



Department
for Business
Innovation & Skills

**IMPLEMENTATION OF THE EU
CONSUMER RIGHTS DIRECTIVE
(2011/83/EU)**

IMPACT ASSESSMENT: FINAL

DECEMBER 2013

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Title: Implementation of the EU Consumer Rights Directive (2011/83/EU) IA No: BIS0396 Lead department or agency: Department for Business, Innovation and Skills Other departments or agencies:	Impact Assessment (IA)		
	Date: 18/03/2013		
	Stage: Final		
	Source of intervention: EU		
	Type of measure: Primary legislation		
Contact for enquiries: consumerbill@bis.gsi.gov.uk			

Summary: Intervention and Options	RPC Opinion: GREEN
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Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
£2571.19m	£2562.88m	£1.28m (OIOO)	Yes IN

What is the problem under consideration? Why is government intervention necessary?
UK businesses and consumers are not fully reaping the benefits of the Single Market. Fragmentation of national laws regulating consumer transactions across the EU has meant that business, in particular small and medium enterprises, the catalysts for growth, have been more reluctant to explore export opportunities offered in trading across EU borders. This reluctance primarily stems from the additional costs of compliance when trading cross-border, since traders are obliged to meet the consumer protection standards of the Member State in which they are selling, whether established there or selling remotely. Consumers are also reluctant to take part in cross-border shopping, demonstrating lower levels of confidence, thus diminishing their access to wider choice and lower prices.

What are the policy objectives and the intended effects?
The aim of the directive is to encourage growth and consumer confidence through the harmonisation of rules in a limited number of areas so that traders and consumers face only one set of requirements wherever they sell and buy in the EU. These areas are:

- Information to be provided when consumers buy goods and services. The Directive sets out what information must be provided and some rules on how and when it must be given.
- Cancellation rights and responsibilities for both traders and consumers where goods and services are purchased at a distance or off-premises.
- Clarification of delivery dates, and the passing of risk where goods are delivered
- Prohibition of certain practices which can lead to hidden costs

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)
As an agreed European Directive, the do-nothing option is not available and, most of the provisions are the subject of maximum harmonisation, which means that we must introduce the requirements as set out in the Directive, with little flexibility in how we may implement. Annex B gives details of those areas where we have flexibility and how we propose to use it. Our preferred option is number 2.
Three options were considered:

1. Implement only the directive minimum requirements in all areas where there is flexibility;
2. Implement the directive minimum requirements in most areas, and going further than the minimum only in limited cases of the permitted areas for flexibility where there are already similar measures in existing UK law or where there are strong economic arguments to do so;
3. Implement beyond the minimum requirements in all areas where there is flexibility.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 01/2019						
Does implementation go beyond minimum EU requirements?			Yes			
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded:		Non-traded:	

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister: Jo Swinson Date: 11 December 2013

Summary: Analysis & Evidence

Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year 2013	PV Base Year 2013	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 2065.28	High: 3078.05	Best Estimate: 2571.19

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	18.1	00.0	18.4
High	50.6	113.6	1027.8
Best Estimate	34.3	56.8	523.6

Description and scale of key monetised costs by 'main affected groups'

To Business: Familiarisation Costs £19.23m; One-off increase in legal costs £1.98m; One-off updating of Terms & Conditions £11.46; One-off cost of changing phone lines £1.66m; Ongoing cost from increase in cancellation rights for off-premises sales £0.95m; Ongoing cost from increase in cancellation rights for distance sales £55.81m; Ongoing loss of revenue from customer calls £0.09m.

Other key non-monetised costs by 'main affected groups'

Businesses will no longer be able to presume consent for payments that are in addition to the main obligation. The consultation found no evidence that this would cause a direct cost to business, but it does impose a restriction on business practices.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0.0	359.3	3093.1
High	0.0	359.7	3096.5
Best Estimate	0.0	359.5	3094.8

Description and scale of key monetised benefits by 'main affected groups'

To Business: Ongoing savings from easier complaints handling £0.15m; Savings from cases not escalating to legal proceedings £0.39m; Ongoing benefit from increased harmonisation £358.04m.

To Consumers: Reduced risk of consumer detriments £0.92m.

Other key non-monetised benefits by 'main affected groups'

Benefits to consumers from increased harmonisation reduced cost of customer contact telephone lines and increased cancellation right for off-premises and distance contracts.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

In implementing the CRD we have sought to mitigate any risks by consulting widely with businesses and consumer groups to identify potential impacts and informally discussing options with a wide range of goods suppliers and consumer groups. We also commissioned the two stage IFF survey of retailers which informed our evidence of current provision of redress by traders. We also propose to conduct a Post-Implementation Review of the goldplated sections of the Directive to inform our understanding of the impacts of the CRD.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 1.3	Benefits: 0.0	Net: -1.3	Yes	IN

Evidence Base (for summary sheets)

Background

This Impact Assessment relates to proposals to implement the provisions of the Consumer Rights Directive (CRD). The proposals are part of a wider programme of work to reform consumer law (the Consumer Law Reform Programme). The package of reform intends to:

- **Consolidate** the law to reduce fragmentation;
- **Clarify** the law to reduce the scope for costly disputes;
- **Update** the framework to ensure that consumer rights keep pace with technological advances;
- **Deregulate** to introduce key business-friendly provisions; and
- **Enhance** consumer rights where it is appropriate to do so.

Problem under consideration

1. UK businesses and consumers are not fully reaping the benefits of the Single Market. Fragmentation of national laws regulating consumer transactions across the EU has meant that business, in particular small and medium enterprises have been more reluctant to explore export opportunities offered in trading across EU borders. This reluctance primarily stems from the additional costs of compliance when trading cross-border. Consumers are also reluctant to take part in cross-border shopping, demonstrating lower levels of confidence, thus diminishing their access to wider choice and lower prices.
2. In a Flash Eurobarometer survey¹, conducted with retailers across the EU, one-third of retailers answered that they would be interested in making cross-border sales if laws regulating transactions with consumers were the same across the EU. Moreover, 31% of retailers thought their cross-border sales would increase in a more harmonised regulatory environment. The survey found that the Internet was the most common distance sales channel: a slim majority of retailers said they sold goods or services via the Internet (53%; up from 51% in 2009). The use of the telephone as a sales channel was mentioned by 43% of retailers and mail order (e.g. selling by “post”) was offered by 29% of retailers. In the UK, the survey found that between 88% and 93% of retailers used “distance” sales channels².
3. A recent study on cross border e-commerce³ found that UK retailers are the second favoured destination for cross-border online shopping in the European Union. 24% of online cross-border shoppers bought products in the UK. Germany alone was higher (27%). Only France, with a share of 14%, came anywhere near these two countries. There is, therefore, clearly a demand for goods from UK retailers, and opportunities for those UK retailers who do not yet offer goods and services cross border. Encouraging such exports would be of benefit to the retailers and to UK economic growth.
4. The economic analysis conducted for the study indicated that total welfare gains for EU consumers resulting from lower online prices and increased online choice under a hypothetical situation of a 15% share of Internet retailing (currently 3.5%) and a Single EU consumer Market in the e-commerce of goods amounted to 204.5 billion Euro per year (equivalent to 1.7% of EU GDP). The study reported this would be four times higher compared to a situation where, with a similar share of Internet retailing, the fragmented national consumer markets of the 27 Member States would continue to exist. Two-thirds of consumer welfare gains would be due to increased online choice, which would considerably larger across borders. Even where delivery costs were included, online prices were more often than not lower than ‘off-line’. The study highlights the degree of enhanced

¹ Flash Eurobarometer 300 (Retailers' Attitudes towards cross-border trade and consumer protection – March 2011)

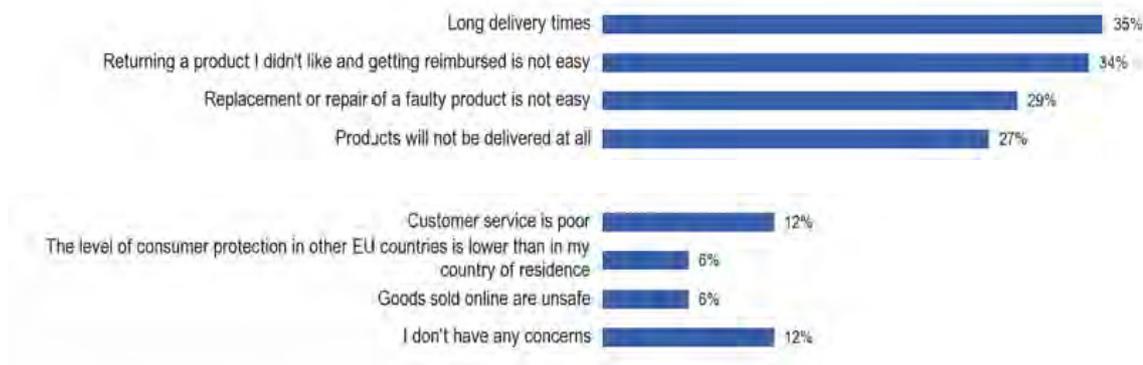
² Ireland and Denmark exhibited similar levels.

³ Consumer Market Study on the functioning of e-commerce and Internet marketing and selling techniques in the retail of goods – Civic Consulting Sept 2011.

choice offered by the online single market.. The difference in choice offline vs. online across the 17 EU Member States was 1:16.3, when the national market with the largest choice for each product sub-category was used as a benchmark. Therefore, both prices and consumer choice are expected to improve from homogenous consumer legislation across Member States.

- With regard to consumer concerns regarding cross-border e-commerce, as expressed in the survey, delivery and concerns regarding returning a product they did not like, or replacing and repairing a faulty product, were the dominant issues. Long delivery times were the top concern. Perceptions of problems with long delivery times proved justified, being the most mentioned issue by online shoppers who actually experienced problems while shopping online.

Figure 1: Consumer concerns about cross-border online shopping⁴ products online in another EU country?



Economic Rationale for intervention

- The key motivation for simplifying and reforming consumer law is to make markets work more effectively and to drive economic growth.
- Well-functioning competitive markets encourage growth by creating incentives for firms to become more efficient and innovative.⁵ Markets can only be fully competitive if consumers are active and confident, meaning that they are willing to challenge firms to provide a better deal, switch between suppliers, and take up new products.⁶ Consumer law reform can play a central role in empowering consumers and hence supporting more effective competition.
- First, by consolidating, simplifying and clarifying consumer law, the reforms aim to raise consumers' awareness and understanding of their existing rights. The proposed consumer law reforms will reduce and streamline the number of pieces of consumer legislation. They will also clarify consumer rights where these are currently unclear.
- Greater awareness of consumer rights makes markets work more effectively because consumers will have greater confidence to switch to alternative suppliers or take up new products. Where consumers are unclear what will happen if things go wrong with a new product or service, they will take account of this risk either by engaging in costly search to find out more about the product, or by requiring a 'risk premium' on the new product. Clarifying consumer rights can thus reduce transaction costs of switching suppliers or taking up a new product. It can also help to overcome behavioural inertia, where customers prefer to stick with what they know rather than the slightly less certain (but potentially better) alternative.

⁴ Consumer Market Study on the functioning of e-commerce and Internet marketing and selling techniques in the retail of goods – Civic Consulting Sept 2011 Answers to the question 'What are your greatest CONCERNS about buying products online in another EU country?'

⁵ For references to literature on the links between competition and growth, see OFT (2011), 'Competition and growth'

⁶ Mark Armstrong (2008), 'Interactions between competition and consumer policy'

10. This is particularly important in allowing new entrants to compete and win customers from established firms. For example, in online markets the strength of established brands comes in part from a perceived lack of consumer confidence in the protections afforded by consumer law for consumers purchasing from smaller suppliers.
11. Second, and related to these simplification benefits, consumer law reform can also ensure that substantive consumer protections are focused on addressing key market failures – particularly information asymmetries between consumers and firms.
12. There is strong academic support for the position that some minimum degree of consumer protection is required in order for markets to function effectively.⁷ For example, in the absence of consumer law, consumers would typically not know how a firm would respond if something went wrong with a product or service. Having to find out this information in each case, and potentially negotiate an insurance agreement with each firm, would be extremely costly. Having a minimum level of consumer protection in place is an efficient way of reducing search and transaction costs.

Policy Objectives

13. Given the problem set out above at EU level and the economic rationale for intervention, the Consumer Rights Directive (CRD) has two aims:
 - to harmonise disjointed and uneven consumer protection legislation across EU Member States for areas which particularly impact on trader and consumer confidence and bring into effect a single set of clear coherent rules
 - to ensure that those harmonised rules effect a fair balance between the responsibilities of the trader and the consumer whilst retaining high levels of consumer protection
14. The majority of provisions contained in the CRD are full harmonisation measures, minimising the degree of deviations that Member States can introduce when transposing the regulations into national legislation⁸. Implementation must be through regulation, and options regarding implementation are limited. In the knowledge that flexibility in implementation would be extremely limited once agreed, the UK Government consulted widely during negotiations and worked hard to ensure that the final Directive is shaped so as to bring clear benefits to both business and consumers in the UK.
15. We aim to enhance single market growth opportunities for business, and choice for consumers whilst maintaining high levels of consumer protection. By harmonising and clarifying parts of the consumer protection regime, with regard to pre-contractual information requirements, cancellation rights and responsibilities, delivery responsibilities, consent around additional payments and telephone costs where consumers are trying to exercise their consumer rights, we aim to reduce compliance costs for business who export or wish to export in the EU, and give traders and consumers greater certainty and clarity over respective obligations and entitlements. This should reduce burdens on business, in particular SMEs, who wish to trade cross-border. Standardising these consumer protection measures across the EU should make it easier to trade across boundaries and boost competition. The measures should also raise consumer confidence and thus stimulate export opportunities for UK traders. The degree of transparency which the Directive aims to bring for both traders and consumers should also reduce dispute costs. Consumers will more clearly understand what they are buying, and any obligations they may have, and will be more likely to make good decisions more frequently. Traders will benefit through reduced compliance costs, fairer competition through enhanced transparency, and enhanced consumer confidence, in particular to trade across borders.
16. Maximum harmonisation of information and cancellation provisions will help UK traders who export or would wish to do so. The EU Commission's impact assessment which accompanied the proposal for the Directive estimated that, under the current Distance Selling regime for instance, a distance

⁷ Armstrong (2008)

⁸ Article 4 states that "Member States shall not maintain or introduce, in their national law, provisions diverging from those laid down in this Directive, including more or less stringent provisions to ensure a different level of consumer protection, unless otherwise provided for in this Directive."

seller selling only domestically will incur costs in the region of €5000 – 6 000 as a result of the existing regulatory framework. This increases with the number of member states exported to, rising from around €9000 for those trading with only 1-2 member states, to over €70000 for those selling to all 27. By eliminating the fragmented framework of 27 national transpositions, the Commission estimates that the burden per trader will drop to around €2000 and will remain at that level irrespective of whether the trader trades only nationally, or exports to two, ten, or indeed all 27 member states. Comments from key business representatives such as the British Retail Consortium and the CBI, indicate strong support for harmonisation, and consider this the key benefit of the CRD.

17. The CRD, whilst harmonising important provisions to help enhance cross-border trade in the Single Market, does not harmonise the consumer protection and other legal frameworks as a whole for cross-border traders. Differences in other areas, for example copyright law, VAT, provisions around rights to reject damaged goods, will remain. However, evidence as set out earlier in this IA shows that certain issues (around delivery and the ability to change your mind) are particularly important to cross-border consumer confidence and the harmonisation of the provisions in the CRD will bring important benefits in terms of enhanced consumer confidence and reduced compliance costs for businesses operating, or wishing to trade across EU borders. This also needs to be seen in the context of the wider reform to consumer legislation that the proposed Bill on Consumer Rights will achieve in conjunction.

Options Considered

18. The Consumer Rights Directive, published in October 2011, will replace the existing Directives on distance and off-premises selling, which set out current information and cancellation rights applicable to distance and off-premises contracts. It also clarifies the pre-contractual information to be given for on-premises contracts⁹, and sets out substantively new provisions, applicable to the majority of consumer contracts, to help avoid hidden costs and ensure consumers are fully aware of payment obligations. Further information on the nature of the changes in the directive is set out in the table in annex A.

19. Given the maximum harmonisation approach of much of the directive we have focussed on options for implementation on the basis of those few areas where the directive specifically allows us discretion. Annex B sets these out. There are broadly 10 such areas. The options we have considered are:

- Implement only the directive minimum requirements in all areas where the directive gives us options;
- Implement the directive minimum requirements in most areas, and going further than the minimum only in very limited areas where we are given options, where there are already similar measures in existing UK law or where there are strong economic arguments to do so;
- Implement beyond the minimum requirements in all areas where the directive offers options.

Option 1

20. This option proposes implementing the minimum requirements and no more.

⁹ There is significant overlap between the information requirements in the CRD for on-premises contracts and those in the Provision of Services Regulations 2009 and in the Consumer Protection from Unfair Trading Regulations 2008.

Option 2

21. This option proposes going beyond the directive requirements in three areas, though in most cases, this is not a change on existing UK law requirements. Specifically:
- Apply information and cancellation provisions to social services and to healthcare services provided by professionals where these are sold off-premises or at a distance;
 - Apply the 'no hidden cost' provisions (basic rate for helpline calls, express consent for extras) to all healthcare and social services contracts with consumers and passenger transport¹⁰;
 - Apply the 'no hidden cost' provisions, (basic rate, express consent) to off-premises contracts below £42.

Option 3

22. This option proposes going beyond the directive in all areas where we are given the option to do so. Specifically:
- Apply information and cancellation provisions to social services and to healthcare services provided by professionals where these are sold off-premises or at a distance;
 - Apply information and cancellation provisions to financial services, gambling, house purchases, residential lettings, passenger transport, package travel and timeshare contracts;
 - Apply the 'no hidden cost' provisions (basic rate for helpline calls, express consent for extras) to all healthcare and social services contracts with consumers, to package travel, timeshare contracts and passenger transport¹¹;
 - Apply the 'no hidden cost' provisions, (basic rate, express consent) to off-premises contracts below £42;
 - Add further information requirements to sales on-premises;
 - Apply information requirements to day-to-day transactions in shops.
 - Require a signature for contracts agreed on the phone
 - Apply information and cancellation provisions to all off-premises contracts below £42
 - Apply the full information regime to emergency home repairs
 - Require customer help lines to be charged at lower than basic rate (e.g. free phone or capped)

Option 2 is our preferred option.

Apply information and cancellation provisions to healthcare services by professionals and to social services

23. Applying information and cancellation provisions to healthcare services provided by regulated professionals and to social services will help ensure that consumers, who are more likely to be within the vulnerable consumer category, will continue to have cancellation rights when buying these products. The existing directives, which the CRD will replace, cover all healthcare services and social services contracts. They are minimum harmonisation directives which allowed the introduction of higher levels of consumer protection than mandated in the directives. The exclusion of these sectors in the CRD was made specifically to enable Member States to put in place higher consumer protections than the maximum harmonisation nature of the CRD would allow. Whilst we are not seeking to put in more onerous measures, neither would we wish to see the exemption used as a loophole to reduce protection where it is particularly needed. An Alzheimer's Society report, published last autumn, estimated that 112,500 people living with dementia had been the victims of cold calling, or mis-selling and 62% of carers had reported that the person they care for had been approached by cold callers or doorstep sales people. 70% reported that telephone callers routinely targeted the person they care for.

¹⁰ Express consent article does apply to passenger transport contracts under CRD. We propose to apply basic rate call provision too.

¹¹ Express consent article does apply to passenger transport contracts under CRD. We propose to apply basic rate call provision too.

24. Healthcare and social care are sectors in which selling direct to the consumer is expected to expand significantly as a result of the changes to the way we pay for care and support services, by providing individuals who are eligible for publicly funded care with a personal budget (preferably in the form of a direct payment) in order to purchase the care they want in accordance with their care plan. Of course, this has historically been one way that people funding their own care choose to make purchases too. The number of providers of care and support services, offering their services direct to the individual, is therefore likely to increase. In 2011-12, 192,000 received a direct payment to pay for care services. This was a 9% increase on 2010-11, and this figure is expected to continue to rise. Purchases over the internet of such services will also continue to rise, in line with Department of Health's steer towards 'Digital First' for provision of services. Anecdotal evidence from the Department of Health indicates increases in the availability online of household aid and adaptations, and of a widening range of personal care services also online.
25. Covering all healthcare products, rather than just those supplied by traders, will also add clarity and certainty for consumers and traders. If we do not extend the CRD provisions to all sales of healthcare and to social services, consumers would need to be alert to the fact that, in contracting off-premises and for identical goods and services, they would have different rights depending on who they are purchasing from – a distinction the consumer may find difficult to appreciate. Equally, having to distinguish between whether the service provided by a trader (who is not a regulated healthcare professional) is a healthcare service (and so covered) or a social service (so not covered) would also lead to confusion for both trader and consumer alike.
26. Information and cancellation rights already apply to these contracts under the current Distance and Off-premises regulations and which will be revoked once the CRD provisions come into effect. Any new obligations and rights would be those faced by all traders within the scope of the CRD.

Apply 'no hidden costs' provisions to healthcare services by professionals, to social services and passenger transport

27. Applying the 'no hidden costs' provisions to healthcare services by regulated professionals and to social services and passenger transport offers important transparency and they are no less relevant to these sectors than to those within the mandatory scope of the directive.
28. These provisions enhance transparency with regard to prices and therefore competitiveness of business offers. The proposed extension will help ensure that consumers, including many who are more likely to be considered vulnerable consumers, often buying health and social care services at home, will have the same protections from excessive call charges and other hidden costs as the directive gives to consumers buying other products. Purchasers of healthcare and social services may be more likely to be house bound and/or elderly and more reliant on telephone contact. They may not be so aware or attuned to the presence of pre-ticked boxes or other implied consent formulations, and may be more likely than some other categories of consumers to rely on the telephone to contact the trader.
29. Higher rate helplines have been particularly prevalent in the passenger transport sector. High telephone costs are often not obvious to consumers and mean they can be surcharged without the consumer actively choosing to incur extra expense.

Apply the 'no hidden costs' provisions to low value off-premises contracts

30. Whilst we consider that applying the information and cancellation requirements to off-premises contracts for less than £42 would be unnecessarily burdensome to business, we intend applying the 'no hidden cost' provisions to such contracts. This will align with the requirements for distance sales where no such exemption is offered. We believe it is important that these transparency measures apply irrespective of value, in particular to prevent traders offering an artificially low price for the main contract to avoid CRD protections, but then adding high subsequent costs by way of surcharges and additional payments.
31. This will be a new requirement for low value off-premises contracts.

Monetised and non-monetised costs and benefits of each option

32. In order to get a better understanding of the potential impacts of the proposed reforms, we consulted stakeholders and commissioned an independent survey of businesses. The survey was conducted by IFF Research Ltd. (an independent research company), on behalf of the Department of Business, Innovation and Skills during the autumn of 2012. This project comprised two stages: the first stage gathered data on current business practices in relation to treatment of complaints and redress given to consumers of faulty goods. The second stage of the survey involved the return by a smaller sample of businesses of a cost sheet of estimates for expenditure and resources allocated to consumer rights issues, coupled with an interview to ensure cost sheets were filled in consistently¹².
33. Population size: The majority of businesses that sell goods and services¹³ to consumers will be within scope of the CRD described in this impact assessment. The total number of businesses selling either goods or services to consumers has previously been defined as all retail, accommodation, automotive and personal service enterprises¹⁴. Using this definition and the 2012 Business Population Estimates for the UK, this was estimated to be 742,000 businesses¹⁵ of which 99% will be small and micro employers with fewer than 49 employees¹⁶.
34. Some of the policy changes in the CRD will only impact a sub group of these businesses such as the increase in cancellation rights for off-premises contracts. The methods for identifying these populations have been estimated separately and are described under the applicable impacts.
35. Some very limited sections of the CRD will be goldplated where it is proposed to extend the scope of the CRD beyond EU minimum requirements. The goldplated sectors are health care and social services, provided by private professionals and includes off-premises and distance selling cancellation rights and the provision of basic rate telephone lines. The extension of the basic rate provision to the passenger transport sector also goes beyond EU minimum requirements.
36. We have estimated that approximately 2% and 4% of the total impacts of CRD accrue to businesses in the healthcare sector and the passenger transport sector respectively. This calculation is based on figures in the ONS 2010 Living Cost and Food Survey¹⁷. Impacts on this proportion of the business population are in scope of OIOO and are discussed below.
37. Table 1 summarises the established costs and benefits of the different proposed measures. More detail of the estimates is given in the following paragraphs.

12 Stage 1 of the survey was conducted on 1,000 businesses engaged in business-to-consumer trading (for goods, digital and services). Stage 2 involved a selected sample of 60 Stage 1 participants who provided additional detail on their Stage 1 responses.

13 This population figure includes digital content firms. This estimate includes all consumer facing businesses of which digital content firms would be a subgroup selling either goods or services.

14 Department for Business, Enterprise and Regulatory Reform: Impact Assessment: The Consumer Protection from Unfair Trading Regulations (2008)

15 <https://www.gov.uk/government/organisations/department-for-business-innovation-skills/series/business-population-estimates>

16 Micro business accounts for 93% (692,315 businesses), small business 6% (43,550 business)

17 Using the LCF survey, consumer spending on expenditure on health, social protection and package travel was £11 billion out of £479 billion or 2% - Table A1

Table 1: Summary of costs and benefits of preferred option

Type of Cost/Benefit	Impact	High (£ million)	Low (£ million)	Best Estimate (£ million)
Transition costs to business	Familiarisation costs	30.59	7.87	19.23
	One-off transitional increase in legal costs	2.83	1.13	1.98
	Updating terms and conditions	15.27	7.64	11.46
	Cost of changing phone lines	1.87	1.44	1.66
Ongoing costs to business	Costs from increase in cancellation rights for off-premises to 14 days	1.90	0.00	0.95
	Costs from increase in cancellation rights for distance contracts to 14 days	111.62	0.00	55.81
	Loss of revenue from customers calls	0.13	0.04	0.09
Total Cost (PV)				523.6
Ongoing benefits to business	Savings from easier complaint handling	0.20	0.10	0.15
	Savings from cases not escalating to legal proceedings	0.51	0.26	0.38
	Benefits from increased harmonisation across EU	358.04	358.04	358.04
Ongoing benefits to consumer	Reduced risk of consumer detriment	0.94	0.91	0.92
Total Benefit (PV)				3094.8
Equivalent Annual Net Cost to Business (Full measure)				56.80
Equivalent Annual Net Cost to Business (OIOO)				1.28

Transition Costs to Business

38. The transition costs arising from the change in legislation will be incurred by business and include:

- Familiarisation costs
- Initial increase in legal costs
- Cost of updating terms and conditions
- Cost of providing a low-cost telephone line

Familiarisation Costs

39. We anticipate that all retailers will incur familiarisation costs from the proposed reforms under the Consumer Rights Directive, but some of these costs will be relatively small because the changes are intended to simplify existing law, making it easier to understand and apply.
40. Based on proposed reforms we believe it will require 30-90 minutes for a staff member to become familiar with all the changes under the CRD.
41. This is underpinned by the plan to build awareness as part of the reforms and that many businesses are informed of changes by their trade associations and business groups, and are likely to read purpose-drafted literature about the changes. We have accounted for this difference in approach to familiarisation using the wide range of time taken (half an hour to one and a half hours).
42. As mentioned above, most UK firms are micro businesses with 9 or fewer staff members. For these, we assume that consumer complaints are typically handled by a senior staff member (often the owner or proprietor)¹⁸. Therefore we have based the familiarisation cost on the wages costs for Customer Service Managers and Supervisors, at £15.55 per hour¹⁹. Assuming the time taken for familiarisation is 30-90 mins as noted above, the average cost per business would be £7.78 to £23.33. Extrapolated across the total business population, the overall cost is in the range £5.54m to £16.61m, with a best estimate of £11.07m.
43. For larger firms with 10 or more employees, we have assumed that staff at management level would be familiarised with the reforms (included above at the same wage cost noted above for customer service managers and supervisors). We estimate that in addition, there would also be familiarisation costs in training 10-20 frontline staff members for 30-90 mins on the reforms, at an hourly cost of £9.78²⁰. This cost is incurred by the business population of 49,620 (small, medium and large firms) and will result in an overall cost for larger firms in the range £2.23m to £13.97m, with a central estimate of £8.15m
44. In total, we estimate businesses will incur familiarisation costs of £7.87m to £30.59m, with a mid point best estimate of £19.23m. This figure includes some goldplating which is in scope of OIOO. We estimate the impact on firms in scope of the goldplated sectors at approximately 2% of the total cost, based on figures in the ONS 2010 Living Cost and Food Survey²¹. Using this proportion we have estimated the OIOO familiarisation costs at £0.16m to £0.6m, with a best estimate of £0.38m.

One-off transitional legal costs

45. We anticipate that the reforms under the Consumer Rights Directive, may initially lead some businesses to seek additional external legal advice. This is likely to be a one-off transition cost to help business apply the reforms.
46. Based on the responses to the IFF survey, only a small proportion of businesses (23%) sought external legal advice in the last year²². As the reforms do not represent significant legal change or entirely new concepts, we believe that there will only be a small increase in legal advice costs, which we have estimated at 2-5%. Using the IFF survey data on annual legal costs, we calculated the impact by firm size; micros and larger firms²³ to reflect the variation in legal advice costs faced. We have estimated a cost range of £1.13m to £2.83m, with a central estimate of £1.98m.
47. Due to gold-plating some of the legal costs will be in scope of OIOO. As with familiarisation costs, we have calculated the impact on the 2% of the population in scope with costs calculated at £0.02m to £0.06m, with a best estimate of £0.04m.

One-off cost of updating Terms & Conditions (T&Cs)

¹⁸ IFF Survey F2, Table 1

¹⁹ This is based on ASHE 2012 hourly wage of £13.58 for Customer Service Managers and Supervisors, with non-wage labour costs at 14.5%, giving an hourly cost of £15.55

²⁰ Based on ASHE 2012 hourly wage for frontline customer service occupations at £8.54, uprated to include 14.5% non-wage labour cost is £9.78 per hour.

²¹ Using the LCF survey, consumer spending on expenditure on health, social protection and package travel was £11 billion out of £479 billion or 2% - Table A1

²² IFF survey D3, Table31, shows 159,232 micro-businesses and 11,413 small, medium and large businesses currently pay for external legal advice.

²³ Average annual legal advice costs were £309 for micros and £853 for small, medium and large firms

48. The proposed changes under the CRD will require firms with T&Cs to amend them to ensure compliance, thus resulting in costs to business.
49. According to the IFF responses, 54% of businesses have pre-drafted T&Cs which will have to be revised to comply with the proposed changes. Therefore these firms will incur costs to ensure the T&Cs are compliant with the proposed changes. We have assessed this impact in two ways; costs of reviewing T&Cs and the costs of changing T&Cs. This provides a range of estimates as realistically the costs of reviewing should be significantly less than for changing i.e. the difference between checking existing T&Cs for compliance and making changes to ensure conformity. This range reflects the expected variation in costs; businesses with T&Cs that are already compliant, only needing to be checked and the remaining businesses needing to make changes to become compliant, thus incurring higher costs.
50. We assessed the impacts by firm size to take account of the differing costs associated with size (micro and small/medium/large). From the IFF costs sheet responses, we estimated the average annual cost of reviewing T&Cs at £83 for micro businesses and £331 for larger firms²⁴. From the IFF survey we have evidence of how often T&Cs are reviewed²⁵ – between six months and a year, between every year and every 2 years and less often/ad hoc reviews. We have attempted to incorporate the regularity of review into our analysis²⁶:
- 15% of businesses review their T&Cs between six months and a year. Implementing the Directive in June 2014 means that some of these firms who review their T&Cs within the year will bring forward a review and incur costs²⁷;
 - 30% businesses review T&Cs every 1 to 2 years. It may be that the changes will require these firms to bring forward a review and so some additional costs will be incurred. We have taken account of this impact by discounting their average annual review costs i.e. they should not incur the full cost of review but a proportion because it is done in advance of their preferred review date²⁸;
 - 30% businesses only carry out a review less often or on an ad hoc basis and as with the previous category, they should not incur the full cost of a review but a proportion based on bringing forward the review from their preferred date²⁹;
 - 14% of firms do not review their T&Cs³⁰. This category includes firms that never review or don't know when they will review. We believe that this group will incur the full annual cost of a review.
51. By combining the costs accruing across the categories of business, we have estimated the cost of reviewing T&Cs at £7.64m. We take this as our lower bound estimate of the costs involved in ensuring T&Cs are compliant.
52. The lower bound estimate of ensuring T&Cs are compliant includes the cost to business of developing new consumer contracts, invoices, advertising and notifying customers. Businesses that are already compliant with the regulations and don't have to make any changes will not incur these costs but will review their terms and conditions to ensure compliance. We believe the majority of these costs will be covered by firms seeking external legal advice, and becoming familiar with the changes. However evidence from the IFF survey indicates a significant difference between the cost to business of changing their T&Cs and the combined cost of reviewing and updating. To account for this we have cautiously assumed that the upper bound estimate for becoming compliant is twice

24 There are 373,850 micro businesses and 26,795 small, medium and large business in scope of this impact.

25 IFF Survey Table 26/3

26 This involves discounting the costs to take into account the realistic impact of making businesses revise T&C before their preferred date. General discounting formula = $1/((r)^t)$

27 15% = 60,285 – discount rate of $1/((0.035)^{0.25})$ with the uniform distribution half of these businesses will have their review in the year up to implementation and therefore incur no costs. The remaining businesses would have between 6 months and a year ($3/12=0.25$) to review their T&Cs.

28 30% = 120,600 businesses - discount rate of $1/((0.035)^{0.75})$ with the uniform distribution a quarter of these businesses will have their review the six months up to implementation. Therefore incur no costs. The remaining firms will be between a six months and two years before their next review and so the average time period before the next review is 18 months. This means that for micro business the discounted value of the update will be £80.98 and for small to large businesses £322.93 so 2.61% (percentage difference between £83 and £80.98) of the cost of the update has been brought forward.

29 30% = 120,600 businesses - discount rate of $1/((0.035)^{4.75})$ using a similar method to above, 5% of businesses will have their review in the period up to implementation and so incur no cost. The remain firms will be up to 9 and a half years away from their review and so the average firm will be 4.75 years from review. The discounted cost to business is £70.57 for micro business and £281.42 for small to large businesses, therefore 18% of the cost of the update has been brought forward.

30 14% = population of 56,265 businesses

the size of the lower bound, suggesting a range of costs of £7.63 to £15.27 million, with a best estimate of £11.46 million.

53. As with other impacts, businesses in sectors which are not in scope of the CRD but which are included in the proposed legislation, including passenger transport (for basic rate) and health and social care (around 6% of the total business population) will incur costs in scope of OIOO. We have estimated these costs at between £0.0.45m and £0.89m with a best estimate of £0.67m.

Cost of cheaper telephone line provision

54. Under the CRD, businesses which provide a customer helpline for after-sales calls, will have to do so at a basic rate. According to Ofcom, there are 30,000 to 39,000 businesses using non-geographic numbers³¹, providing a proxy estimate of firms who may have to make changes. This is likely to be grossly conservative. Firstly it will include businesses that operate business-to-business transactions (which are out of scope of the Directive). Secondly, it assumes that all businesses will change their telephone numbers, while only post-sales numbers may be affected. Using information from BT, we estimate that there will be a one-off charge of £50 on firms to move to a basic rate number³². We have estimated the one-off cost to business at £1.44m to £1.87m, with a best estimate of £1.66m.
55. Where businesses change their consumer helpline phone number, they will also have to change after care consumer material that contains consumer complaint details. We assume that businesses are likely to update consumer after care material at the same time as updating their terms and conditions. This cost is accounted for above in the cost of updating terms and conditions as it includes the cost of updating consumer contracts, leaflets/brochures, promotional material and other literature.
56. The provision of cheaper telephone lines is one of the limited areas of goldplating of the CRD. Based on the estimate that the additional sectors account for 6% of the CRD population³³, we have calculated the OIOO impact at £0.08m to £0.11m, with a best estimate of £0.10m.

Ongoing Costs to Business

Ongoing costs to business

57. The ongoing costs arising from the change in legislation will be incurred by business and include:
- Costs from increasing cancellation rights for off-premises
 - Costs from increasing cancellation rights for distance selling
 - Loss of revenue from changes to telephone line provision

Increase in cancellation rights from 7 – 14 days (off-premises and distance)

58. Consumers have a limited time period after they have concluded a contract with a business when they can cancel and receive a refund. Currently a consumer can cancel an off-premises contract up to 7 working days after signing and a distance contract up to 7 calendar days. Under the CRD, the number of days that a consumer can cancel an off-premises or distance contract will increase to 14 calendar days. This increase in consumer rights will be an ongoing cost to business as more consumers may cancel contracts. Off-premises contracts are largely taken out by households through door step sales, while distance contracts can be taken out by any consumer. The ongoing cost to businesses of increasing cancellation rights in off-premises contracts and distance contracts is described below.

Off premises contracts

31 This is based on 13,000 firms using 0845 numbers, 10,000 firms using 0844/3, 7,000 using 0871/2/3 numbers. There are an additional 9,000 firms using 087 numbers.

32 BT price list - change of service number, Section 2, Part 6, subpart 1, change of number charges.:

http://www.bt.com/pricing/current/Call_Charges_boo/FrameworkImpl1081127.htm#FrameworkImpl1081127

33 This includes the health and social care sector, and passenger transport.

59. A recent OFT report³⁴ estimated that 14.6% or 3,796,000 households made an off-premise purchase. 7.7% of these households chose to cancel their contracts and received a refund from the business³⁵. Households who cancelled their contracts spent an average of £170 on these goods. Increasing the number of days during which a consumer can cancel a contract is likely to lead to an increase in the overall number of households cancelling contracts.
60. Consultation responses indicated that, when consumers chose to return faulty goods, between 0% and 7.8% of these returns occurred between 8 and 14 days after purchase. Assuming a similar pattern for cancelled contracts suggests that between zero and 22,799 households might be expected to cancel contracts between 8 and 14 days after purchase, with a cost to business of between zero and £3.88 million in lost revenue. However, businesses that belong to the Direct Selling Association (DSA) which represents 51% of all direct sales in the UK already offer a 14 day cancellation period, so they will not incur a cost from the policy change. Of the remaining 49% of sales, some of these sales will be from firms that already offer at least a 14 day cancellation period while other sales will be from firms that offer a 7 day period. Assuming all remaining sales are from businesses that already offer at least a 14 day cancellation period means that the cost to businesses would be zero. But if the remaining sales are from businesses that don't currently offer a 14 day cancellation period then the cost to business could be as high as £1.90 million. It is likely that the cost to business from the increase in cancellation rights is somewhere between these two extremes. The mid point estimate of £0.95 million is the best estimate available and is likely to be an overestimate because transactions with a value less than €50 will be out of scope of the change.

Distance contracts

61. Distance purchases can be made by all consumers via post, email or phone. It is estimated that 79%³⁶ of UK consumers³⁷ spend on average £725 every year on these purchases. The cancellation rate for distance purchases is lower than off-premises contracts at between 2% and 5%³⁸. Using this range it is estimated that between 0.8 and 2.0 million consumers cancelled their distance contracts. Extending the period over which a consumer can cancel a contract from 7 days to 14 days is expected to lead to an increase in consumers cancelling. Assuming the same zero to 7.8% increase in cancellation rates used in off premises contracts suggests that up to 153,954 additional consumers might cancel their contracts. Assuming each contract cancelled covers goods and services worth £725 then the total cost to business would be between zero and £111.62 million. However, many online retailers already allow a 14 day cancellation period³⁹ and evidence from the European Commission Consumer Rights Directive impact assessment indicates that 95% of large distance sellers already offer far more than the current 7 day legal maximum⁴⁰. Based on this evidence we believe the best estimate of the ongoing cost to business to be the mid point of £55.81 million.
62. In sectors not covered by the EU Directive but in scope of the proposed UK legislation, these costs will be in scope of OIOO. We estimate this impact at approximately 2% of the total cost (as it covers health care and social services provided by professionals only), based on figures in the ONS 2010 Living Cost and Food Survey⁴¹. Using this proportion we have estimated OIOO costs to business of £1.12 million for distance contracts and £0.02m for off premises contracts (both figures based on the best estimate of overall figures).

Lost revenue from telephone lines

63. Any business operating a telephone number for post sale customer contact⁴² will be required to provide this service to customers at a basic rate. Some businesses currently receive revenue from

34 OFT 1411 - Evaluating the impact of the 2004 OFT market study into doorstep selling -p140 GHK for OFT April 2012.

35 292,292 households

36 EC Flash Eurobarometer 332 – Consumer Attitudes to Cross Border Trade and Consumer Protection – p31 (2011)

37 39,475,510 million consumers, the UK consumer population is defined as those aged 18+ ONS population projections table A3-1 (79% of 49,969,000)

38 EC Consumer Rights Directive Impact Assessment - Annex 5 p90

39 Safebuy web-retailer code of conduct <http://www.safebuy.org.uk/directory/index.html>

40 EC Consumer Rights Directive Impact Assessment- Annex 5 p91

41 Using the LCF survey, consumer spending on expenditure on health and social protection and was £11 billion out of £479 billion or 2% - Table A1

42 Any telephone service which adds value to consumer such as technical support will not be required to be charged at the basic rate.

these phone numbers by using revenue sharing phone numbers⁴³. The requirement to provide the contact number at a basic rate may result in an ongoing cost to business from lost revenue. According to data supplied to BIS by Ofcom, businesses usually make between £0.01 and £0.03 per minute from calls. Consumer complaints are a common part of post sale contact with a business and 55% of consumer complaints are made via the phone⁴⁴ which we have estimated at 1,122,000 complaints⁴⁵. Data received from Ofcom indicates that the average length of a call is 4 minutes. With a range of £0.01 and £0.03 per minute in lost revenue this means that the cost to business will be between £0.04m and £0.13 million with a best estimate of £0.09 million.

64. This figure includes some goldplating which is in scope of OIOO. We estimate the impact at approximately 6% of the total cost (includes all goldplated sectors outlined in paragraph 37 above); based on figures in the ONS 2010 Living Cost and Food Survey⁴⁶. Using this proportion we have estimated the OIOO costs of lost revenue from phone lines to be less than £0.005 million.

Express consent for additional payments

65. The Consumer Rights Directive will require consumers to give express consent to any payments that businesses are seeking in addition to its main obligation. In the past people buying online have often had to opt out of a pre selected box⁴⁷ to avoid paying. A consumer who has to opt in to a service is less likely to use it and so there may be a cost to business in lost revenue. Any lost sales may be replaced by other purchases of goods and services through alternative providers. However, there was no evidence presented at the consultation and further research by BIS analysts has been unable to find any examples of businesses still using pre-ticked boxes for additional payments. Therefore we believe there will no costs to business from this requirement.

Costs to Consumers

66. We do not expect that consumers will incur costs from the CRD reforms. Individuals may wish to check their cancellation rights but any impact of this is unlikely to be costly and so we have not quantified or monetised any costs to consumers from the CRD.

Ongoing benefits to business

67. There are ongoing benefits for business arising from the changes under CRD and these include:

- Savings on simpler complaint handling
- Savings from less complaints escalating to legal proceedings
- Benefits of increased harmonisation at EU level

Simpler complaint handling

68. A key objective of the CRD reforms is to provide clarity for consumers and businesses on their respective rights and obligations. We envisage that the proposed changes will result in quicker and easier handling of complaints for business, where less time and staff resource will be required to resolve issues; including moving complaints handling to more junior staff because procedures and remedies can be simplified and easily applied.

43 These are numbers where the business can charge a rate for the phone call in excess of the cost of operating the line, thus making some revenue on every call. Numbers that begin with 0843, 0845 and 0871 are all example of numbers that can be used by businesses to revenue share.

44 Source: Consumer Focus - 2012 Consumer Detriment Survey, p55

45 We estimated 1,122,000 complaints annually. Estimated by the total number of complaints is 2,040,000 (This figure is a combination of the 2012 Consumer Detriment's cited number of problems (15.7 million) (page ii) and the Consumer Conditions 2011 percent of complaints directed to business in the UK (13%) (page 42)). 55% of 2,040,000 complaints made to business.

46 Using the LCF survey, consumer spending on expenditure on health and social protection was £9.5 billion out of £479 billion or 2%. The proportion spent on passenger transport is around 4% (£16.6 billion). - Table A1

47 http://www.bbc.co.uk/blogs/watchdog/2011/10/travel_insurance.htmlses have used pre-ticked on websites

69. The British Retail Consortium have commented that 'clarity means that both consumers and retailers start from a common understanding of actual legal rights which should reduce the potential for disputes arising from exaggerated claims by consumers or offers below the legal minimum by retailers.
70. We believe that there will be a saving to business from increased clarity in the reforms, especially for distance and off-premises retailers. To estimate the impacts on business of simpler complaint handling we assumed a (handling) time saving to business of 5-10 minutes based on the number of complaints related to off-premises and distance selling⁴⁸. This time saving results from the reforms which will make it easier for businesses to handle complaints and decide quickly which complaints have merit, which require a standard response/remedy and which need to be escalated for legal advice. As with the familiarisation costs, these savings are based on costs of Customer Service Managers and Supervisors, at £15.55 per hour⁴⁹ (as our research shows that currently in the majority of cases, complaints are handled by senior staff members⁵⁰). Based on the business population assumptions, this suggests estimated savings of £0.10m to £0.20m, with a best estimate of £0.15m. We believe that some businesses may wish to reduce the number or seniority of staff handling complaints but it was not possible to quantify and monetise this additional potential benefit.
71. As it is proposed to extend in limited areas the CRD beyond the minimum required under the EU Directive, a small number of additional businesses will be in scope of the reforms and will experience savings in complaint handling from increased clarity. We have estimated that the population of businesses in the goldplated sectors at 2% which results in savings to business of £0.002m to £0.004m, with a best estimate of £0.003m.

Savings from reduced number of complaints escalating to legal proceedings

72. We expect the clarification from the proposed reforms to reduce the number of consumer complaints which escalate into court cases. This is based on raising the understanding of both consumers and businesses on rights and obligations, and clarifying the language of the legislation.
73. The IFF survey indicated that only a small percentage of businesses (5%) had incurred costs for court cases in the previous year, and so we assume that only a small proportion of the business population will experience savings. We have calculated the impacts using IFF survey evidence, splitting business into two groups (micro and small/medium/large) as the estimated costs varied significantly based on business size⁵¹. We have conservatively estimated a saving of 1-2%, due to the clarifications. As with the savings in legal advice costs, we have assumed that due to the simplified laws, complaints are less likely to end up in court because the rights and remedies will be clearly set out. We estimate that the annual savings to business will be between £0.25m and £0.51m, with a best estimate of £0.38m. This is also likely to be a conservative estimate as it is based on the cost of legal fees and not on the full cost of going to court to contest the case (e.g. time spent not on the shop floor).
74. We believe that little if any of the savings in court costs will accrue to the goldplated sectors, as the policies for which these sectors are included relate predominantly to dealing with consumer complaints rather than legal points for which a court case may be needed (e.g. cancellation rights). Therefore we have not quantified or monetised any potential saving under OIOO.

Benefits of increased harmonisation at EU level

75. The increased harmonisation of consumer rights proposed under the CRD will lead to an increase in trade between consumers and businesses across all member states of the EU, by reducing non-tariff barriers such as the transaction costs and differences in pre-and post-sales obligations facing

48 Total consumer spending on off premises and distance contracts was estimated to be £4.7 billion and £28.6 billion respectively. The UK National Accounts estimated that the total household consumption in 2011 was £860 billion. The proportion attributed to distance and off premises contracts is therefore 4% (4.7 + 28.6)/860. Sources: Consumer Trends, Household final consumption expenditure, Total Expenditure, table OGSKS, OFT 1411 - Evaluation of Evaluating the impact of the 2004 OFT market study into doorstep selling and Flash Eurobarometer 332 Consumers' Attitudes Towards Crossborder Trade and Consumer Protection

49 This is based on ASHE 2012 hourly wage of £13.58 for Customer Service Managers and Supervisors, with non-wage labour costs at 14.5%, giving an hourly cost of £15.55. IFF Survey F2, Table 1 shows that 83% of firms without dedicated customer service department have their senior managers deal with consumer complaints.

50 IFF Survey F2, Table 23

51 Average annual legal costs are £655 for micro firms (pop 34,616) and £1,507 for small, medium and large firms (pop 2,481)

retailers. In addition to the benefits to business currently exporting across the EU, the CRD should reduce the reluctance of UK firms to export abroad.

76. According to a BIS report on single market integration⁵² “*smaller companies are to a significant extent debarred from transborder business activity by administrative costs and regulatory hassles*”. The CRD will offset this disadvantage by requiring all Member States to implement the same rules. So while maintaining appropriate standards in consumer rights, the CRD will allow trading businesses to create synergies in production and drive competition between firms to become more efficient and innovative to attract customers from beyond the domestic market. SMEs are likely to benefit from the increased consumer confidence in cross-border and domestic shopping and from the improvements in the legal framework where a level playing field is created for smaller business to compete on innovation and efficiency.
77. We have estimated the benefit to UK businesses from increased harmonisation using data provided in the EU Commission’s impact assessment on the CRD⁵³. The EU Commission estimates savings from the proposed reforms at €3,750 or £3,255⁵⁴ per business. This figure is based on an estimate of the difference in costs facing business pre-and post-implementation of the CRD.⁵⁵ We know that approximately 110,000 UK businesses currently export to the EU member states, the majority to 1 or 2 countries only⁵⁶. Therefore we estimate £358m worth of annual savings will accrue to UK businesses exporting to the EU, as a result of the proposed changes under the CRD. Of this approximately £7.16m will accrue to the goldplated sectors (based on 2% of UK consumer spending). We are not proposing to include as benefits for OIOO purposes as we believe that most of the savings will accrue over time as an indirect result of the CRD changes.

Benefits to Consumers

78. There are ongoing benefits accruing to consumers arising from the changes under CRD including:
- Benefits from consumer detriment avoided
 - Reduced cost from customer contact telephone lines
 - Increased cancellation right for off premises and distance contracts
 - Benefits to Consumers from increased harmonisation

Consumer detriment avoided

79. The harmonisation, clarification and improvement in consumer rights from the Consumer Rights Directive should lead to a reduction in the level of consumer detriment faced by consumers. The level of consumer detriment avoided has previously been estimated in Goods, Services and Digital Content impact assessments. The Consumer Rights Directive will impact across a wide range of consumer to business contracts, but we believe that the proposed reforms to distance and off-premises contracts will result in the largest benefits to consumers.
80. Using the proportion of total consumer spending attributed to off premises and distance contracts⁵⁷, we estimate that the risk of consumer detriment could be reduced by £0.92m to £1.01m⁵⁸ over the life of the policy reforms, as outlined in Table 2 below.

52 BIS report on single market integration “How deep is the level of economic integration required to deliver an optimally functioning European single market” (to be published Spring 2013).

53 http://ec.europa.eu/consumers/rights/docs/impact_assessment_report_en.pdf

54 Exchange rate of 1.1521

55 EU Commission Staff Working Document Accompanying document to the Proposal for a directive on consumer rights

56 Eurostat – UK estimates based on data provided by HMRC. Sept 2012

57 Total consumer spending on off premises and distance contracts was estimated to be £4.7 billion and £28.6 billion respectively. The UK National Accounts estimated that the total household consumption in 2011 was £860 billion. The proportion attributed to distance and off premises contracts is therefore 4% (4.7 + 28.6)/860.

Source: Consumer Trends, Household final consumption expenditure, Total Expenditure, table 0GSKS,

OFT 1411 - Evaluation of Evaluating the impact of the 2004 OFT market study into doorstep selling,

Flash Eurobarometer 332 Consumers' Attitudes Towards Crossborder Trade and Consumer Protection

58 Consumer detriment avoided increases annually by 1% taking account of expected year-on-year increases in household expenditure

Table 2: The ongoing net benefit to consumers from reduced risk of detriment: CRD (£ millions)

	Year									
	0	1	2	3	4	5	6	7	8	9
Best	0.92	0.93	0.94	0.95	0.96	0.97	0.98	0.99	1.00	1.01
Low	0.91	0.92	0.93	0.93	0.94	0.95	0.96	0.97	0.98	0.99
High	0.94	0.95	0.96	0.97	0.98	0.99	1.00	1.01	1.02	1.03

Reduced cost from customer contact telephone lines

81. The requirement on business to provide customer contact telephone numbers at a basic rate should result in cheaper calls, although this will vary depending on the consumer's own telephone tariff arrangements. It may also result in pass-through of costs by business, through other channels.

Increased cancellation right for off premises and distance contracts

82. Consumers will benefit from the increase in the period over which they can cancel an off-premises and distance contract to 14 days. The biggest beneficiaries will be consumers who change their minds over their purchases and would prefer to get a refund. It is likely that consumers will benefit from this change but it may also result in pass-through of costs by business, through other channels.

Benefits to Consumers from increased harmonisation

83. We believe that consumers will benefit from strengthened harmonisation of consumer rights under the CRD. Consumers should initially experience an increase in confidence shopping with both domestic and EU retailers. Consumers would be more assured that their rights are clear and enforceable across all member states, allowing them to experience the full benefits of shopping across an integrated market. As businesses fully exploit the benefits of the CRD (including reduced transaction costs and gains from competition), we expect this to be passed through to consumers via lower prices and increased choice. It has not been possible for us to quantify and monetise the direct impacts of the benefits outlined above.

Alternative Approaches for Micro/Small Businesses

84. We do not propose to exempt micro or small businesses from the new consumer protection regime as this would be detrimental to consumers and other businesses, and would hinder rather than improve market conditions.

85. At the beginning of 2012, small and micro businesses accounted for 99% of all private sector businesses in the UK⁵⁹ (with fewer than 49 employees⁶⁰). To exempt such a large proportion of businesses from the new consumer protection regime would create an even more complex legal regime, with consumer rights varying according to the size of the trader. This would deprive the changes of most, if not all, of their desired clarity and would probably disadvantage the micro-businesses it purported to protect.

86. Consultation responses showed strong and widespread support for applying the consumer protection regime (including the proposals set out in this assessment) to all businesses, regardless of size. There was no support for a micro or small business exemption. The reasons respondents gave for supporting the application of a uniform regime across businesses of all sizes were numerous. In particular it was noted that any exemption

- Would be counter-productive, and detrimental to micro businesses, as consumers would be discouraged from buying from them. Consumers would be encouraged to stick to large businesses and would be less likely to try out new suppliers, hindering innovation and growth and creating obstacles to market entry⁶¹

59 <http://www.bis.gov.uk/assets/biscore/statistics/docs/b/12-92-bpe-2012-stats-release.pdf>

60 Micro business accounts for 93% (692,315 businesses), small business 6% (43,550 business)

61 Response to Consultation - BVRLA, Consumer Focus, Retail Motor Industry Federation, Electrical Safety Council, British Retail Consortium, Ofcom, Citizens Advice, various local Trading Standards Services

- Would not encourage business growth, and would cause problems to businesses looking to expand beyond the small business threshold (Trading Standards Institute, Retail Motor Industry Federation)
- Would allow rogue traders to continue to benefit from the opacity of the current law and might encourage unscrupulous traders to manipulate the way they trade in order to fall into the exemption (Retail Motor Industry Federation, Electrical Safety Council, Which?, Citizens Advice)
- Would cause confusion among businesses, consumers and enforcers, undermining the aim of achieving a clear and consistent consumer protection regime⁶².

EANCB for CRD

87. Based on the Statement of New Regulation reporting requirements, we have calculated the EANCB for the whole CRD measure. We have estimated this figure based on the direct net costs to business and the third sector. The costs and benefits within scope of the EANCB assessment are the following:

Costs

- One-off familiarisation costs for business of £19.23m;
- One-off legal advice costs of £1.98m;
- Cost of updating terms and conditions of £11.46m;
- One-off cost of changing customer telephone lines of £1.66m
- Increase in cancellation right for off premises contracts of £0.95m per year;
- Increase in cancellation rights for distance contracts of £55.81m per year;
- Lost revenue from customer telephone calls of £0.09m per year.

Benefits

- Time savings from simpler complaint handling of £0.15m per year;
- Savings from reduced number of complaints escalating to court cases of £0.38m per year.

88. The Equivalent Annual Net Cost to Business of the CRD is calculated as £56.8 million (of which £1.28m is in scope of OIOO as discussed below).

One-in, One-out

89. As implementation of the Consumer Rights Directive will be extended in limited circumstances to sectors beyond the EU requirements, it is classified as goldplated. The costs and benefits within scope of the OIOO assessment are the following:

Costs

- One-off familiarisation costs for business of £0.38m;
- One-off legal advice costs of £0.04m;
- Cost of updating terms and conditions of £0.67m;
- One-off cost of changing customer telephone lines of £0.01m;
- Increase in cancellation right for off premises contracts of £0.02m per year;
- Increase in cancellation rights for distance contracts of £1.12m per year;
- Lost revenue from customer telephone calls of less than £0.005m per year.

Benefits

- Time savings from simpler complaint handling of less than £0.003m per year.

⁶² Response to Consultation - Co-operative Food, Law Society of Scotland, Consumer Focus, British Retail Consortium, Finance and Leasing Association, Citizens Advice Scotland, Ofcom, Direct Line Group, Bar Council, Citizens Advice, various local Trading Standards Services

90. The limited gold-plated sectors will incur a direct cost to business which is within scope of OIOO. The Equivalent Annual Net Cost to Business is calculated as an IN of £1.28 million.

Summary table of CRD policy requirements¹

	Starting position	What's changing
INFORMATION PROVISIONS		
i. Pre-contractual information requirements for on-premises contracts	Largely overlapping provisions in two key pieces of current legislation, which together cover most of the information requirements in the CRD	Three new requirements - contract duration and conditions for termination, reminder of legal guarantee of conformity, specific requirements to describe functionality and interoperability of digital content. Other requirements essentially the same.
ii. Pre-contractual information for distance/off premises contracts	Largely overlapping provisions in four key pieces of current legislation, which together cover most of the information requirements.	Limited new provisions for both types of contracts although more so for off-premises contracts. Information on duration and termination of contract to be specified as well as reminder of guarantee of conformity, cost of returns for bulky items, and specific requirements to describe functionality and interoperability of digital content Distance sellers must clearly flag any obligation to pay Clearer more detailed information about arrangements for payment and delivery or performance as well as about cancellation rights,
CANCELLATION PROVISIONS		
iii. Cancellation provisions for off-premises and distance contracts	In the case of off-premises contracts , there is a 7 calendar day cancellation period. In the case of distance contracts there is a 7 working days cancellation period The cancellation period, if consumer not informed of cancellation rights, expires after 3 months for distance contracts, and continues indefinitely for off-premises contracts Whilst the cancellation period for goods bought at a distance starts from when the goods are received, for off-premises the cancellation period starts from when the contract is concluded	Extension to 14 calendar days for all off premises and distances contracts The cancellation period, if the consumer is not informed of cancellation rights, extends to one year The cancellation period for both distance and off-premises purchase of goods starts from when the goods are received.

¹ Article 19 on payment surcharges has been implemented early and has been the subject of a separate IA

	<p>There is a standard cancellation form offered for off-premises contracts</p> <p>Consumer cannot cancel a service bought at a distance once the service has started</p> <p>The trader selling at a distance must refund the consumer within 30 days whether or not goods have been returned</p> <p>Duty on consumer to take care of goods</p> <p>Rights with regard to digital content not clear</p> <p>Any related credit agreements automatically cancelled when consumer cancels main contract</p>	<p>Both distance and off-premises traders must make a standard (model) cancellation form available for the consumer to use.</p> <p>Consumer can cancel a service bought at a distance or off-premises even if started, but must pay for the proportion of the service delivered</p> <p>The trader can await the return of goods before refunding.</p> <p>Consumers must return goods within 14 days of notifying their cancellation</p> <p>Trader can charge for any diminished value in the good beyond what needed to check it</p> <p>Clarification that no cancellation rights once digital download has begun with express consent of consumer</p> <p>Any related ancillary agreement (not just credit agreement) is automatically cancelled when consumer cancels main contract</p>
DELIVERY PROVISIONS		
iv. Article 18 - Delivery	Unless otherwise agreed, delivery no later than 30 days	As now trader and consumer allowed to agree delivery date. If silent, 30 days is applicable limit. However, trader then given an additional amount of time appropriate to the circumstances if he fails to deliver in 30 days. (Some limited exceptions)
v. Article 20 – Passing of Risk	Consumer assumes risk for good on receipt	Position is the same unless consumer has selected a carrier not offered by the trader, in which case risk assumed by consumer when item passed to carrier.
HIDDEN COSTS PROVISIONS		
vi. Article 21 - Post-contractual telephone communications	Where a trader operates a telephone for issues regarding concluded contracts, there is no restriction on the cost of the call to the consumer	Consumer no longer bound to pay more than the “basic rate” for contacting the trader about a contract concluded.
vii. Article 22 - Additional Payments	Trader permitted to take extra payment as a default option (e.g. through pre-ticked boxes) in addition to the main obligation before contract is concluded	Trader must seek the express consent of the consumer to any extra payment in addition to the remuneration for the trader’s main obligations e.g. don’t tick the box for the consumer. The consumer must actively tick.

Annex B - Options for implementing CRD provisions

Option	Recommend?	Justification	Would this create new obligations?
Apply information and cancellation provisions to social services and to healthcare services provided by professionals where these are sold off-premises or at a distance	Yes	If we don't do this there will be significant reduction in consumer protection for particularly vulnerable set of consumers and inconsistent regulation across the social services and healthcare sector with potential impact on competition.	Information and cancellation rights already apply to these contracts under the current Distance and Off-premises regulations and which will be revoked once the CRD provisions come into effect. Any new obligations would be those faced by all traders within the scope of the CRD
Apply information and cancellation provisions to financial services, gambling, house purchases, residential lettings, passenger transport, package travel and timeshare contracts.	No	Regulation tailored to the particular needs of these sectors is more appropriate	NA
Apply the 'no hidden cost' provisions (basic rate for helpline calls, express consent for extras) to all healthcare and social services contracts with consumers, and passenger transport ² .	Yes	These are measures to ensure transparency in costs and to enable consumers to judge properly which are competitive offers. They should make markets more competitive and thereby support growth.	Yes. New obligations
Apply the 'no hidden cost' provisions (basic rate for helpline calls, express consent for extras) to the package travel and timeshare sectors.	No	This measure is included in the revised Package Travel Directive.	NA
Add further information requirements to sales on-premises	No	Information overload may result. Existing level offers sufficient clarity and protection.	NA
Apply information requirements to day-to-day transactions in shops	No	Information overload. Burdensome on business with no discernible benefit to consumer.	NA
Require that a signature be required for contracts agreed on the phone	No	Consumers may appreciate ease of agreeing contract by phone and may not welcome extension to process. Consumer will in any case have confirmation of their contract on a durable medium and the opportunity to cancel if they change their minds.	NA
Apply information and cancellation provisions to all off-premises contracts below £42	No	Unnecessarily burdensome with little evidence of need.	NA
Apply the 'no hidden cost' provisions, (basic rate, express consent) to off-premises contracts below	Yes	Aligns with requirements for products sold at a distance where there is no such exemption. These are measures to ensure transparency in costs and	Yes. New obligation.

² Express consent article does apply to passenger transport contracts under CRD.

£42		to enable consumers to judge properly which are competitive offers. They should make markets more competitive and thereby support growth. Trader will already need to have compliance measures in place for higher value items.	
Apply the full information regime to emergency home repairs	No	Given circumstances, where consumer has solicited repairs and needs them quickly, this represents a practical approach to protecting the needs of the consumer in cases where the consumer has sought out the trader and needs a quick service.	NA
Go beyond requirement for 'basic rate' phone call provision for calls where the consumer has a problem with a product purchased, for example by insisting that such calls should be free for the consumer or capped in some way.	No	The provision aims to ensure that once the price has been agreed, the trader gets no more money from the consumer if there is a problem or the consumer wants to exercise cancellation rights. Some member states are intending to apply a requirement that low cost (possibly capped) or indeed only freephone numbers are acceptable for such calls. We consider this would be gold-plating. Basic rate is intended to equal the simple cost of making a normal non-commercial call. This does not mean the trader should subsidise the cost, nor indeed the telecoms provider, who the CRD stipulates remains free to set rates.	NA

Annex C: Post Implementation Review (PIR) Plan

<p>Basis of the review:</p> <p>This Impact Assessment includes a commitment to review the proposed changes 3-5 years after implementation.</p>
<p>Review objective:</p> <p>To assess:</p> <ul style="list-style-type: none">• whether more businesses are involved in cross border trade• whether the policy changes are meeting policy objectives• whether policy objectives are in practice feeding through to increased consumer empowerment.
<p>Review approach and rationale:</p> <p>The review would evaluate the effectiveness of the changes within this Impact Assessment. The review will incorporate stakeholders' views that will include consumer groups, business groups, LATSS, the Consumer and Markets Authority (CMA) and the Citizens Advice services.</p>
<p>Baseline:</p> <p>Total detriment suffered by consumers has been estimated in the Consumer Focus Consumer Detriment 2012 Report at £3.08 billion per year. This results from a wide variety of consumer problems including services not being up to standard, faulty/defective goods and failures by firms to re-perform services.</p>
<p>Success criteria:</p> <p>Increased consumer empowerment, reduction in consumer detriment, reduced disputes including court cases.</p>
<p>Monitoring information arrangements:</p> <p>Feedback from businesses, consumers groups, TSS, the CMA and Citizens Advice will be achieved through regular engagement. The transition costs will be recorded during the implementation stage and Government will monitor the ongoing costs via annual reports and management information.</p> <p>More general information about the impacts on business from the proposed changes will be collected from business groups and through surveys.</p>
<p>Reasons for not planning a review:</p> <p>N/A</p>

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