

## April, May, June 2011

28/06/2011

OFT to take action over passenger travel sector payment surcharges

Subject: Sales and Marketing/Unfair commercial practices

Source: Office of Fair Trading

<http://www.offt.gov.uk/?itemId=804589>

The OFT has put passenger travel companies on notice to change misleading debit and credit card surcharging practices or face enforcement action under consumer protection laws.

Publishing its findings on these surcharges, following a super-complaint from Which?, the OFT also calls for the law to be updated to stop consumers being surcharged when buying goods and services with any debit card.

A 90 day OFT investigation into the issue, which focused on the passenger transport sector, found considerable evidence of companies using 'drip pricing' practices for surcharges online - adding payment charges to the total price only after consumers have filled in a number of web pages during their purchase. This practice is particularly prevalent in the airline sector - where the OFT estimates UK consumers spent £300 million on payment surcharges during 2009.

The OFT considers that surcharging for using a credit or debit card is potentially misleading to consumers when it comes as a surprise - particularly when free payment mechanisms are only available to a small proportion of consumers, making a surcharge effectively compulsory.

To make headline prices truly meaningful and comparable, the OFT is calling for traders to stop charging for paying with any debit card - the online equivalent to cash. Traders should still be able to impose surcharges for other payment mechanisms such as credit cards, which can be more costly to process, provided that they meet the minimum transparency requirements set out by the OFT in today's report.

The OFT is currently discussing surcharging practices with a number of passenger travel companies to secure compliance with Consumer Protection Regulations and will take enforcement action as necessary.

To provide certainty for consumers and businesses in the longer term, the OFT is asking the Government to change the law to prohibit surcharging for all debit cards.

Comment: This has been a significant issue for customers for many some years but it took a "super complaint" by Which? in order to prompt the OFT into action. This is mainly an issue in the travel sector but all businesses which make surcharges on credit and debit card transactions should take note.

27/06/2011

OFT publishes competition law guidance as survey shows business awareness rising

Subject: Competition law

Source: Office of Fair Trading

<http://www.offt.gov.uk/news-and-updates/press/2011/75-11>

The OFT today launched new guidance, and a film including a dramatised dawn raid, to help businesses comply with competition law. This coincides with the publication of research showing business awareness of competition law has grown but has further to go.

Businesses' knowledge of competition law has doubled in the last four years, following a period of high profile competition law enforcement across a range of major sectors - 65 per cent of larger businesses surveyed said they were aware of such enforcement by the OFT.

A competition law compliance culture can help businesses avoid the risks of infringing the law: fines of up to 10 per cent of worldwide turnover, director disqualification orders and imprisonment for up to five years for individuals involved in cartels.

The OFT has worked with business groups to develop the new guidance. The first document, *How Your Business Can Achieve Compliance*, is aimed at businesses and their advisors, and sets out the OFT's recommended risk-based, four-step approach to creating a culture of competition law compliance.

Reflecting the crucial role directors play in compliance the second document, *Company Directors and Competition Law*, explains the level of competition law understanding expected from directors. It outlines steps they should take to prevent, detect and stop infringements of competition law.

The independent survey of over 2,000 businesses, carried out for the OFT, found 25 per cent felt they knew 'a lot' or 'a fair amount' about competition law, which is double the number (12 per cent) in a similar survey in 2006. For larger businesses this number was higher at 45 per cent, with only 13 per cent of executives from these larger firms saying they knew 'nothing' about competition law.

The survey found that smaller businesses were less able to identify practices that breach competition law.

27/06/2011

UK business set to benefit from simpler and cheaper patent system for Europe

Subject: Intellectual property/patents

Source: Department for Business, Innovation and Skills (National)

<http://nds.coi.gov.uk/content/Detail.aspx?ReleaseID=420121&NewsAreaID=2>

A single European patent looks ever more likely as ministers reached important agreements on the detail of a unitary patent at the Competitiveness Council in Luxembourg today.

For the first time in 60 years, ministers have agreed on the languages regime for the patent – the number of translations which applicants need to file to get their patent. This is a significant achievement for the UK, the Hungarian Presidency and the Commission. They also agreed on the technical details of the patent itself.

As a result it will be easier and cheaper to register patents, with far fewer translations required than at present. The availability of a single patent for the European market will be an incentive for innovation and will enhance the competitiveness of European businesses.

Agreement of these two regulations, one establishing the patent and one on the language regime for the patent, will radically reduce the cost of translating patents in Europe by up to 80 per cent. This will also allow any company or individual to protect their inventions through a single European patent valid in 25 countries.

A recent independent review of Intellectual Property and Growth by Professor Ian Hargreaves found that establishing a unitary patent would remove IP barriers between EU countries and could increase UK national income by over £2 billion a year by 2020.

24/06/2011

Blow the whistle on red tape and lack of common sense

Subject:

Source: Department for Business, Innovation and Skills (National)

<http://nds.coi.gov.uk/content/Detail.aspx?ReleaseID=420077&NewsAreaID=2>

A new challenge to business owners, employees, the public and even government inspectors was laid down today, asking them to blow the whistle on inconsistent and over-zealous enforcement of rules and regulations.

The new drive is a direct result of comments already made by the public as part of the Red Tape Challenge. The Government wants people to use their experience of different regulators and say where tick-box regulation, multiple inspections and conflicting advice is getting in the way, harming their business and preventing economic growth.

The new initiative asks the public and businesses:

Which aspects of enforcement do you find most difficult to deal with and how could things be done differently?

What impact do these problems have on your business?

Do regulators recognise where you have made efforts to comply? What more do you think could be done to ensure regulators take your efforts into account?

Is it easy for you to appeal or complain about the way regulations are enforced?

Do you have any examples of good "common sense" enforcement where you feel that a regulator has really done its best to understand and work around the realities you face as a business?

Is enforcement flexible enough to keep pace with the way your business is developing?

23/06/2011

Consumer Rights: Parliament approves new EU-wide rules for on-line shopping

Subject: Selling and marketing

Source: European Parliament

<http://www.europarl.europa.eu/en/pressroom/content/20110622IPR22326/html/Consumer-Rights-Parliament-approves-new-EU-wide-rules-for-on-line-shopping>

An EU-wide right for consumers to change their minds about an on-line purchase within two weeks of receiving the good, and new requirements that on-line traders must give buyers precise information on the total price, the goods ordered and the trader's contact details, are among the benefits of new rules approved by Parliament on Thursday.

Next steps: after today's final vote in Parliament, the last, formal approval by the Council of Ministers is expected to take place in July. Member States will have a maximum of two years to implement the new rules.

Legaleze comment: The directive unifies consumer rights and seller obligations in relation to internet shopping, with the aim of increasing cross-border sales. This is a draft directive which is not yet approved by the Council. Implementation in the UK will likely take two years. The draft directive would make limited changes to UK consumer law. The cancellation period for distance selling will be 14 days (currently 7 working days) from delivery and clearer pricing information must be provided. Customer service helplines must be charged at normal (not premium) rates (art 21) and credit and debt card charges must be passed on at the rate they are charged to the retailer, not a mark-up (art 19).

It is premature to take any action until at least two years, when the final version of the directive is adopted and the UK government starts the usual consultation process.

23/06/2011

Government exceeds apprenticeship ambition

Subject: Apprenticeships

Source: Department for Business, Innovation and Skills (National)

<http://nds.coi.gov.uk/content/Detail.aspx?ReleaseID=420061&NewsAreaID=2>

The Government's ambition to deliver 50,000 additional apprenticeships has been substantially exceeded, official statistics show today.

The statistics show that the Government has actually delivered over 103,000 additional adult apprenticeship starts over the 2010-11 financial year. In May 2010 the Government announced an aspiration to deliver 50,000 additional adult apprenticeship places during this time.

Provisional data shows that there were a total of 257,000 adult apprenticeship starts have been delivered between April 2010 and March 2011.

By the end of this Parliament, the Government is committed to supporting an additional 250,000 apprenticeships, compared to the previous Government's plans.

23/06/2011

OFT acts to improve compliance with money laundering regulations

Subject: Money laundering regulations

Source: Office of Fair Trading

<http://www.oft.gov.uk/?itemId=803559>

The OFT today issued a reminder to businesses it supervises under money laundering regulations to improve compliance or risk enforcement action.

The reminder comes as the OFT announces the findings of two separate pilot programmes, designed to identify and address compliance and registration issues across the UK.

The first targeted estate agents in England, Wales and Scotland, and focused on registration. The second concentrated on the compliance of estate agents in Northern Ireland.

The review in England, Wales and Scotland uncovered 213 unregistered estate agents. After the OFT made contact, 212 registered and a penalty of £2,000 was imposed on one trader for failure to register - the trader has now registered.

The Northern Ireland compliance pilot was undertaken jointly with Trading Standards staff. It revealed low levels of estate agent compliance, including problems with verifying customer identity and implementing policies and procedures designed to reduce the risk of the businesses being used for money laundering purposes.

All but one of the 22 estate agents visited required extensive advice on how to comply. The OFT provided businesses with individual advice and will also contact trade associations to further improve members' compliance.

22/06/2011

Cracking ideas bring cracking results

Subject: Intellectual property

Source: Department for Business, Innovation and Skills (National)

<http://nds.coi.gov.uk/content/Detail.aspx?ReleaseID=420055&NewsAreaID=2>

Nine aspiring innovators from across the UK have had a cracking result and won a competition to come up with new designs for a theme park or ride. 'Lava Springs', 'Wacky World' and 'Belter Skelter' were among the winning entries for this year's 'Cracking Ideas' competition.

Wallace & Gromit are the inspiration behind 'Cracking Ideas' which is aimed at children between the ages of 4 and 16 and is run by the Intellectual Property Office. Having seen off competition from around 6,000 entries the regional winners have been announced and are now in with a chance of being crowned the national champion for 2011.

The campaign encourages innovators and entrepreneurs of the future to ensure that they understand how they can create value from their ideas. Kids between the ages of 4 and 16 were asked to develop a new theme park or ride and to identify how intellectual property can help them protect their creativity.

Comment: this competition is a great initiative by the Intellectual Property Office. The "Cracking Ideas" website is well worth a visit if you have children or are interested to see what young inventors in the UK are up to.

22/06/2011

Mary Portas makes first town centre visits as part of her high street review

Subject: Government SME policy

Source: Department for Business, Innovation and Skills (National)

<http://nds.coi.gov.uk/content/Detail.aspx?ReleaseID=420042&NewsAreaID=2>

The Department for Business, Innovation and Skills (BIS) today announced that Mary Portas will spend today visiting the town centres of Rugby and Sparkbrook. These visits are the first of a number of engagement events Portas will undertake across the country as part of a Government commissioned independent review into the High Street

The independent review will seek to identify what government, local authorities and businesses can do to promote the development of more prosperous and diverse high streets. It forms part of the Government's wider Growth Review which is examining how it can remove the barriers to achieve strong, sustainable and balanced growth that is more evenly shared across the country and between industries.

Legaleze comment: most people will welcome this initiative as long as its recommendations are actually put into effect. Most of us are only too familiar with high streets suffering from vacant shops, too many charity outlets and general decay. A particular aim of the review which is to be applauded is to increase the number of small and independent retailers doing business in local town centres.

14/06/2011

ICO tells CCTV website Internet Eyes to make changes following privacy concern

Subject: Data protection/CCTV

Source: Information Commissioner's Office

[http://www.ico.gov.uk/~media/documents/pressreleases/2011/internet\\_eyes\\_news\\_release\\_20110614.pdf](http://www.ico.gov.uk/~media/documents/pressreleases/2011/internet_eyes_news_release_20110614.pdf)

Internet Eyes is a website which streams live CCTV images from retailers' shops to registered users who can get rewards if they spot and report crimes that they see taking place. The ICO received one complaint about a clip posted on video sharing website YouTube that contained an identifiable image of a person in a shop. The clip appeared to have been uploaded by a viewer who had used the CCTV footage streamed to their computer from the Internet Eyes website.

The ICO's investigation found that Internet Eyes had failed to make sure that the transfer of CCTV images it was streaming to its viewers over the internet was encrypted. The company also did not keep a full record of its viewers' activities and so were unable to identify which viewers had monitored specific footage. This meant Internet Eyes was unable to determine which viewer posted the clip online.

The Information Commissioner's Office (ICO) has required Internet Eyes to make significant changes to the way it operates. Internet Eyes agreed to the terms of the undertaking laid down by the ICO. This committed them to make immediate changes to their service to address the privacy concerns raised. This included encrypting the transfer of CCTV images, putting in place an audit trail for viewer activity as well as ensuring proper checks are carried out on registered viewers. The ICO also required Internet Eyes to put a further change in place by 31 July to ensure that no viewer can access footage from cameras located in the same postcode, or in any postcode district within a 30 mile radius of the viewer's registered location.

Comment: the ICO assert and is generally accepted that images whether still or moving fall within the definition of data for the purposes of the Data Protection Act although the Act does not state so specifically and there is no decided case. For further information, See: Data Protection/CCTV.

14/06/2011

Small businesses given better access to justice to protect their rights

Subject: Intellectual property/patents

Source: Department for Business, Innovation and Skills (National)

<http://nds.coi.gov.uk/content/Detail.aspx?ReleaseID=419912&NewsAreaID=2>

Small and medium sized businesses are set to benefit from a new law that comes into force today which will give them easier access to justice to protect their patent and design rights. A damages cap of £500,000 for claims made in the Patents County Court (PCC) means small companies claiming damages up to that amount are less likely to face a potentially more expensive trip to the High Court.

The Patents County Court (Financial Limit) Order 2011 creates a clearer definition of what disputes can be heard in the PCC and which ones should go to the High Court. Previously, a business with a legal case worth less than £500,000 could face litigation in either court with unknown levels of financial risk.

The change in law will ensure that lower value, less complex cases, which would typically involve small businesses, will automatically fall within the jurisdiction of the lower, cheaper PCC. Therefore the risk of having costly disputes over where the case should be heard will be reduced. In the past some companies were put off protecting their rights due to the uncertainty of how much it would cost.

Support for the limit was expressed by small and medium sized businesses during a full public consultation on the reform of the PCC. The effectiveness of the damages cap will be monitored with a formal review in 2014.

Work is now underway to expand the law further so the damages cap will cover cases of copyright and trade marks in the PCC.

13/06/2011

HMRC extends tax cheats campaign

Subject: Tax

Source: HM Revenue & Customs (National)

<http://nds.coi.gov.uk/content/Detail.aspx?ReleaseID=419897&NewsAreaID=2>

New campaigns targeting VAT defaulters, private tutors and e-marketplaces will be launched by HM Revenue & Customs (HMRC) over the next year.

HMRC will use cutting-edge tools such as “web robot” software to search the internet and find targeted information about specified people and companies. Using the software, the department can pinpoint more accurately people who have failed to pay the right tax. The “web robot”, used with the department’s Connect computer system, also helps find people who are trading without telling HMRC.

Connect alerts HMRC to previously invisible tax evasion by matching a vast amount of HMRC and third-party data, enabling a fast and focused response to tax evasion. It shines a light onto previously hidden relationships, uncovering anomalies between such elements as bank interest, property income and lifestyle indicators before homing in on unexplained inconsistencies.

Before designing and launching the campaigns, the department will seek input from interested parties.

HMRC announced last month that a campaign targeting VAT rule-breakers trading above the £73,000 turnover threshold but who have not registered for VAT will be launched in the summer.

10/06/2011

Government publishes consultations on Patent Box and R&D tax credits

Subject: Tax/R&D

Source: HM Treasury (National)

<http://nds.coi.gov.uk/content/Detail.aspx?ReleaseID=419850&NewsAreaID=2>

The Government has published consultation documents on the Patent Box and Research and Development (R&D) tax credits as part of its plans to make the UK’s tax system the most competitive in the G20 and to make the UK the best place in Europe to start, finance and grow a business.

The Patent Box will apply a 10% corporation tax rate to profits attributed to patents from April 2013. The document published today consults on detailed proposals for the Patent Box’s implementation, and gives more information about which patents and associated intellectual property types and what income will be eligible.

The proposals published today in the R&D tax credits consultation will further simplify the scheme by, among other things, changing the rules to extend the credit so that the costs of more contract workers qualify. The Government is also to pilot a process that will allow small companies and start-ups to find out what projects will qualify for the credit at an early stage in their development to

assist in planning. The Government would like to explore further with companies the evidence base for moving to an 'above the line' credit.

The Patent Box consultation asserts that Britain has a long and proud history of great inventions and discoveries which have been made in this country. But in recent years, too many companies have been choosing to move their patents offshore. This has cost the country valuable jobs in development, manufacturing, and exploitation of patented technologies, which have been attracted to other countries with more favourable corporation tax regimes. The Patent Box will help to re-establish the UK as a top location of choice for innovative industries.

"Patents" will also include certain plant variety rights, but the Government has rejected representations to include copyright and trademarks within the Patent Box regime as well as patents.

Comment: while this proposal is to be welcomed, there will be complexity in applying the proposed 3 stage methodology in computing the "patent box profit" which will qualify for the reduced tax rate and associated accountancy costs.

9/06/2011

Red tape challenge to equality regulation

Subject: Government SME policy

Source: Home Office (National)

<http://nds.coi.gov.uk/content/Detail.aspx?ReleaseID=419861&NewsAreaID=2>

The government has invited businesses and voluntary and community organisations to tell it how to cut bureaucracy and boost business in relation to the Equality Act 2010. The director of people and policy at BT, Caroline Waters has been enlisted to act as sector champion and is fully behind the drive to ease the stranglehold on business, while ensuring that necessary regulation remains. She will also provide expert knowledge on the issues faced by those on the shop floor and act as an intermediary between the sector and government.

The Red Tape challenge website was launched by the Prime Minister and Business Secretary Vince Cable in April. It will, for the first time, give the public a chance to have their say on regulation that affects their everyday lives; whether it's to speak up for well designed rules that are there to protect or challenge badly designed or badly thought out requirements that are an unnecessary burden.

23/05/2011

Motorists are being warned to insure their vehicles ahead of a new crackdown to tackle the menace of uninsured driving.

Subject: Road transport

Source: Department for Transport (National)

<http://nds.coi.gov.uk/content/Detail.aspx?ReleaseID=419602&NewsAreaID=2>

Under the new Continuous Insurance Enforcement law – which will affect all motorists from June 20 – it is an offence to keep an uninsured vehicle, rather than just to drive when uninsured.

A national advertising campaign will be launched by the Motor Insurers' Bureau today to raise awareness of the law.

Under the new system, the DVLA will work in partnership with the Motor Insurers' Bureau to identify uninsured vehicles.

Motorists will receive a letter telling them that their vehicle appears to be uninsured and warning them that they will be fined unless they take action.

If the keeper fails to insure the vehicle they will be given a £100 fine.

If the vehicle remains uninsured - regardless of whether the fine is paid – further action will be taken. If the vehicle is on public land it could then be clamped, seized and destroyed. Alternatively court action could be taken, with the offender facing a fine of up to £1,000.

Seized vehicles would only be released when the keeper provided evidence that the registered keeper is no longer committing an offence of having no insurance and the person proposing to drive the vehicle away is insured to do so.

Vehicles with a valid Statutory Off Road Notice (SORN) will not be required to be insured.

The new law will run alongside the existing offence of using a vehicle with no insurance, which is enforced by the police. The police seize 180,000 vehicles each year for this offence, and offenders also face a £200 fixed penalty or a court fine of up to £5,000 and possible disqualification.

The DVLA's records will be compared regularly with the Motor Insurance Database (MID) and this process will identify registered keepers of vehicles that appear to have no insurance. All drivers can check their vehicle is recorded on the MID for free - visit [www.askMID.com](http://www.askMID.com).

18/05/2011

The Hargreaves report shows potential to boost economy

Subject: Intellectual property

Source: Department for Business, Innovation and Skills (National)

<http://nds.coi.gov.uk/content/detail.aspx?NewsAreaId=2&ReleaseID=419543&SubjectId=16&AdvancedSearch=true>

Changes to Intellectual Property systems could add up to £7.9 billion to the UK's economy, the first report looking at how it can drive growth said today.

The publication of Digital Opportunity follows a six-month independent review of IP and Growth, led by Professor Ian Hargreaves. He was asked to consider how the national and international IP system can best work to promote innovation and growth.

His recommendations aim to give the UK a competitive advantage – and put it on a par with international competitors. Taken together, they have the potential to add up to 0.6 per cent to annual GDP and to cut the costs of doing business with IP-related business by £750m within a decade.

The recommendations in the report cut across a number of different policy areas and will be of interest to all Government Departments. The recommendations on copyright will be of particular interest to the Department for Culture, Media and Sport and the Department of Education.

Hargreaves Review Recommendations:

1. Evidence. Government should ensure that development of the IP System is driven as far as possible by objective evidence. Policy should balance measurable economic objectives against social goals and potential benefits for rights holders against impacts on consumers and other interests. These concerns will be of particular importance in assessing future claims to extend rights or in determining desirable limits to rights.

2. International priorities. The UK should resolutely pursue its international interests in IP, particularly with respect to emerging economies such as China and Review of Intellectual Property and Growth India, based upon positions grounded in economic evidence. It should attach the highest immediate priority to achieving a unified EU patent court and EU patent system, which promises significant economic benefits to UK business. The UK should work to make the Patent Cooperation Treaty a more effective vehicle for international processing of patent applications.

3. Copyright licensing. In order to boost UK firms' access to transparent, contestable and global digital markets, the UK should establish a cross sectoral Digital Copyright Exchange. Government should appoint a senior figure to oversee its design and implementation by the end of 2012. A range of incentives and disincentives will be needed to encourage rights holders and others to take part. Governance should reflect the interests of participants, working to an agreed code of practice. The UK should support moves by the European Commission to establish a framework for cross border copyright licensing, with clear benefits to the UK as a major exporter of copyright works. Collecting societies should be required by law to adopt codes of practice, approved by the IPO and the UK competition authorities, to ensure that they operate in a way that is consistent with the further development of efficient, open markets.

4. Orphan works. The Government should legislate to enable licensing of orphan works. This should establish extended collective licensing for mass licensing of orphan works, and a clearance procedure for use of individual works. In both cases, a work should only be treated as an orphan if it cannot be found by search of the databases involved in the proposed Digital Copyright Exchange.

5. Limits to copyright. Government should firmly resist over-regulation of activities which do not prejudice the central objective of copyright, namely the provision of incentives to creators. Government should deliver copyright exceptions at national level to realise all the opportunities within the EU framework, including format shifting, parody, non-commercial research, and library archiving. The UK should also promote at EU level an exception to support text and data analytics. The UK should give a lead at EU level to develop a further copyright exception designed to build into the EU framework adaptability to new technologies. This would be designed to allow uses enabled by technology of works in ways which do not directly trade on the underlying creative and expressive purpose of the work. The Government should also legislate to ensure that these and other copyright exceptions are protected from override by contract.

6. Patent thickets and other obstructions to innovation. In order to limit the effects of these barriers to innovation, the Government should: take a leading role in promoting international efforts to cut backlogs and manage the boom in patent applications by further extending "work sharing" with patent offices in other countries; work to ensure patents are not extended into sectors, such as non-technical computer programs and business methods, which they do not currently cover, without clear evidence of benefit; investigate ways of limiting adverse consequences of patent thickets, including by working with international partners to establish a patent fee Review of Intellectual Property and Growth structure set by reference to innovation and growth goals rather than solely by reference to patent office running costs. The structure of patent renewal fees might be adjusted to encourage patentees to assess more carefully the value of maintaining lower value patents, so reducing the density of "patent thickets".

7. The design industry. The role of IP in supporting this important branch of the creative economy has been neglected. In the next 12 months, the IPO should conduct an evidence based assessment of the relationship between design rights and innovation, with a view to establishing a firmer basis for evaluating policy at the UK and European level. The assessment should include exploration with design interests of whether access to the proposed Digital Copyright Exchange would help creators protect and market their designs and help users better achieve legally compliant access to designs.

8. Enforcement of IP rights. The Government should pursue an integrated approach based upon enforcement, education and, crucially, measures to strengthen and grow legitimate markets in copyright and other IP protected fields. When the enforcement regime set out in the DEA becomes operational next year its impact should be carefully monitored and compared with experience in other countries, in order to provide the insight needed to adjust enforcement mechanisms as market conditions evolve. This is urgent and Ofcom should not wait until then to establish its

benchmarks and begin building data on trends. In order to support copyright holders in enforcing their rights the Government should introduce a small claims track for low monetary value IP claims in the Patents County Court.

9. Small firm access to IP advice. The IPO should draw up plans to improve accessibility of the IP system to smaller companies who will benefit from it. This should involve access to lower cost providers of integrated IP legal and commercial advice.

10. An IP system responsive to change. The IPO should be given the necessary powers and mandate in law to ensure that it focuses on its central task of ensuring that the UK's IP system promotes innovation and growth through efficient, contestable markets. It should be empowered to issue statutory opinions where these will help clarify copyright law. As an element of improved transparency and adaptability, Government should ensure that by the end of 2013, the IPO publishes an assessment of the impact of those measures advocated in this review which have been accepted by Government.

A full copy of the report can be found at:

[www.ipo.gov.uk/ipreview](http://www.ipo.gov.uk/ipreview)

17/05/2011

Government introduces Bill to overhaul consumer insurance law

Subject: Insurance

Source: HM Treasury (National)

<http://nds.coi.gov.uk/content/Detail.aspx?ReleaseID=419538&NewsAreaID=2>

The Government has introduced the Consumer Insurance (Disclosure and Representations) Bill, which aims to radically change the relationship between consumers and insurance providers.

The Bill will give certainty to consumers and insurers by shifting the emphasis away from a consumer's duty to disclose all necessary information, to a requirement for insurers to ask particular questions and obtain specific information about their customers, before they issue an insurance policy.

The current law has changed little since 1906, and with additional layers of regulation, has become complex and confusing for consumers, and expensive for the industry to administer.

Legaleze comment: The above Bill is a result of the joint [English] Law Commission and Scottish Law Commission joint review of insurance contract law which they have been conducting since January 2006. The size of the project led the Commissioners to design a phased programme of work (separating pre-contract consumer and business issues). The first report, Consumer Insurance Law, was laid before Parliament in December 2009. The Government is currently considering the Report and the draft Consumer Insurance Bill that accompanied it. The second consultation covering post contractual issues, business insurance and warranties is due to be published in winter 2011/12.

16/05/2011

Government launches a consultation on plans to introduce a new system of flexible parental leave from 2015

Subject: Employment/Parental leave

Source: Department for Business, Innovation and Skills (National)

<http://nds.coi.gov.uk/content/Detail.aspx?ReleaseID=419503&NewsAreaID=2>

The Government today launched a consultation on plans to introduce a new system of flexible parental leave from 2015 as part of its plans to create a modern workplace for the modern economy.

Current regulations are too rigid, reflect outdated notions of parenting and family responsibilities and restrict employers. Ministers want to help parents and business by giving them much greater choice and flexibility.

Under the proposals, once the early weeks of maternity and paternity leave have ended, parents will be able to share the overall leave allowance between them. Unlike the current system this leave could be taken in a number of different blocks and both parents could take leave at the same time. Crucially employers would have the ability to ensure that the leave must be taken in one continuous period if agreement can not be reached. They will be able to ask staff to return for short periods to meet peaks in demand or to require that leave is taken in one continuous block, depending on business needs.

The 'Modern Workplaces' consultation seeks to build a new consensus around greater flexibility, which also includes plans to extend the right to request flexible working to all employees.

The consultation is the latest step in the Government's comprehensive review of employment law. It has already removed the Default Retirement Age and published plans to reform the way in which workplace disputes are resolved. Ministers want to make it easier for businesses to employ people, grow and boost opportunities but also for people to balance work and family commitments.

The consultation includes the following proposals:

#### Flexible Parental Leave:

- \* 18 weeks maternity leave and pay – in one continuous block around birth.
- \* 4 weeks of parental leave and pay exclusive to each parent to be taken in the first year.
- \* 30 weeks of additional parental leave available to either parent - of which 17 weeks would be paid and can be broken in blocks between parents.

#### Flexible Working:

- \* Extending the right to request for all workers who have been with their employer for 26 weeks.

The Government will consider publishing a statutory Code of Practice for businesses and will propose that employers should be allowed to take into account employees individual circumstances when considering conflicting requests.

There are no plans to alter the current 8 business reasons for a business to turn down a request. The Government recognises that legislation is not the only answer to promoting flexible working practices. Non-legislative measures are being developed to promote flexible working opportunities both for those with a job and for those looking for one.

#### Equal Pay

Employment Tribunals that have found an employer to have discriminated on gender in relation to pay, will order the employer to conduct a pay audit and publish their results. Except in some circumstances, such as where an audit has already been conducted.

Further information, including the consultation document, can be found at:

<http://www.bis.gov.uk/modernworkplaces>

The consultation runs from 16 May to 8 August 2011.

Under the new proposals fathers would continue to receive two weeks paternity leave and pay in one continuous block around birth.

Paid leave would be at the standard rate (currently £128.73) with the exception of the first 6 weeks of maternity leave which would be at 90% of the employee's salary. The new system would see total leave in year one between parents increased from 54 to 58 weeks. These proposals are subject to affordability.

Currently employed mothers receive a long period of maternity leave and pay (52 weeks leave of which 39 weeks are paid). Employed fathers receive much less (two paid weeks). This system is inflexible and does not support shared parenting. Today's proposals would supersede Additional Paternity Leave measures introduced on the 3 April 2011. Additional Paternity leave gives employed fathers a right to up to six months extra leave which can be taken once the mother has returned to work after 20 weeks. Some of the leave may be paid if taken during the mother's maternity pay period. This is paid at 90% of earnings up to the same standard rate as Statutory Maternity Pay (SMP) which is currently £128.73. Further information can be found at: [http://www.direct.gov.uk/en/Parents/Moneyandworkentitlements/WorkAndFamilies/Paternityrightsintheworkplace/DG\\_190788](http://www.direct.gov.uk/en/Parents/Moneyandworkentitlements/WorkAndFamilies/Paternityrightsintheworkplace/DG_190788)

Employed parents currently have a right to 13 weeks unpaid leave per parent per child, which can be taken before the child's 5th birthday. In line with the revised Parental Leave Directive 2010, this would be extended to 18 weeks unpaid parental leave. This entitlement is in addition to the flexible parental leave described above.

Currently 50% of fathers take two weeks of formal leave during paternity leave. Over 90% of fathers take time off around the time of their child birth. Over 80% use some statutory paternity leave; of these half use paternity leave exclusively - and a further 30% combine it with other types of leave.

Additional measures in the consultation include changes to:

Working Time Regulations (WTR) – proposals to amend the WTR so that annual leave entitlements can be rescheduled, and carried over to the next leave year, when a worker falls ill during planned annual leave. We are proposing to limit this to the four weeks of Working Time Directive leave. We also intend to amend the WTR to allow the carry over of annual leave due to maternity, paternity, parental or adoption leave – this will include the full 5.6 weeks of leave entitlement per year. The consultation also seeks views on giving businesses greater flexibility around annual leave, by allowing them to buy out untaken leave and also allowing carry over of leave on justifiable business grounds (this would only apply to the 1.6 weeks of domestic statutory leave). Full guidance will be produced prior to the WTR changes coming into force.

Direct Gov has a comprehensive explanation of parents rights in the workplace:

<http://www.direct.gov.uk/en/Parents/Moneyandworkentitlements/WorkAndFamilies/index.htm>

12/05/2011

Lord Heseltine encourages business to bid for share of funding for jobs and growth

Subject: SME policy; Finance

Source: Department for Business, Innovation and Skills (National)

<http://nds.coi.gov.uk/content/Detail.aspx?ReleaseID=419444&NewsAreaID=2>

Lord Heseltine kicks off a series of road shows today (Thursday) to promote the second round of the Regional Growth Fund and encourage bidders to compete for a share of £950m.

The first road show takes place in Margate, Kent, where Lord Heseltine will speak about the importance of economic growth and the role of the Regional Growth Fund. He will then take questions about the process of submitting high-quality bids that offer the potential to create new jobs.

More than 150 businesses and organisations are expected to attend the event at Margate's Winter Garden and more than 1,000 are expected to attend the series of road shows over the next few weeks.

The Regional Growth Fund has been designed to:

- \* provide support for projects that can drive sustainable economic growth and create new private sector jobs; and
- \* particularly help communities that are currently dependent on the public sector make the transition to private sector-led growth and prosperity.

Lord Heseltine is Chair of the Independent Advisory Panel, which will consider all bids for funding and make recommendations to Ministers, led by Deputy Prime Minister Nick Clegg, about which should be supported. He is supported by Deputy Chair, Sir Ian Wrigglesworth and a team of academics, business and civic leaders.

The second round of the Regional Growth Fund opened to bids on April 12 and will close at midday on July 1. The second round will aim to allocate around £950m – the bulk of the £1.4bn fund.

Ministers announced in April that there were 50 successful bidders from the first round of the Regional Growth Fund. These bidders will share £450m if they pass a process of due diligence.

More details about the Regional Growth Fund, submitting a bid and future road shows can be found at:

[www.bis.gov.uk/rgf](http://www.bis.gov.uk/rgf)

12/05/2011

Local growth moves up a gear as Business Minister announces growth package for local enterprise partnerships

Subject: SME policy

Source: Department for Business, Innovation and Skills (National)

<http://nds.coi.gov.uk/content/Detail.aspx?ReleaseID=419462&NewsAreaID=2>

The drive to stimulate local economic growth was stepped up today when Business Minister Mark Prisk announced a package with three measures to help local enterprise partnerships get up and running.

Firstly the partnerships are being invited to submit bids for a share of a £5 million Start-Up Fund. The fund is a one-off pot of money to fund such things as office equipment and training which they believe will help get themselves established. Partnerships will be expected to demonstrate as part of their bid how they will become self-sustaining in the future.

Secondly, from today partnerships will also have access to an online Toolbox which provides comprehensive information on economic development activity across government departments, and ideas for strong partnership/government working. Thirdly, they will also be able to access information through the new BIS Local network which will be the first point of contact on any issues.

Funding allocations from the first round of the local enterprise partnership Capacity Fund were also issued to partnerships today. Each will receive a share of £1 million to help increase their understanding of the barriers to growth facing local businesses.

Guidance and Application details for the £5m Start Up fund can be found on the BIS website at: [www.bis.gov.uk/policies/economic-development/leps/](http://www.bis.gov.uk/policies/economic-development/leps/)

11/05/2011

Next steps in review of employment law

Subject: Employment law

Source: Department for Business, Innovation and Skills (National)

<http://nds.coi.gov.uk/content/Detail.aspx?ReleaseID=419433&NewsAreaID=2>

The Government has today announced new areas that it will consider reforming as part of its review of employment red tape – including collective redundancy consultation periods, the Transfer Undertakings Protection of Employment Regulations (TUPE) and compensation for discrimination awarded by employment tribunals.

The ongoing review is an important part of the Government's plans to deliver growth by breaking down barriers, boosting opportunities and creating the right conditions for businesses to start up and thrive.

The Chancellor of the Exchequer, George Osborne, will encourage businesses to make their voices heard on the issues which matter to them, including employment law, in his speech to the Institute of Directors Annual Convention.

The Government will look in detail at the case for reforming:

- \* Compensation for discrimination. There need to be remedies for discrimination, but employers have expressed concern about the high levels of compensation sometimes awarded by Employment Tribunals in cases of discrimination - and the lack of certainty they have about the level of award they may be required to pay. Compensation levels for cases of discrimination are unlimited and employers worry that high awards may encourage people to take weak, speculative or vexatious cases in the hope of a large payout. This can lead to employers settling such cases before they reach a Tribunal.
- \* Collective redundancy rules. Employers are concerned that the current requirement that consultation over collective redundancy runs for a minimum period of 90 days is hindering their ability to restructure efficiently and retain a flexible workforce. Employers in financial difficulty worry about how long they need to keep paying staff after it has become clear that they need to let them go. They also claim it is not clear from the legislation at what point consultation on redundancies should start or end.
- \* TUPE. These rules implement a European directive and protect employees' terms and conditions of employment when a business is transferred from one owner to another. These rules offer important protections but some businesses believe that they are 'gold plated' and overly bureaucratic.

The Government will start reviewing these areas this year. It wants to ensure that the regulations are fit for purpose, and legislation will not necessarily be the route to implement any change if there is a case for reform.

As part of the review of employment law consultations have recently closed on simplifying the Employment Tribunal system and extending the period before an unfair dismissal claim can be brought. An independent review of the system for managing sickness absence has been commissioned and a review of the compliance and enforcement regimes for employment law has been launched.

The Government believes that a flexible labour market is not simply about making life easy for employers. It is also determined to help people who want to work. Next week it will launch a consultation on plans to extend the right to request flexible working to all employees and introduce a new system of shared parental leave from 2015 – to make it easier for parents to work whilst bringing up a family.

10/05/2011

HSE introduces new arrangements for online reporting of injuries and incidents

Subject: Health and Safety

Source: Health and Safety Executive

<http://www.hse.gov.uk/press/2011/hse-icc.htm?ebul=hsegen&cr=2/16-may-11>

Businesses will still be able to notify fatal and major incidents and injuries by phone following changes to reporting arrangements, the Health and Safety Executive (HSE) confirmed today.

From 12 September 2011, all other reportable work-related injuries and incidents under RIDDOR (the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995) will move to a predominantly online system, with a suite of seven forms available on HSE's website to make the statutory reporting process quick and easy.

In a move to improve efficiency further and deliver value for taxpayers, HSE's Infoline telephone service, which currently provides a basic information service to callers, will end on 30 September 2011.

Businesses and members of the public seeking information and official guidance on health and safety can use HSE's website - a huge knowledge bank where people can access and download information free of charge and use interactive web tools.

The HSE website features information on the most frequent health and safety enquiries such as those on RIDDOR reporting, First Aid and the health and safety responsibilities of new businesses. It currently receives 26 million visits every year and is regularly updated and improved to help businesses and members of the public quickly access the information they need.

9/052011

ICO advice on new EU cookies law published

Subject: Sales and Marketing/e-commerce

Source: Information Commissioner's Office

[http://www.ico.gov.uk/~media/documents/pressreleases/2011/cookies\\_regulations\\_advice\\_news\\_release\\_20110509.ashx](http://www.ico.gov.uk/~media/documents/pressreleases/2011/cookies_regulations_advice_news_release_20110509.ashx)

Advice on how UK businesses and organisations can comply with a new EU law on the use of cookies technology has been published today by the Information Commissioner's Office (ICO). The law, which will come into force on 26 May 2011, comes from an amendment to the EU's Privacy and Electronic Communications Directive. It will require UK businesses and organisations running websites in the UK to get informed consent from visitors to their websites in order to store and retrieve information on users' computers. One common technique of storing information is known as a cookie.

The advice, which follows the publication of UK regulations by the Department for Culture, Media and Sport, will help people to consider what type of cookie or similar technology their website uses and for what purpose, how intrusive their use is, and offers advice on what solution for obtaining consent will suit them.

The ICO has drawn up the advice to help organisations to start to think about the practical steps they will need to take to remain compliant with the new law. It will be supplemented by additional content as innovative ways to acquire users' consent are developed.

Advice for consumers on what the new law will mean for them is currently being drafted. This, along with further information about the ICO's approach to enforcement of the new rules, will be published shortly.

The amendments to the Privacy and Electronic Communications Regulations also grant other new powers to the ICO, including the power to serve monetary penalties of up to £500,000 to organisations that make unwanted marketing phone calls. Further guidance on each of the new powers is currently being drawn up.

9/05/2011

File your Employer annual return online by the 19 May deadline

Subject: Tax/Payroll

Source: HM Revenue & Customs

<http://nds.coi.gov.uk/content/Detail.aspx?ReleaseID=419393&NewsAreaID=2>

HM Revenue & Customs (HMRC) is issuing an urgent reminder to employers – file your annual return online by the 19 May deadline, or you could face a penalty.

Employer Annual Returns must be sent to HMRC by the 19 May filing deadline. Failure to do so will almost certainly result in a late-filing penalty. In previous years, an extra-statutory concession gave employers extra time before HMRC charged a penalty, but this has now been withdrawn.

Employers will be liable to a penalty if they file their annual return on paper (with some very limited exceptions, such as certain individuals who employ their own carer). Last year, no penalty was charged for employers with five or fewer employees, but these transitional arrangements have now ended.

Smaller employers, or their agents or bureaux, can file their employee data securely online using HMRC's 'Online Return and Forms – PAYE' product. And employers with fewer than 10 employees can use HMRC's Basic PAYE Tools (formerly Employer CD-ROM) to file their Employer Annual Return online.

HMRC has published a list of common errors to avoid on its website at

[www.hmrc.gov.uk/payepayroll/year-end/errors.htm](http://www.hmrc.gov.uk/payepayroll/year-end/errors.htm)

12/05/2011

Law Commissions propose Consumer Redress for Misleading and Aggressive Practices

Subject: Sale of goods and services/Advertising and marketing

Source: The Law Commissions

<http://www.justice.gov.uk/lawcommission/1417.htm>

The Law Commissions (English and Scottish law bodies charged with proposing law reforms) have opened a consultation on whether the Consumer Protection from Unfair Trading Regulations 2008 (which prohibit misleading and aggressive trade practices) should be strengthened by giving consumers the right to compensation if a trader breaches the regulations. At present, consumers must rely on a variety of private causes of action, some statutory, some based on case law. These are complex, confusing and leave many gaps.

The consultation period ends on 12 July 2011 and the consultation document may be found at

[http://www.justice.gov.uk/lawcommission/docs/cp199\\_consumer\\_redress.pdf](http://www.justice.gov.uk/lawcommission/docs/cp199_consumer_redress.pdf)

3/04/2011

Additional Paternity Leave and Pay ("APL&P") comes into effect

Subject: Employment/Maternity and paternity

Source: Department of Business Innovation & Skills

Additional Paternity Leave and Pay ("APL&P") which allows employees to take time off to care for a child has been introduced for parents due to have a child on, or after, 3 April 2011 or those matched for adoption on or after the same date.