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Dear Aaron,

Debt management (and credit repair services) guidance – response from the Association of British Credit Unions Limited (ABCUL)

We welcome the opportunity to respond to this consultation. ABCUL is the main trade association for credit unions in England, Scotland and Wales, and our members serve around 80% of Britain's credit union membership. Credit unions are not-for-profit, financial co-operatives owned and controlled by their members providing safe savings and affordable loan facilities. Increasingly credit unions offer more sophisticated products such as current accounts, ISAs, Child Trust Funds and mortgages.

At the end of March 2011, credit unions in Great Britain were providing financial services to 808,686 adult members and held more than £682 million in deposits with more than £586 million out on loan to members. An additional 114,709 young people were saving with credit unions.¹

The Credit Unions Act 1979 sets down in statute the objects of a credit union; these are four-fold:

- The promotion of thrift among members;
- The creation of sources of credit for the benefit of members at a fair and reasonable rate of interest;
- The use and control of their members' savings for their mutual benefit; and
- The training and education of members' in the wise use of money and in the management of their financial affairs.

Credit unions in Britain often extend financial services to those unfairly excluded from the financial services the majority take for granted. They are owned and controlled by a restricted membership and are operated for the sole benefit of this membership. In the past decade, British credit unions

¹ Figures from unaudited quarterly returns provided to the Financial Services Authority

have trebled their membership and assets have expanded four-fold. As this growth has taken place, the role that credit unions can play – both in providing equitable financial services to the whole of their communities and providing diversity in the financial services sector – has been increasingly recognised by government and policy-makers.

The guidance

We will make only general comments on the guidance as presented for consultation since overall we are supportive of the measures in the document and feel that the new draft is an improvement upon the previous version. Indeed, our principal comments do not pertain directly to the guidance itself but rather to the measures which exist to enforce the guidance effectively.

Firstly, as mentioned, we are supportive of the draft as set out. It sets clear parameters within which debt management companies are expected to operate and which, if complied with, provide robust protection for vulnerable consumers against malpractice and abuse by unscrupulous firms. We appreciate the fact that the guidance as developed seems to have been designed to address concerns that the credit union sector and others have been expressing for some time about the conduct of the debt management industry.

Some of the key concerns that our membership has expressed about the conduct of debt management companies are as follows:

- Delays in putting plans into place
- Refusal to enter into discussions on a proposed plan – one member estimated this to be the case in 75% of cases
- Unrealistic budgets – reports that debt management customers are sometimes encouraged to inflate their monthly outgoings to the limits of what's acceptable
- Disproportionate and unfair fees – 50% or more of total monthly payment in some cases
- Dysfunctional relationships post plan-agreement – often payments are missed, irregular and therefore of little real benefit.

The guidance addresses each of these areas providing a much greater level of clarity as to what is expected of regulated firms and this is a very welcome step.

We would make some suggestions for further enhancement of the guidance:

- The OFT should consider the introduction of a standardised disclosure statement which debt management companies should have to display in advertising material and at any online

presence. Similar measures have been taken by the Financial Services Authority in relation to mortgages and the risks involved in taking out a secured loan or in relation to the compensation coverage enjoyed by depositors under the Financial Services Compensation Scheme. Such a prescribed disclosure for debt management firms would set out exactly what service the firm is offering, the limits to this service, the risks that it carries in relation to a person's credit rating and access to credit in future, and the costs associated with the service.

- The OFT should encourage further clarity around the Common Financial Statement and the processes behind, and the accountability of, the calculations used to produce the standardised trigger figures. Whilst we welcome the guidance's stance on manipulating expenditure figures to 'max-out' trigger figures, our members have some concerns with some of the figures themselves such as the necessity of running an expensive motor vehicle in an urban area or some other items – such as subscription television e.g. Sky – which seem to be listed as essential where to many in society they would be considered a luxury.
- There should be a formal acknowledgement within the guidance for the value in conducting business such that a client does not lose all access to affordable financial services in future. Citizens' Advice recently issued revised guidance to its Bureaux which states that advisers should consider the potential for clients to lose access to an inclusive financial service should a certain plan of action be pursued and that adjustments can be made to preserve a client's access to fair services where they would otherwise be left with no access or access only to high cost alternative services – similar direction should be considered by the OFT for inclusion in the debt management guidance.
- Fee-charging debt management companies should be under an obligation to disclose the fact that there are alternative debt management schemes in operation which are free to the debtor and take their fee from the creditors.

To come onto our concerns regarding the enforcement of the guidance, the guidance only has value in as far as there are clear mechanisms for creditors and other interested parties to highlight malpractice where they find it.

We would like to see the development of an online facility providing supplementary guidance and contact details specifically for creditors so that credit unions that experience malpractice have clear information against which to assess their concerns and a point of contact for raising any valid concerns with the OFT and other enforcement agencies.

Furthermore, we feel that more resource should be dedicated to enforcement in the debt management arena. Whilst the guidance presented is a welcome enhancement of the expectations upon debt management firms, much of the expectations therein are simply a clarification or expansion of obligations set out in previous such guidance – the real problem,

therefore, has been the lack of well-resourced enforcement of the guidance rather than a lack of guidance itself.

ABCUL and our member credit unions are committed to disseminating any information that the OFT can develop to enhance the ability of our sector to highlight malpractice in the debt management industry as to do so is in the interests of all concerned, particularly those vulnerable consumers who too readily fall prey to unlawful practices at present. We would be happy to meet with OFT to ensure that any support OFT provide to assist credit unions in protecting their members is user-friendly and widely distributed.

We would also like to take this opportunity to raise the issue of statutory debt management regulation. In 2009, the Ministry of Justice conducted a consultation into the case for statutory regulation of the debt management sector and there was a mixed response to this. Since this time, with the general election that took place and the major reforms proposed around financial services regulation, enhanced supervision of debt management has been pushed down the order of priorities. We would urge the OFT and government to revisit the case for stronger specific regulation and supervision of debt management companies – either separately or under the auspices of either the OFT or the Financial Conduct Authority – as presently these firms are allowed to freely operate without effective oversight.

As mentioned above, ABCUL would be happy to meet with representatives of the OFT to discuss how we may be able to facilitate the effective enforcement against bad practice in the debt management sector and to assist in the development of supplementary guidance for creditors to assist them in highlighting malpractice. To take any of this forward please contact Matt Bland, Policy & Communications Officer (matt.bland@abc.ul.org / 0161 819 6933).

Yours sincerely,



Mark Lyonette
ABCUL – Chief Executive
August 2011