

BA Legal Report

March 2013

Banking & Payment Systems

[MEPs Vote for Payment Reform and Caps on Interchange Fees](#)

The Economic and Monetary Affairs Committee voted to cap debit cards at 0.2% or 7 cents whichever is lower and 0.3% for credit – to be implemented both cross border and nationally within a year of the regulation coming into force. The regulation will cover both consumer and commercial cards and remove the Honour All Cards Rule, which forces retailers to accept all cards irrespective of their cost. MEPs also voted that banks should not be allowed to circumvent the regulation with similar fees. Next steps are a plenary vote in the European Parliament at the start of April and Council negotiations on its position.

[Contactless payment transactions rise by 226% in past 12 months](#)

New figures have revealed that contactless payment transactions have increased by 226% compared to this time last year. The data from WorldPay shows that contactless payments more than trebled between 2012 and 2013, rising from 12.5 million UK payments processed by WorldPay in December 2012 to 43.6 million UK payments in December 2013. Worldpay's figures reveal that there are currently 38.1 million contactless cards in circulation across the UK making up 25.7% of all credit, and debit and charge cards.

Consumer Protection

[Alternative dispute resolution for consumers](#)

The Department for Business, Innovation & Skills is reviewing new European requirements of the [European Directive on Alternative Dispute Resolution \(ADR\) \(2013/11/EU\)](#) and the [Regulation on Online Dispute Resolution \(ODR\) \(524/2013\)](#) for alternative dispute and online dispute resolution into UK law. The new requirements aim to give European consumers greater access to redress, outside of court, should something go wrong with their bought goods or services. BIS is also seeking views on a broader reorganisation of consumer ADR.

[Alternative dispute resolution for consumers: implementing the Alternative Dispute Resolution Directive and Online Dispute Resolution Regulation](#). Responses can be made [online](#) or by completing a [response form](#) and email to: ADR@bis.gsi.gov.uk. The consultation closes on 3 June 2014.

Consumer Rights Bill


The Consumer Rights Bill, which implements the changes to the consumer protection regime including redress for defective goods and digital content, has received its Second Reading and started its committee stage. This will be completed by 14 March with the bill going to the Lords soon after. It will probably come into effect in October 2015. The BRC is generally supportive of changes in the Bill including the new digital content regime and the limiting of the right to reject to 30 days.

Primary Authority

The Scottish Retail Consortium has been successful in having Primary Authority introduced by the Scottish Government through the Regulatory Reform Bill. This will allow businesses in Scotland to have primary authority arrangements, which will mirror what already exists in England and Wales, across a number of devolved regulatory matters.

Copyright & Piracy

[Government response to consultation on EU copyright rules](#)

The UK government has responded to the European Commission's consultation on EU copyright rules. Its [response](#)  (95Kb) takes account of a 2013 public call for views on copyright in Europe and representations from stakeholders on the consultation itself. The UK response stresses the importance of copyright, the UK's desire to see a robust, flexible and modern copyright framework, and the need for any proposals to be grounded in good evidence.

[PA welcomes Government copyright support, urges full backing](#)

The Publishers Association (PA) has welcomed the UK Government's statement to the European Commission (EC) that copyright should be built upon a robust evidence base, be technology neutral, and protect the rights of creators as well supporting new businesses and services. The Government, responding to the EC's consultation on copyright, also said that it should not be assumed that exceptions were the solution to every problem, and noted the importance of efficient licensing solutions. The response comes as the Government prepares to publish statutory instruments to change copyright law in the UK.

Orphan Works Update

The consultation on orphan works, Copyright Works: Seeking the Lost, closed on Friday 28 February. The consultation covered both the proposed UK orphan works licensing scheme and the transposition of the EU Directive on certain permitted uses of orphan works. Responses to the consultation will be published in the next few weeks. A Government

response to the consultation will follow this by the end of May. The Government will consider the responses and whether any changes need to be made to the draft regulations or the impact assessments in light of these. The regulations that will give legal force to the UK and EU schemes in the UK are expected to be laid in Parliament by the summer, which would lead to them completing the Parliamentary process in October.

Employment

Employment Allowance

Employers can reduce the amount of [National Insurance contributions](#) (NICs) they pay for their employees by up to £2,000. This is called the Employment Allowance and can be claimed from 6 April 2014. The [Employment Allowance calculator](#) shows how the allowance could affect contributions. Employment Allowance is for nearly all employers that pay [Class 1 National Insurance contributions](#) on their employees' and directors' earnings. Employers can claim through your payroll software. To find out more see: [Employment Allowance](#).

Zero Hours Contracts

The BRC submitted a formal response to the Government consultation on zero hours contracts which closed on 13 March. The BRC has also been asked to submit a response to a Labour Party review on the same topic.

Environment & CSR

[Keep the carrier bag charge simple - MPs tell Government](#)

Plans to charge 5p for carrier bags to cut waste, litter and carbon emissions must be kept simple for the scheme to work, the Environmental Audit Committee has warned.

- [Report: Plastic bags \(HTML\)](#)
- [Report: Plastic bags \(PDF\)](#)
- [Inquiry: Plastic bags](#)
- [Environmental Audit Committee](#)

Chair of the Committee, Joan Walley MP, said: Ministers have managed to make a complete mess of their planned carrier bags charge by making it unnecessarily complicated. Exemptions for small retailers and paper and biodegradable bags make it confusing for consumers, potentially harmful for the recycling industry, and less effective than the Welsh scheme, where bag use has been reduced by over 75% with a straightforward 5p charge on all disposable carrier bags.

Scottish Packaging Recovery Note System

Following on from proposals outlined in the Scottish Government's 2012 consultation 'Safeguarding Scotland's Resources', Zero Waste Scotland has been tasked by the Scottish Government to review the feasibility of a separate Scottish system of PRNs. Valpak Consulting have been appointed by ZWS to undertake the feasibility study. If the proposals were to proceed – which would require primary legislation – then retailers would be required to operate a separate, Scottish specific, of waste reporting distinct to the current UK-wide system.

High Street

High Streets and Town Centres

The House of Commons Communities and Local Government Committee has published [written evidence](#) on High Streets and Town Centres from Mary Portas, Leader, Independent Review into the Future of the High Street. All written evidence received and published by the Committee can be found at [here](#).

[Second wave of Portas Pilots spend just a third of funds](#)

The second round of Portas Pilots have spent just 36% of the Government money allocated to them 18 months ago to resuscitate high streets. Freedom of Information requests from 11 of the 15 Portas Pilot towns show they were awarded £1.9m in taxpayer's money and match funding but have spent just £693,000 since it was awarded 18 months ago.

[Parking Consultation](#)

The BRC has responded to the The Communities & Local Government Parking consultation which closed on 14 February. The Government is considering how parking is enforced with the aim of ensuring that parking strategies complement and enhance the attractiveness of high streets and town centres. CLG has issued guidance which states that local authority parking strategies should be fair and reasonable and must not act as an unnecessary disincentive, particularly to shoppers who want to visit town centres. This consultation aims to tackle aggressive parking policies, which harm high streets; including a review of double yellow lines, legislating to allow "grace periods" and stopping CCTV being used for enforcement.

Internet Governance

[European Commission announces review of conflicting laws and jurisdictions that apply online](#)

In its Communication on "Internet Policy and Governance", the European Commission (EC) addresses several aspects with respect to Internet policy and governance.

Inter alia, the EC announces that it will launch an "in-depth review" of the risks present in conflicting laws and jurisdictions that apply online. The result might lead to possible legislative initiatives or additional guidelines, subject to impact assessments.

The Communication further states that the EC has identified "a number of contradictory legal decisions" that have been applied in an online setting and concludes that the review of risks presented by conflicting laws and jurisdictions is merited due to the "sheer quantity of cross-border transactions of various types which take place online".

Also, at the international level, rules to address conflicting laws and jurisdictions are "insufficiently developed, leading to unsolved conflicts of laws beyond the Union", in particular for online industries that are "cross-border in nature, such as cloud-computing services".

Loss Prevention

ACPO & Business Crime

The Association of Chief Police Officers (ACPO) has formally approved a single definition of business crime for the purposes of crime recording nationally. The introduction of a business crime definition will mean that the impact of crime on businesses can be properly measured for the first time. As a consequence of more accurate recording and analysis, it is hoped that police forces will be able to tackle it more effectively.

Tackling Violence Against Staff Guidelines

The BRC has published updated guidelines to help retailers protect their employees from violence and abuse. The Guidelines are endorsed by shop workers' union Usdaw and the Association of Convenience Stores. They set out examples of the action which can be taken by businesses to keep staff safe, from safety-conscious design of the working environment to conflict management training and having effective procedures for when an incident occurs. Download [here](#).

Pricing

[Pricing Practices Guide Review](#)

The Trading Standards Institute wants to know what businesses and consumers think about the existing Pricing Practices Guide (PPG), which sets out guidance for retailers on how to price goods and services and offer discounts or promotions. The PPG was developed in 1988 as way to protect consumers from misleading prices and help create a platform for fair competition for businesses. The guidance, which has no statutory force, is widely used by business to help demonstrate professional diligence in their pricing policies and practices. [TSI's call for evidence](#) will address these issues in 14 targeted questions about the PPG. All businesses and consumers are invited to [participate in the evidence](#).

The call for evidence will close on 30 April 2014.

[Click here to download the call for evidence.](#)

[Click here to participate in the survey.](#)

Property & Rates

[Committee calls for fundamental reform of business rates](#)

The current system of business rates is not fit for purpose and needs to be fundamentally reformed, says the Business, Innovation and Skills Committee in a [report](#). The Committee called for a wholesale review that goes beyond the administration of business rates to examine whether retail taxes should be based on sales rather than the rateable value of a property; whether retail needs its own system of business taxation; and how frequently revaluations should take place. In the interim, the Committee calls for a six months business rates amnesty for businesses occupying empty properties. This would go further than the 50% reduction announced in the Autumn Statement and would encourage new businesses to the High Street. The Committee also recommends that in the interim the Government review whether business rates are more appropriately linked to CPI or RPI and calls for annual increases to be linked to a 12 month average of either RPI or CPI, with a cap at 2%. This would replace the current link to a monthly snapshot of RPI.

[40% of retail sites 'overpaying' business rates due to deferred revaluation](#)

Some 40% of UK retail sites are paying over the odds in business rates due to the Government's controversial decision to defer a property revaluation to 2017. Research from property firm Jones Lang LaSalle (JLL) Retail calculated that the deferred revaluation two years from 2015 to 2017 also found 28% of locations are benefitting from the measure, while 32% of sites are unaffected by the proposal.

[Sir Terry Leahy calls for business rates to be reformed or scrapped](#)

Former Tesco chief executive Sir Terry Leahy has called for the UK business rates system to be completely reformed or scrapped and started again. In an interview with the BBC, Sir Terry said the present system was an "ancient tax based on the value of physical buildings" which had not worked for years. He also said that in a "modern digital economy" the economy worked in "a different way" and therefore he would suggest scrapping the current system and starting again.

[Retailers call for reform of rates as high street suffers](#)

The number of shoppers visiting Britain's high streets have fallen sharply, prompting new calls from retailers for the Chancellor to commit to a reform of business rates in the Budget this week. Footfall at retail destinations fell by 2.9pc in February compared to a year ago, with high streets down 5.3pc, the worst figure for a year, according to new data from the British Retail Consortium and Springboard. In the Autumn Statement last year, George Osborne offered retailers a £1.1bn package of business rates relief and said the Government will explore whether to reform the tax. However, retailers are concerned that Mr Osborne intends to just tweak the existing business rates system and are pushing for a thorough overhaul of the tax.

[Retail Reveals Ground Breaking Rates Reform Options](#)

The British Retail Consortium has published → [The Road to Reform](#), a range of ground breaking ideas for the complete reform of the UK business rates system. These potential options, that have been designed with BRC members and EY (Ernst&Young), are intended to create imaginative and innovative debate to feed into the Chancellor's Discussion Document. The BRC welcomes publication of the framework the Discussion Document and is looking forward to engaging with the Treasury on the way forward. The potential options the BRC are opening up for further discussion are:

- 1. Shifting the basis for taxing property** by replacing the current system with a tax based on other measures, for example, energy usage
- 2. Rewarding employment** by delivering a discount to the Business Rates bill based on a given value per employee, capped at an overall proportion of company rates bill
- 3. Supporting successful business** by providing a discount to the Business Rates bill based on a percentage of Corporation Tax payment, capped at overall proportion of company rates bill
- 4. Modernising the existing system** by introducing a simplified, banded revaluation system, with revaluations on a more regular basis

[Business rates administration review](#)

HM Treasury and The Department for Communities and Local Government have published the [Business rates administration review: terms of reference](#), which applies to England only. Key areas of focus will include: the administration of billing and collection by the Valuation Office Agency (VOA) and Local Authorities (LAs), the backdating of bills (liabilities and refunds), valuation methods (based on rental property values), and the frequency of revaluations.