

Does your credit need repairing?

As the draftsman of the Consumer Credit Act 1974, I am naturally always interested when anyone suggests the Act has defects. Considering it laid down a wholly new system for regulating consumer credit and hire transactions of every kind, I modestly think the Act has stood up remarkably well to over a quarter of a century's wear and tear. Prophetically, it has even been found to comply with later European Union requirements. It has needed very little amendment over the years.

So I raised an eyebrow when on April 10 David Amess, the Conservative MP for Southend West, sought leave to bring in a Bill to amend the 1974 Act. He wants to impose on the Director General of Fair Trading a duty to establish a code of practice for traders who offer consumers debt management and credit repair.

This concept of "credit repair" is new to me. It was not around in 1974, even though the idea behind it was. Debt management and credit repair are what the 1974 Act calls debt counselling (advising the debtor on how to settle his debts) and debt adjusting (taking over and settling the debts in return for regular payments).

Mr Amess alleged that the "largely unregulated way in which the current system works" allows the most vulnerable sectors of society to be led astray by advertisements, particularly in tabloid newspapers. He said that if his Bill were to become law, traders would be obliged to comply with a code. The director general would be given power to enforce this code by use of compliance orders, fines and compensation orders. The Bill would require the director general, before publishing the code, to consult representatives of consumers and traders.

The Amess Bill would prescribe the issues to be addressed in the code of practice, including the advertising and marketing of personal debt services; the terms on which they are provided; charges for them; standards of service; arrangements for the protection of client moneys and for ensuring the competence of the trader's staff; procedures for handling complaints; and other such matters.

The National Association of Citizens Advice Bureaux recently published a report, entitled "Daylight Robbery", that highlights the fact that consumer credit borrowing has increased dramatically in the past 20 years. At August 2000, outstanding unsecured consumer credit in the United Kingdom amounted to £122 billion, equivalent to £3,425 for every adult in the United Kingdom aged between 18 and 65. Today's consumers have forgotten (if they ever knew) the wise injunction to cut one's coat according to one's cloth.

Consumers' growing enthusiasm to buy now and pay later has been matched by credit companies' willingness to devise an ever greater range of credit products. In the past two years, citizens advice bureaux across the country have reported a 37 per cent. increase in the number of inquiries on consumer credit debts. The number of commercial companies offering services for a fee to those who are in debt has mushroomed.

Mr Amess gave the House an example. A debtor with one dependent child contacted a debt management company for help with debts of £25,000. The company told him that his creditors would accept offers of £1 per month, which was obviously absurd. When bailiffs

began to call at his home, the client discovered that in fact no agreement had been reached with the creditors.

What Mr Amess did not tell the House was that the 1974 Act already covers such a situation. A credit adjuster such as this needs a licence issued by the director general under the Act, which would be revoked for misbehaviour.

Mr Amess made no attempt to spell out with any precision the ways in which the Act was alleged to be inadequate. Instead he cited the *Sunday Express*-

“A journalist there called Rachel Baird has, for the last few weeks, written a series of articles headed ‘Debt Parasites Spark Crusade’, in which she has reported the experiences of all sorts of people who - sadly - have got into debt, panicked and gone to some of the companies that I am describing, with very unfortunate effects.”

Many advertisements suggest that, for a fee, companies advertising credit repair services can wipe the slate clean for those who have got into money difficulties in the past and had court judgments recorded against them. Mr Amess said that was nonsense. He concluded-

“There is a real need for consumers to be protected from the services of debt management and credit repair companies. Those needing such protection are undoubtedly the poorest and most vulnerable members of society. I hope that the House will support the Bill.”

The House did support the Bill, and its introduction was agreed to, though it will not of course pass. That matters little, for as I have indicated it seems to be largely unnecessary.

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