quickly and consistently.

Furthermore, depending on the practicality of such a move, Consumer Focus would support the earliest transfer of this function to the Citizens Advice Service.

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

Yes.

In light of the proposed changes to consumer advice and information, we support an integrated approach to advice, information and education. The coordination and in most cases the production of consumer education delivery should transfer to the Citizens Advice service.

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

Yes, although Consumer Focus prefers the alternative of a Joint Enforcement Board over a Trading Standards Policy Board both. Both these proposals are designed to combat significant regional and national breaches of consumer protection law. Either could work although from a risk point of view the Joint Enforcement Board is the best option because it builds upon and improves existing structures. Either body would be well suited to the task of coordinating business facing educational activities. We are concerned that the proposals to get rid of a central national enforcement body and parcel out their work, e.g. on internet crime to Local Authorities will fragment essential capacity. I think it would be better to have a centre of excellence on consumer law enforcement.

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

Consumer Focus has argued for some time that the concentration of sectoral consumer advocacy functions into a single body would be the best way to make such advocacy more efficient and effective.

Aside from the efficiencies of scale and reduction in back office costs, these bodies address many common issues, albeit in different markets, and adopting a more consolidated model of advocacy across the sectors would enable cross economy benefits to emerge from detailed sectoral work.

However, a vision of bringing advocacy functions together must be informed by the work that these advocacy bodies undertake in their sectors, whether government wants that work to continue and, most importantly, what the best vehicle to maintain or enhance that work might be.

Government proposes to consolidate these functions into the Citizens Advice service. The Citizens Advice service has a focus on advocacy that emerges from the evidence of their clients experiencing today's problems. This is very different from much of the work that sectoral consumer bodies undertake and that a Regulated Industries Unit would need to carry out.

We support a strengthening of Citizens Advice service to undertake more advocacy on behalf of their clients and consumers more generally, but we do not believe that it represents the best vehicle to undertake detailed work in complex regulated sectors.

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

Yes. We will set out more detail of what work consumers need from such a body in a "*RIU prospectus*".

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

We would regret any decision to abolish Consumer Focus if it was not part of changes which led to better empowerment of consumers and protection of their interests. We believe that the Citizens Advice Service could take on aspects of our advocacy work, but we do not believe that it is the most suitable vehicle for our detailed work in energy, post and in other areas.

Consumer Focus work as an advocate for UK consumers in the International and European arenas, on the strategic empowerment agenda, on the framework of consumer law and on public services. This work is important and should not be lost in any process of rationalisation.

If government wants this work to continue it will need to specify which functions it values and where it intends for them to continue. We would hope to see in the government's decision following the consultation, a schedule of where the various functions and work plan activities of Consumer Focus will transfer and which areas of work will disappear.

Government has raised the idea of a partnership approach between Citizens Advice and Which?, among others. This idea has some merit in ensuring that a better fit is made between the work that government wishes to see continue and the best vehicle in or outside the public sector to deliver that work. Having the best delivery vehicle for a specific advocacy function is more important than providing a single integrated solution.

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

We believe that any consumer advocacy arrangements must provide for effective and credible consumer representation in Scotland and Wales.

To be credible, such arrangements would need to be established with independent governance arrangements and a high degree of accountability to devolved administrations and parliaments for the work priorities of the new advocacy bodies in Scotland and Wales

To be effective, such arrangements would need to engage in complex consumer and public policy issues which may not be directly informed by client experiences or consumer complaints. In this respect, there are similar issues in a national context as arise in the proposal to transfer Consumer Focus functions to the Citizens Advice service.

We would recommend that decisions on the shape of consumer advocacy arrangements in Scotland and Wales are made with the active support of ministers in those nations.

10. What are your views on these options for the transfer of information gathering powers? Which is preferable and why?

Consumer Focus supports the direct transfer of information gathering powers to new consumer arrangements and for those bodies to be responsible for their use. Whatever new arrangements emerge, they will need to be able to use information gathering powers to identify the scale of problems, their root causes, whether an issue is company specific or endemic and what workable market solutions may look like.

The ability of a body in the private or third sector to exercise such powers may require clarification. However, the ability to require market intelligence has been a defining quality of Consumer Focus and it must be also for its successor.

While a successor body will need to use these powers with care, it should be able to do so without approval from regulatory authorities and in relation to those sectors of the

economy where it identifies significant consumer detriment and where there is insufficient evidence in the public domain about business models and practices.

There will be occasions when consumer advocate and regulator do not agree on the scale or character of the detriment. In those cases it is for the advocate to persuade the regulator through argument and evidence. It would not be appropriate for the regulator to be the gatekeeper of the information which may provide that evidence

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

Consumer Focus is strongly of the opinion that redress schemes should be extended to the water and transport sectors, regardless of whether or not the functions of CC Water and Passenger Focus are transferred to a regulated industries unit.

The evidence is that redress schemes are of great benefit to consumers not only in providing a free, independent means of resolving individual disputes but also in raising the standards of internal complaint handling and customer service in an industry generally. In addition, our own research indicates that when consumers are asked for their views on what good complaints handling would look like they see the existence of redress schemes as a vital part of best practice. In other words, consumers expect to have access to an external redress scheme to handle unresolved complaints and provide remedies and it is illogical that these do not exist in water and transport. This is particularly important in relation to sectors that provide essential services to consumers and which vary from regional monopolies (water and sewerage supply) to imperfectly competitive ones (local bus services) and where significant sums of public money may be involved (rail transport).

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

Yes.

GCCNI is the logical place to transfer Consumer Focus' post functions in respect of consumers in Northern Ireland. Consumer Focus fully supports the government's proposals in this regard.

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

Yes

The numbers of cases reaching the redress scheme from NI are likely to be very small and it would not be sensible to set up a separate one in terms of cost or efficiency. It could also lead to inconsistency in adjudication across the UK which could weaken the position in any dispute with Royal Mail on policy about postal services issues and complaints.