

**dti**

**CONSUMER AND COMPETITION  
POLICY**

**Credit Card Cheques: A  
Discussion Paper**

**SUMMARY OF RESPONSES AND  
GOVERNMENT RESPONSE**

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## **FOREWORD**

We launched the consultation in response to wide-ranging concerns about the way lenders were promoting credit card cheques. It forms part of the Government's wider work on tackling over-indebtedness and promoting more responsible lending.

I am very grateful to everyone who has responded to the consultation for their helpful comments.

Although we did not find any hard evidence that consumers are being plunged into debt from using credit card cheques, the consultation showed there is significant demand for clearer, accurate information on interest rates and fees to be given with the cheques.

Consumers need to know exactly what the costs and terms of using the cheques are to help them make informed decisions about borrowing and the amounts they will need to repay.

I am pleased to see the industry is responding to these concerns but feel it is important to continue reinforcing the message of responsible lending and borrowing to the industry and consumers.

Following the consultation all APACS members have agreed to introduce a summary box describing the key features of credit card cheques by the end of the year, this requirement will be written into the Banking Code when it is reviewed in 2007.

I will, be looking to the industry to deliver speedily on the changes it has promised, and will be meeting industry representatives to emphasise the importance we attach to the industry putting effective measures into place.

The Government will be working closely with the Banking Code Standards Board on this matter and will participate fully in the forthcoming revision of the Banking Code. We will be keeping a close eye on the industry to ensure it delivers its promises, and if it fails to do so, or if there is evidence that the operation of these cheques is causing harm to consumers, we will look again at the need to regulate.

Ian McCartney

## **THE GOVERNMENT RESPONSE TO THE CONSULTATION**

### Background

The consultation took place between 24 November 2005 and 24 February 2006. The purpose of the consultation was to seek views on whether it is necessary to make changes to the regulation of credit card cheques, in particular, how best to ensure that consumers who use credit card cheques do not incur unnecessary charges due to a lack of understanding about the implications of using a credit card cheque.

Credit card cheques have been an additional facility on credit card accounts for about 10 years, and are issued by 11 of the 15 major financial institutions. They are usually provided as an additional instrument to a credit card and to some extent are similar to normal bank account cheques.

The consultation followed earlier discussion about credit card cheques, in particular by the Treasury Select Committee on Credit Card Charges and Marketing<sup>1</sup>, the Task Force on Tackling Over-indebtedness<sup>2</sup> and during the passage of the Consumer Credit Act 2006.

Criticisms of credit card cheques have operated at a number of levels. At the more general level it is argued that they can appear as a new credit line to consumers (even though they are not) and therefore encourage increased spending. Some lenders have also been accused of adopting aggressive marketing ploys, for example by targeting the cheques at vulnerable consumers, especially at particular times of year such as Christmas, or that they have been sent along with flyers for holidays. In the past some credit card cheques have been sent with pre-printed amounts already filled in.

Beyond these general criticisms, there are two inter-related aspects about credit card cheques that have caused particular concern. Firstly, that the consumer does not have to actually ask for the cheques because they are sent out at the discretion of the credit provider. Secondly, the consumer may not be aware that different terms and conditions apply to transactions carried out via a credit card cheque as compared with a credit card.

In response to these criticisms, the credit sector has been seeking to address the issue of credit card cheques in its own industry guidelines. The Banking Code was amended in March 2005 and for the first time contains guidance on credit card cheques. The Banking Code now prescribes that customers have the right to say that they do not want to receive credit card cheques, should be informed about any fees if they use the cheques and that customers should be aware that they do not have the same level of protection with a credit card cheque, compared to a credit card. In addition, the Guidance to Subscribers (which is intended to clarify to Banks/building societies what the Banking Code means and how it should be interpreted) states that credit card cheques are now only to be sent to qualifying cardholders. They should not be sent out to customers who are in arrears or over limit; customers with a limited scope to

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<sup>1</sup> House of Commons Treasury Committee. Credit card charges and marketing. Second Report of Session 2004-05.

<http://www.parliament.the-stationery-office.co.uk/pa/cm200405/cmselect/cmtreasy/274/27402.htm>

<sup>2</sup> Household Survey on the Cause, Extent and Effects of Overindebtedness. November 2002.

borrow more; and accounts where there are problems of fraud or procedures pending to deal with lost or stolen cards.

Under the associated APACS Best Practice Guidelines, credit card cheque customers should now be provided with very clear information about the cheques and the consequences of using them. For example, the details of when interest would start to accrue, indicative rates of interest and the level of protection on purchases made with a credit card cheque.

Against this background, the consultation proposed four main options:

- **Option 1:** Do nothing. Keep the operation of the credit card cheque sector under review in the light of the revised Banking Code/APACS guidance.
- **Option 2:** Use existing legislative powers to specify information that accompanies credit card cheques.
- **Option 3:** Use existing legislative powers to require specified information to be printed on credit card cheques.
- **Option 4:** A combination of options 2 and 3.

#### Views of respondents

A total of twenty responses were received. The Government is grateful for the views and information received. This has helped provide a better understanding of the nature and use of the product.

A list of respondents can be found at Annex A.

Opinion was fairly evenly split between options 1 and 4, with a slight majority favouring option 4. Only one respondent was in favour of option 2 on its own, while none favoured option 3 on its own. Most respondents thought that this option was not very practicable due to the limitations of space on the cheque. A number of respondents also doubted that consumers would actually read the information.

Views expressed during the consultation tended to support the view that credit card cheques are a niche product, one that is only relevant to a limited number of consumers and even then only in limited circumstances. Although it is clear that a number of consumers are irritated to receive the product unsolicited (see below), responses to the consultation did not produce any significant new evidence about the detriment consumers may suffer as a result, while the level of consumer complaints about the product are low.

However, many respondents thought that there should be a greater uniformity of information provided by lenders about the consequences of using a credit card cheque. While there was not much enthusiasm for using the reverse of the credit card cheque itself as a vehicle for the provision of this information, the idea of a specially tailored summary box for credit card cheques was popular with a number of

respondents. The kind of information requirements that were suggested by respondents included:

- Illustration of charges and total amount payable
- Details of handling fees
- Plain English explanation of section 75 position
- Whether credit card cheque transactions are treated like cash advances rather than purchases
- Explanation of the date from which interest will accrue
- Consequences of exceeding the credit limit
- How to safely dispose of credit card cheques
- How to opt-out

More detail on the responses to the individual questions asked in the consultation document can be found on pages 8-16.

#### Next steps

It is clear that in the past consumers have felt insufficiently informed about the disadvantages of using a credit card cheque and on this basis the Government does not believe that the option to rely on existing industry best practice is sufficient to address the concerns expressed.

Although the additions to the Banking Code concerning credit cheques have been widely welcomed, a number of respondents believe that more needs to be done to make sure that consumers do not use credit card cheques without being aware of the consequences of doing so and/or where another form of credit transaction might be more appropriate.

Some respondents alleged that a current deficiency with the Banking Code in respect of credit card cheques is that there is still a lot of flexibility for lenders in the way important information is presented to consumers in respect of its form and manner and also the timing of the provision of this information. What is currently lacking is the sense of any uniform approach by lenders.

Since the consultation took place the credit card industry has responded to this criticism and has been developing further guidelines which will result in more information about credit card cheques being given to consumers and on a more consistent basis. The additional information will take the form of a specific version of the summary box, along the lines of that used by credit card issuers. All APACS members have agreed that a summary box will appear on all credit card cheque marketing material accompanying credit card cheques by the end of 2006 at the latest. Some credit card cheque issuers (e.g. HBOS) are already using a summary box, while others can be expected to come on-line well in advance of this deadline. This additional best practice is now reflected in the APACS guidelines and will be included as part of the APACS submission to the independent review process for the Banking Code which is due to take place in 2007. In the meantime, it is expected that

the Banking Code Standards Board will monitor compliance with the summary box initiative from the end of 2006.

It has been agreed that the following information will be included in the summary box:

- Details of interest rates – promotional and standard rates
- Interest charging information – a statement that interest will be charged from the date the amount of the cheque is added to the account
- Charges incurred for using the cheque – e.g. 2% fee for use; charges incurred if the cheque is not honoured
- Allocation of payments – where credit card cheque expenditure lies in the payment allocation hierarchy
- Legal protection – a statement explaining that section 75 of the Consumer Credit Act does not apply to credit card cheques
- Limitations of use – e.g. a statement explaining that cheques cannot be used to make payments on other credit cards, loans etc that the consumer has with the lender in question; and whether credit card cheques can be guaranteed or not
- Unwanted cheques – a statement explaining how to safely dispose of credit card cheques and how to stop receipt of unwanted credit card cheques

Some of the content of the summary box is variable due to the personalised nature of some of the information – in particular the specific interest rates applicable. Some summary boxes will (for the time being) clearly signpost the reader to where in the accompanying literature such information can be found, others will contain the information within the summary box itself. It is expected that all lenders will include the personalised data in the credit card cheque summary box during 2007.

The Government welcomes the introduction of the summary box for credit card cheques and believes it is an important step towards ensuring the necessary degree of transparency about the marketing and use of credit card cheques. The Government believes that it is particularly important that the summary box information will appear on all credit card cheque marketing material because a number of respondents to the consultation made the point that it is insufficient for the information to only be made available to new customers and that consumers do need regular reminders about the nature of the product given its relatively irregular use by most consumers.

Given the evenly divided opinion about whether or not it is necessary to regulate this area, the comparatively low level of consumer complaints about the product and the development by the industry of a credit card summary box, the Government does not believe that it would be a proportionate response at this moment in time to press ahead with specific regulatory measures. However, it is intended that the matter should be carefully monitored particularly with regard to the introduction of the

industry wide summary box by the end of 2006. The Government also believes that it is important the full version of the summary box (i.e. including the personalised data) is implemented by all lenders as early as practicable during 2007 and that this commitment to introduce a summary box is included in the revised version of the Banking Code. Should the summary box not become common place among credit card issuers by the end of 2006, or not prove effective in dealing with the concerns raised about the transparency of the product, the option to regulate will be re-considered.

### Regulatory Impact Assessment

In the partial Regulatory Impact Assessment published with the consultation document, it was suggested that consumers may suffer a detriment totalling £23m due to a lack of awareness of interest charging policies and the set fees associated with use of a credit card cheque.

On the question of set fees, the RIA estimated that this lack of awareness could result in detriment to consumers totalling around £4.6m based on a set charge of £2 per transaction. A number of respondents questioned this assumption. In particular, it was argued that the figure of £4.6m was too low on the basis that most issuers charge between 2-3% of the transaction and given that the average value of a credit card cheque transaction was thought to be £850, the overall level of detriment would be considerably higher than £4.6m.

On the question of interest charges, some respondents believed the level of detriment was overstated. The RIA referred to the 2002 Household Survey on Over-indebtedness which showed that only a third of cheque users were aware that they paid interest on the money drawn down on straight away. The RIA estimated that the resulting consumer detriment would be £18m if the same level of unawareness persisted and also assuming that the average interest on money spent using credit card cheques was 17%. The figure of £18m has been questioned on the basis that the 2002 survey took place before the Banking Code was up-dated to include specific provisions about credit card cheques and it was likely that more consumers were now aware of the level of interest and charges now than was the case in 2002. Also, that the 17% average interest rate was too high given that many credit card cheques are written at promotional rates.

The Government acknowledges the points that have been made concerning the level of consumer detriment and that the overall figure would need to be reviewed to include more recent information and to address these points in the event that any legislation is subsequently introduced in this area. However, providing the credit card cheque summary box does contain data concerning the level of interest charged and other fees payable by individual consumers, it is anticipated that the level of detriment due to a lack of awareness by the consumer should drop significantly.

### Unsolicited issuing of credit card cheques

Most of the companies who issue credit card cheques choose to do so at their discretion rather than at the customer's request. A number of respondents to the consultation were critical of this practice. Nevertheless, the Government's present

view remains that to ban the unsolicited issue of credit card cheques would be a disproportionate measure given the measures that have already been introduced into the Banking Code on the carrying out of appropriate checks concerning the prospective consumer's credit worthiness and the option for the consumer to opt-out of receiving credit card cheques.

The latter is considered to be particularly important and it is anticipated the presentation of this information in the proposed summary box will help consumers be more aware of their right to opt-out. Nevertheless, there was some evidence from the consultation that the right to opt-out does not work as effectively for some consumers as it should.

The Banking Code Standards Board (BCSB) is currently carrying out a themed review of credit card cheques which covers all issuers of the product. The review is intended to examine how effectively credit card cheques issuers are complying with the relevant provisions in the Banking Code. The ability to stop receiving credit card cheques is already part of the Banking Code and DTI has discussed some of the findings of the consultation in this regard with the BCSB so that they can follow-up these issues as part of their review. The review is expected to be completed by September 2006.

## **SPECIFIC CONSULTATION QUESTIONS: SUMMARY OF RESPONSES**

### **ARE THERE OTHER EXAMPLES OF WHERE CREDIT CARD CHEQUES ARE USED?**

Various examples were given in response to this question. One respondent pointed out that 80% of traders who advertise in Yellow Pages are not equipped to handle credit card transactions but can accept a credit card cheque. Also, some retailers, e.g. travel outlets, who do accept credit cards, impose a surcharge for their use. Therefore, consumers sometimes sought to avoid this cost by using a credit card cheque instead. Individuals, including third party entities such as limited companies and partnerships were other examples of recipients of credit card cheques. One respondent also pointed out that some users of credit card cheques may not have a bank account themselves.

### **WHY DO SOME MERCHANTS ACCEPT CREDIT CARD CHEQUES AND NOT CREDIT CARDS?**

The main reason given was that the merchant in question was not equipped to handle a credit card transaction. Usually this would be because the Merchant Service Charge involved for processing such transactions was not justified by the volume of credit business anticipated by the trader. Often, the kinds of businesses in question are small/mobile businesses, sometimes operating seasonally. Credit card cheques therefore, provide access to customers who want to pay by credit. In order to accept payment by credit card cheque, such businesses merely need to have access to a bank account.

### **WHERE DOES THE ASSUMPTION THAT THE CHEQUE WILL BE HONOURED COME FROM?**

Most respondents who answered this question did not believe that there is any actual assumption on the part of a merchant that the cheque would be automatically honoured. The position was thought to be very similar to the acceptance of ordinary bank cheques. Here, many such cheques are written for amounts that exceed the limit covered by the cheque guarantee card but many merchants will still accept the cheque. One reason for this may be that the recipient is either providing goods or services at a future date (as in the case of a travel agent) or knows where the customer lives and can seek recourse in the event that the cheque is returned unpaid. Similar considerations will apply to credit card cheques, the majority of which are not guaranteed at all. One respondent also commented that the merchant in question may not even realise that the credit card cheque is not an ordinary bank cheque given their similarity in appearance.

### **WHAT DOES THE RETAILER DO WITH A CREDIT CARD CHEQUE ONCE ACCEPTED? HOW DO THEY ENSURE THEY GET PAID?**

Credit card cheques are banked in the normal manner upon receipt. The process is no different than would be the case if the merchant had been presented with an ordinary current account cheque and many payees will probably not be aware of the distinction

between the two. The merchant will clear the cheque through their primary bank which may or may not be the same as the acquiring bank.

### **WHAT ARE THE ESSENTIAL CHARACTERISTICS THAT DEFINE A CREDIT CARD CHEQUE FROM AN ORDINARY BANK CHEQUE?**

Two respondents referred to the definition in the Bills of Exchange Act 1882<sup>3</sup> from which it could be concluded that standard current account cheques and credit card cheques share the same essential characteristics.

Beyond that, it was asserted that one essential defining characteristic of a credit card cheque is that the amount drawn plus any charges are applied to a credit card account as opposed to a current account. Therefore, the consumer's own money is not backing the cheque. Another respondent pointed out that in most cases (though not all) there is no cheque guarantee card issued in respect of credit card cheques. It was also pointed out that credit card cheques do not benefit from the same level of consumer protection as do credit card payments under section 75 of the Consumer Credit Act 1974.

### **WHAT EVIDENCE OF CONSUMER DETRIMENT CAN YOU PROVIDE CONCERNING THE UNSOLICITED PROVISION OF CREDIT CARD CHEQUES?**

In general, there was little direct evidence of detriment arising. One lender reported that credit card cheque issues are too low to register in the information the industry compile on customer complaints which would in itself suggest a very low level of detriment. Another lender asserted that there was no evidence that the use of credit card cheques resulted in a greater chance of default by the customer concerned.

A number of respondents pointed out that the cheques do not represent an increase of the credit limit, while lenders are required under the Banking Code to check customer suitability before issuing any credit card cheques. For example, one lender said that they do not issue credit card cheques to anyone under the age of 25, while another said that the cheques would not be sent to new customers.

Against this, there was thought to be some potential for consumer detriment due to the way the product was marketed – e.g. that the cheques could be thought of as a gift, especially ones that already had an amount of money filled in (a practice that has now been discontinued). This kind of misapprehension could lead to the potential for detriment if the cheques had been used when another form of credit might have been cheaper.

### **WHAT EVIDENCE OF CONSUMER DETRIMENT CAN YOU PROVIDE CONCERNING A LACK OF TRANSPARENCY ABOUT THE USE OF CREDIT CARD CHEQUES?**

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<sup>3</sup> A Bill of Exchange is defined in the same Act as 'an unconditional order in writing, addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed, to pay on demand, or at a fixed or determinable future time, a sum certain in money to, or to the order of a specified person or bearer'.

A number of respondents used this question to query the detriment analysis in the partial RIA. In particular it was thought that the average set fee of £2 was not very representative given that a fee set at around 2% of the value of the cheque was more typical. Therefore, if the average cheque value was £850, this would suggest a typical fee of £17 and a total detriment of around £40m as opposed to £4.6m.

Against this, one lender pointed out that it would appear that only 1% of all households had actually used a credit card cheque in the 12 months preceding the 2002 Household survey, while some of those who had been targeted in this period may now be prevented from being targeted following the changes to the banking Code in 2005. For further discussion of this issue, please refer to the questions about the RIA on pages x-x.

The other main point was that there seemed to be a distinction between the emphasis lenders give to the presentation of information concerning discounted offers. This was thought to be in contrast to the small print used for information concerning the terms and conditions of the cheques. This made it hard for consumers to make proper comparisons between the costs of using a cheque at a discounted rate with the costs of using one when the standard rates applied.

### **TO WHAT EXTENT HAS THE SITUATION CHANGED SINCE THE 2002 HOUSEHOLD SURVEY?**

The main development has been the introduction of the provisions in the Banking Code and APACS guidelines to help improve both the targeting of the cheques and the information customers are given about their use. In addition, one lender gave an example of change it had implemented concerning the lack of section 75 cover for credit card cheques. This information is now communicated to customers in more easily understood language.

One respondent also pointed out some other changes of industry practice, for example, fees are now usually charged where promotional rates are offered. This is to take account of those borrowers who regularly switch between promotional rates in order to obtain a long-term low interest rate.

### **HOW EFFECTIVE ARE THE NEW PROVISIONS IN THE BANKING CODE?**

No clear view emerged on how effective the new provisions in the Banking Code had been to date. There was a general consensus that the provisions (as well as the APACS best-practice guidelines) were a positive development but that the position would need regular monitoring and adjustment in order to keep on top of the concerns about the transparency of using a credit card cheque.

Some respondents thought the Code could go further, for example, by making it more obvious to existing customers that they had the right to opt-out of receiving credit card cheques. Another area singled out concerned the flexibility lenders have in terms of setting out the required information about the cheques and when the information

should be provided. It was thought, therefore, that the Code could be more made more explicit in relation to the presentation of key information.

### **ARE THERE OTHER KEY INFORMATION REQUIREMENTS (CONCERNING THE USE OF CREDIT CARD CHEQUES)?**

A number of respondents made suggestions in response to this question. The following is indicative of the information requirements that were suggested:

- Illustration of charges and total amount payable
- Details of handling fees
- Plain English explanation of section 75 position
- Whether credit card cheque transactions are treated like cash advances rather than purchases
- Explanation of the date from which interest will accrue
- Consequences of exceeding the credit limit
- How to safely dispose of credit card cheques
- How to opt-out

Others, while acknowledging the importance of transparency, thought it was important not to overload the customer with information to the extent that key information would be overlooked.

### **DO YOU HAVE VIEWS ON THE FORM AND CONTENT AND PROMINENCE REQUIREMENTS?**

A majority of respondents believed that information about credit card cheques should be presented in a standard format so that customer's could easily understand key information. A number of respondents supported the idea of a specific summary box for credit card cheques. It was thought that this would help achieve any objective to present key information together as a whole, although the key factor would be what kind of information would be included in any summary box.

It was felt important to convey key information in such a way that it was of equal prominence to the marketing sales messages. However, as far as prescribing what the disadvantages of the product might be, this was considered to be quite problematic given that different consumers use the product in different ways.

A variation to this approach, suggested by one respondent, was that there could be a requirement for a separate credit card cheque leaflet in which all the key information was shown together, with equal prominence and also relative prominence as compared with other information offered about the product.

Another respondent said that consideration should be given to amending the Consumer Credit (Agreements) Regulations so that prescribed warning statements would be required as a way of highlighting key messages, for example, that the use of a credit card cheque may not benefit from section 75 protection. In addition, it was argued that the agreement should be required to include an "opt-out" box that would require the consumer to indicate consent to being sent credit card cheques.

A number of respondents also made the point that it was important that clear signposting is given in respect of key information that would be subject to change. For example, where to get up-to-date information on interest rates or fees was particularly necessary given that a lot of consumers of credit card cheques did not use them straight away.

### **WHERE SHOULD ANY ADDITIONAL INFORMATION ABOUT CREDIT CARD CHEQUES BE LISTED – ON THE CHEQUE ITSELF OR WITH THE LITERATURE THAT ACCOMPANIES A CREDIT CARD CHEQUE?**

Most respondents thought that the information should appear with the accompanying literature or on the inside cover of a chequebook where one is used, rather than on the cheques themselves. One respondent thought that it would be possible to present the information on the first cheque in those instances where the cheques are issued on a page of A4 paper as opposed to in a chequebook.

Another respondent noted that the drawback of putting such information in the accompanying literature was that this could well become detached from the cheques themselves. One option to address this concern would be to specifically include advice about the need for the customer to retain key information when issuing the cheques. It was also pointed out that key information needed to be continuous – i.e. not just sent with the initial mailing and that such information should be shown whenever the use of a credit card cheque was being promoted, including related marketing material. On this basis, one respondent argued that such information should be included as part of the monthly credit card statement.

### **HOW FEASIBLE IS IT TO PLACE INFORMATION ON THE REVERSE OF THE CHEQUE?**

There was not much enthusiasm for this idea. Although a minority of respondents thought that it would be straightforward to put key information on the reverse of the cheque, the majority view was that there would be significant disadvantages with this proposal.

In particular, it was questioned whether consumers would actually read any information placed there. Information on the reverse of a cheque was generally intended for the recipient of that cheque. In any case there was a limit to the amount of information that could be set out without reducing the font size significantly.

There were also technical difficulties in respect of the type of ink depth that would need to be used in order not to distort the data on the face of the cheque. One lender also objected to this proposal because it would interfere with additional fraud measures they have put in place which requires customers to give extra information about their account details.

### **WHAT INFORMATION SHOULD BE PLACED THERE?**

Notwithstanding the overall response to the above question, a few respondents thought that if there were requirements to place information on the reverse of a

cheque, these should be along the lines of the requirements set out in Annex A of the consultation paper:

- Refer to monthly statement for details of charges and interest
- Handling fee - refer to statement
- Interest will apply from date of debit
- Cheques do not offer the same level of protection as a card transaction
- Cannot be used for balance transfers or outside the UK
- This cheque cannot be guaranteed

A few respondents thought the focus should be on warnings to the consumer of how credit card cheque transactions would differ from transactions using a credit card or a current account cheque. One respondent thought that because of the lack of space it would be better to require key information on the cheques by means of prescribed statutory warnings, e.g. “paying by credit card cheque will cost more than using a credit card and you may not have the same level of protection if things go wrong”.

### **COULD THE INFORMATION BE PLACED ELSEWHERE – E.G. ON THE COUNTERFOIL?**

There was general agreement that the limited space available on the counterfoil meant that there was even less scope to pass key information on to the consumer, while some credit card cheque issuers pointed out that they did not issue credit card cheques with a counterfoil.

However, some respondents thought there were some advantages with this approach, in particular because the counterfoil was facing the customer so stood more chance of being read. One option would be to use the counterfoil to direct consumers to information contained on the reverse of the cheque. One respondent thought that where the counterfoil was being used to display promotional interest rates, there should also be a requirement to show the “go-to” rate.

### **WHAT IMPACT WOULD THERE BE ON CONSUMERS? WOULD THEY READ THE INFORMATION?**

The consensus on this question was that if the consumer was at this stage reading the information for the first time it would be too late to influence them - the decision to write the cheque had already been made. Therefore, the key information needed to be presented alongside the offer of the cheques so that the consumer was in possession of this information before any decision to use the cheque had been made.

One lender commented that from their own research on this issue, few consumers actually paid attention to what was on the reverse of a cheque even when prompted to do so.

### **WHICH OF OPTIONS SET OUT IN SECTION 4 DO YOU PREFER? DO YOU HAVE ALTERNATIVE OPTIONS TO SUGGEST?**

The options were:

**Option 1:** Do nothing. Keep the operation of the credit card cheque sector under review in the light of the revised Banking Code.

**Option 2:** Use existing legislative powers to specify information that accompanies credit card cheques.

**Option 3:** Use existing legislative powers to require specified information to be printed on credit card cheques.

**Option 4:** A combination of options 2 and 3.

Opinion was fairly evenly split between options 1 and 4, with a slight majority favouring option 4. Only one respondent was in favour of option 2 on its own, while none favoured option 3 on its own.

One respondent thought that option 4 could be extended to include information in the credit agreement and in monthly statements. This should include an opt-in box as part of the initial credit agreement, linked to a full and clear description of the product.

Another respondent believed that a credit card cheque summary box should also be required in order to gather together key data in one place. Such data should include:

- the interest rates (promotional and “go to”) and fees applicable to the cheque
- the Section 75 position relating to the cheque
- allocation of payments information

## **RIA QUESTIONS**

### **DO YOU AGREE WITH ASSUMPTIONS USED AND THE ESTIMATE FOR THE POTENTIAL CONSUMER DETRIMENT ARISING FROM A CONSUMER FAILING TO UNDERSTAND THE CHARGES ASSOCIATED WITH THE USE OF CREDIT CARD CHEQUES?**

Opinion was divided on this question. While some respondents agreed with the assumptions used in the RIA, others did not, albeit for different reasons. One respondent said that the assumption of a £2 flat fee for using a cheque was wrong because most issuers charged between 2-3% of the transaction subject to minimum and maximum fees which would lead to a much higher level of consumer detriment.

Other respondents believed the figures contained in the RIA significantly overstated the level of detriment because a lot of credit card transactions are carried out during promotional rate periods (the RIA assumed an average interest rate of 17% on the basis that a lot of credit card cheques are written at promotional rates). Furthermore, a lot of credit cheques are used for balance transfers or to pay down other debt to the extent that there is a benefit to the consumer rather than a detriment. Another respondent, however, believed there was still scope for consumer detriment even with promotional rate transactions if the consumer was not aware of the allocation of interest payments used by the card issuer or if consumers were unaware of the “go to” % interest rate and the costs associated with that.

### **HAVE THE RECENT CHANGES TO THE BANKING CODE AND APACS GUIDANCE REDUCED THIS? WHAT EVIDENCE IS THERE TO DEMONSTRATE THIS?**

While the changes to the Banking Code and APACS guidance were widely welcomed, it was generally felt that it was too early to make a judgement as to their impact and no direct evidence was put forward that could make a direct link between the changes and any reduction in consumer detriment.

### **DO YOU AGREE WITH BENEFITS SET OUT UNDER EACH OF THE OPTIONS? ARE THERE ANY ADDITIONAL BENEFITS WHICH SHOULD BE INCLUDED? (WHERE POSSIBLE PLEASE SUPPLY QUANTIFIABLE ESTIMATES)**

Some respondents took issue with some of the perceived benefits that were set out against each option. A general point made was that any benefits arising through the provision of increased information about credit card cheques would be lost if the consumer did not read the information or could not understand it. For example, under Option 2, the idea that consumers should be told that they may receive credit card cheques would not be very beneficial unless the consumer was also given at the same time full information about the consequences of using a credit card cheque.

Another respondent disagreed with the assumption that the credit card industry would benefit from reduced costs if there was a ban on sending unsolicited credit card

cheques (option 5 in the RIA) because they would still want to run promotions like balance transfer offers and alternative means of promoting such offers could turn out to be more expensive.

**DO YOU AGREE WITH COSTS SET OUT UNDER EACH OF THE OPTIONS? ARE THERE ANY ADDITIONAL COSTS WHICH SHOULD BE INCLUDED? (WHERE POSSIBLE PLEASE SUPPLY QUANTIFIABLE ESTIMATES).**

Most respondents who answered this question agreed with the estimate of costs set out in the RIA.

One respondent thought that the £500,000 per annum cost involved in developing new printing processes (options 3 and 4) was an under-estimate and that the actual cost was more likely to be approximately double that amount.

Another respondent thought the assessment should have included the costs of recovering or writing off bad debts that arise due to a mis-use of a credit card cheque.

**ARE THERE ANY OTHER WAYS THAT WE CAN ENSURE THAT THE FINAL OPTION WE CHOOSE IS DESIGNED AND IMPLEMENTED IN A WAY WHICH MINIMISES COSTS TO BUSINESS?**

There were only a limited number of responses to this question and these responses did not contain proposals that were specifically intended to reduce costs to business. The consensus was that whatever proposal was adopted should be fair and proportionate. One suggestion made was that there could be a restriction imposed on sending credit card cheques during the time of an interest rate offer so that the consumer would need to specifically request further cheques at this time.

## **ANNEX A**

### **LIST OF RESPONDENTS**

APACS  
BANKING CODE STANDARDS BOARD  
BARCLAYCARD  
BRITISH BANKERS ASSOCIATION  
CATTLES PLC  
CITIZENS ADVICE BUREAU  
HBOS  
PETER HILL, ACIB, HILL BUSINESS CONSULTING  
BOB IMRIE, BA, MTSI, DMS, DCA, CONSUMER CREDIT TRAINING AND  
CONSULTANCY  
INSTITUTE OF CREDIT MANAGEMENT  
LACORS  
MBNA  
NATIONAL CONSUMER COUNCIL  
NATIONWIDE  
NOTTS COUNTY COUNCIL TRADING STANDARDS SERVICE  
OFT  
SOCIETY OF CHIEF OFFICERS OF TRADING STANDARDS IN SCOTLAND  
CHARLES STIRLING  
TRADING STANDARDS INSTITUTE  
WHICH?

End

DTI  
Consumer & Competition Policy Directorate  
September 2006