



Behind the times?

Change is (hopefully) coming: **Alexander Edwards** explores the benefits a reformed Consumer Credit Act 1974 might offer

IN BRIEF

▶ The UK government has committed to reform the Consumer Credit Act 1974. It is hugely out of date in its current form, and it fails to offer the consumer protection it set out to deliver.

▶ Technical terms will be simplified, and it will become easier and more cost-effective for businesses to implement regulation.

▶ The reforms to the Act will essentially allow lenders to provide a wide range of finance while maintaining high levels of consumer protection.

The Consumer Credit Act 1974 (CCA 1974) governs billions of credit card purchases and loans each year. Almost 50 years after its enactment, there is self-evident need for an urgent reform. It is out of date with today's modern world. In its current form, it fails to offer the consumer protection it set out to deliver, and some may say it could be contributing harm to consumers.

Unfit for purpose

While CCA 1974 may have been ahead of its time when originally drafted, it is highly prescriptive and confuses consumers, with the majority being unaware of what protections they have. In addition, CCA 1974 adds costs to businesses, which is both burdensome and unnecessary, and makes it difficult for them to comply with the requirements of the legislation. The legislation sought to regulate both the transaction and those deemed fit to enter the market, but the market is ever-changing and reform is necessary to ensure that the regulation is better designed to meet the needs of today's consumers and businesses.

Under the previous government, HM Treasury announced its commitment to reform CCA 1974. Indeed, the former economic secretary to the Treasury, John Glen, said in June that CCA 1974 'needs to

be reformed to keep pace with the modern world,' adding that 'we want to create a regulatory regime that fosters innovation but also maintains high levels of consumer protection'.

In its 2019 review of the CCA 1974 provisions, the Financial Conduct Authority (FCA) stated that the goal of the reformed Act would be to ensure it was 'an effective and proportionate regulatory regime which ensures appropriate protections for consumers' (bit.ly/3BUy3Bw).

Government intentions

A consultation on the direction of reform is expected to be published by the end of the year, setting out proposals to modernise CCA 1974 to reduce unnecessary costs for businesses and simplify rules for consumers, including:

- ▶ moving much of CCA 1974 from statute to sit under the FCA, enabling a quicker response to emerging developments in the consumer credit market, rather than having to amend existing legislation;
- ▶ simplifying ambiguous technical terms in order to enable consumers to understand clearly what protections they have;
- ▶ making it easier and more cost-effective for businesses to implement the regulation;
- ▶ taking advantage of the opportunity for regulatory reform post-Brexit to consider which EU legislation can be repealed or replaced in order to better serve the needs of the UK consumers; and
- ▶ enabling lenders to provide a wider range of finance, including for emerging technologies such as electric cars, while ensuring high levels of consumer protection.

UK Finance CEO David Postings supported the reform, saying: 'Replacing

this outdated legislation with regulatory rules that are suited to the modern world is the best way to protect consumers while allowing lenders to innovate and compete.'

While there has been a change of leadership in government since the announcements around the reform of CCA 1974 were published in June, it would appear that the current government remains committed to taking this reform forward. Time will tell if this remains the case.

Benefits of reform

It is important that consumers receive the correct information, presented in the most accessible way to them and at the right time. Key information should not be buried in documentation, warnings should be clearly visible, and the consumer should be in a position to make an informed decision.

One size does not fit all, and it is essential to recognise that different customers have different needs. At present, CCA 1974 requires the same information for all and ignores the needs of different customers. The FCA has suggested that this issue can be resolved by 'layering', whereby a covering note is sent to consumers clarifying the confusion the prescribed document has caused.

The major benefit of much of CCA 1974 moving under the FCA is that the FCA is keen to quickly respond to emerging developments and recognise that customers use different types of products and have diverse needs.

The reforms to CCA 1974 will essentially allow lenders to provide a wide range of finance while maintaining high levels of consumer protection. The information a consumer is provided with throughout the lending process will be made far easier to understand and more user-friendly.

Clarity ahead?

CCA 1974 is complex, and hard work over an extensive timeframe will be required to implement the necessary changes. Whether all parts of the legislation—including, but not limited to, the confusion around multiple agreements and variation agreements—will be reformed, is a question which remains to be answered. However, the consultation on the government's proposal, expected to be published by the end of the year, should hopefully bring some much-needed clarity to both consumers and businesses.

We hope that, despite a change in government, the new Treasury team under Liz Truss will continue to push this sorely needed reform forward.

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Alexander Edwards is a partner in the finance team at Rosling King LLP (www.rklp.com).