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Dear Craig,

TERMS & CONDITIONS AND CONSUMER PROTECTION FINING POWERS

We welcome the opportunity to comment on BIS's call for evidence on terms & conditions and consumer protection fining powers.

We believe the role of trade bodies and Codes of Conduct is missing from this call for evidence. Codes of Conduct provide a set of standards for companies to adhere to and give consumers an opportunity to have a company investigated if they do not adhere to the Code they have signed up to. Some trade bodies fine their members who are caught breaching their Code.

We would suggest that Government look further at promoting the benefits of Codes of Conducts and trade bodies and use penalties for serious breaches.

Specific Comments

i) Key terms presented "bold and upfront"

- a) If people knew key T&C would be "succinct, bold and upfront" would it encourage customers to read them? If yes how might it be achieved?**

We believe that if consumers are given the key facts of what they are agreeing to this helps with understanding. The BVRLA Code of Conduct for rental companies requires them to: "ensure that the terms and conditions are available to be read and accepted during the booking process. The terms and conditions must be available to download or details provided of how a copy can be obtained. They must be written in a clear way, avoiding industry jargon and acronyms (eg CDW, SC or FPO). Members must ensure relevant information from the terms and conditions is referenced throughout the reservation process, where appropriate."

- b) Would customers check the T&Cs if key facts were all fitted onto the equivalent of two smartphone screens? Yes/No.**

Yes provided they were readable, if to ensure the terms and conditions fit on one screen the font size had to be very small then we do not believe they would be read.

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c) How else could businesses make T&C documents and key facts genuinely accessible to customers in practice?

The current consumer protection legislation already ensures a high degree of clarity on key facts and t's and c's. However, our members are constantly alive to the need to go further on clarity, e.g. via interactive online explanatory tools or the high level of training they have in place. However, we believe that the Consumer Credit Act prescribed form does not lend itself to this approach or to utilising new mediums either such as smartphone and tablets. We would recommend that Key Facts should be offered in more than one medium to reflect different learning styles.

ii) The use of tick boxes

Do you agree that where tick boxes are used by business ticking the box should always mean "I want/agree to this"?

Yes we believe that in most cases the practice of people having to opt out of a tick box has been removed.

vi) Clarity on use of personal data

a. Where should consent on the use of personal data (e.g. sharing of data with third parties) be covered? (please state?)

We believe that this information should be in the terms and conditions and on websites prior to a consumer submitting their personal data.

b. T&Cs often refer to personal data and privacy policies. Are customers sufficiently aware of which other organisations their personal data will be shared with by suppliers. Yes/No

Yes but sometimes this takes the form of category of recipient rather than a defined list of each potential recipient, as that is not always practical.

9. Fining powers

The following questions are posed:

a) Would giving enforcers more tools to enforce consumer protection law help promote fairness to consumers and competition? Yes/No; Why is this? If so, which areas of consumer protection law is this most needed for?

It would if the resource is available for enforcers to use the tools.

b) What would be the main benefits, costs and drawbacks from having an option to impose civil monetary penalties for non-compliance?

We query the effectiveness of monetary penalties, as, particularly with significant fines, the end result may be a reduction of choice for the consumer or less competition as participants withdraw from the market or are forced out of business altogether. In addition, these are already sufficiently and actively pursued by the FCA.

Within financial services the Consumer Credit Act 1974 is a barrier to simplifying agreements and focusing attention on what is important to the consumer. This legislation requires significant amendment to ensure that it is not a barrier to treating customers fairly.

c) If civil monetary penalties were to be introduced, should this be done via a) administrative decisions by enforcers (subject to appropriate procedural checks and balances and appeal mechanisms); b) reference to civil courts; or c) Only to a limited extent through enhancing existing powers under the RES Act (i.e. excluding unfair terms); d) other ways (please specify); Why do you think this?

As above we do not believe that monetary penalties would be an effective solution.

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- d) Which enforcement bodies should be included if administrative or civil court powers to impose or seek monetary penalties were they to be granted? (All; CMA; CMA and other National regulators; other (please specify); None of them)**

We can only comment for the sectors we represent so would suggest the CMA and FCA are appropriate.

- e) Should new fining powers apply to all consumer protection rules including unfair terms? (Yes, apply to all; No only to limited provisions (specify which ones and whether in full or not); No – no need for fines at all)**

No.

Yours sincerely



Jay Parmar

Director of Policy & Membership

Bona-fides BVRLA, the industry and its members

- Established in 1967, the British Vehicle Rental and Leasing Association is the UK trade body for companies engaged in the rental and leasing of cars and commercial vehicles. Its members operate a combined fleet of 4.5 million cars, vans and trucks.
- BVRLA members buy nearly 50% of all new vehicles sold in the UK, an estimated 1 million vehicles (including 308,000 UK-made vehicles) per annum.
- Collectively, members of the BVRLA support around 317,000 jobs and contribute over £24.9 billion to the UK economy each year.
- Through its members and their customers, the BVRLA represents the interests of over 2 million business car drivers and 10 million people per year who choose to rent a vehicle.
- As well as informing the Government and policy makers on issues affecting the sector, the BVRLA regulates the industry through a mandatory code of conduct, helping its members deliver safe, sustainable and affordable road transport to millions of consumers and businesses. For more information, please visit www.bvrla.co.uk.