



OFFICIAL REPORT
AITHISG OIFIGEIL

Economy, Energy and Fair Work Committee

Tuesday 5 November 2019

Session 5



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ECONOMY, ENERGY AND FAIR WORK COMMITTEE
30th Meeting 2019, Session 5

CONVENER

*Gordon Lindhurst (Lothian) (Con)

DEPUTY CONVENER

*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

COMMITTEE MEMBERS

*Jackie Baillie (Dumbarton) (Lab)
*Colin Beattie (Midlothian North and Musselburgh) (SNP)
*Jamie Halcro Johnston (Highlands and Islands) (Con)
*Dean Lockhart (Mid Scotland and Fife) (Con)
*Richard Lyle (Uddingston and Bellshill) (SNP)
*Gordon MacDonald (Edinburgh Pentlands) (SNP)
Andy Wightman (Lothian) (Green)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Andrew Bartlett (Advice Direct Scotland Ltd)
Professor Iain Black (University of Stirling)
Sarah O'Neill (Sarah O'Neill Consulting)
Graeme Paton (Society of Chief Officers of Trading Standards in Scotland)
Fiona Richardson (Trading Standards Scotland)
Sheila Scobie (Competition and Markets Authority)
James Walker (Resolver)
Graham Wynn (British Retail Consortium)

CLERK TO THE COMMITTEE

Alison Walker

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Economy, Energy and Fair Work Committee

Tuesday 5 November 2019

[The Convener opened the meeting at 09:45]

Decision on Taking Business in Private

The Convener (Gordon Lindhurst): Good morning and welcome to the 30th meeting in 2019 of the Economy, Energy and Fair Work Committee. Apologies have been received from Andy Wightman. I ask all the people in the gallery to turn electronic devices to silent mode, please.

Under agenda item 1, does the committee agree to take items 3 and 4 in private?

Members *indicated agreement.*

The Convener: Thank you.

Consumer Scotland Bill: Stage 1

09:46

The Convener: We turn to our consideration of the Consumer Scotland Bill. We have three witnesses on our first panel. Fiona Richardson is chief officer at Trading Standards Scotland, Andrew Bartlett is chief executive officer at Advice Direct Scotland Ltd, and Graeme Paton is vice-chair of the Society of Chief Officers of Trading Standards in Scotland. I welcome all three of you. When you want to speak, please indicate that by raising your hand. You do not need to press any buttons—your microphones will be dealt with by the sound engineer.

I start by asking you to comment on recent challenges, and to say what changes you have witnessed in the trading standards environment following the various reviews that have taken place in Scotland and the United Kingdom.

Graeme Paton (Society of Chief Officers of Trading Standards in Scotland): All the reviews of the past few years, including the Audit Scotland review of 2013 and even going back to the Audit Scotland review of 2003, have identified that the trend in Scotland in trading standards with regard to resourcing, numbers and capacity has been a steady decline. Until that is addressed, we will not have the capacity on the ground to deal with evolving issues or even with the issues that we deal with at present. SCOTSS and the wider trading standards profession would very much like to play a role in the proposed consumer Scotland, but as our numbers and our resources decline, it might be more difficult for us to play the leading role that we would prefer to play.

The Convener: What are the figures on the decline to which you refer?

Graeme Paton: The latest SCOTSS workforce survey shows that the number of trading standards officers in Scotland dropped from 500 in 2002 to 250 this year. That is a drop of half of our capacity in the past 17 years.

The Convener: Is your point that without people to enforce standards they are meaningless?

Graeme Paton: I am sorry. I did not catch that.

The Convener: Would you say that, if there is no one to ensure that standards and rules are enforced, having them is meaningless?

Graeme Paton: To describe that as “meaningless” might be a bit dramatic, but I suppose that it could be. We can have all the laws we want, but if we have no one to enforce them, who will adhere to them?

The Convener: I suppose that you are right—to describe the standards as “meaningless” was perhaps too dramatic, because people voluntarily follow standards. However, there are those who do not, and that is what enforcement is about.

Graeme Paton: We need to consider what happens from illicit trade right up to those whom we might think hold the standards in high regard: there is a tendency at the higher end for people to say, “We’re not really being followed, so we’ll maybe not follow the rules as assiduously as we should.” When we consider the Volkswagen scandal and other emissions scandals in America, we are talking about companies that we think would be absolutely on the ball, whereas they are partial to a slight move away from what is ethical, if they are not being pursued.

Fiona Richardson (Trading Standards Scotland): My team is the national trading standards team, which is funded by the UK Government and was set up as a result of landscape reviews in 2012. We were put in place with the intention of adding capacity to local authority trading standards services, in particular by taking on cross-border and national consumer enforcement cases. We have established an intelligence database for use by trading standards services throughout Scotland, to enable resources to be better targeted.

Having done all that work, we still rely on there being officers at local authority level who can discover issues; the more serious issues can be referred up to our team.

The Convener: Has the creation of your service offset to any extent the decline in numbers at local level that we have heard about?

Fiona Richardson: There are 23 or 24 staff in my team and they are not included in the workforce survey. However, because of the nature of the work that we do, not all my staff are drawn from a trading standards background; some are former law enforcement agency staff, for example. Former police officers and former fraud investigators from a number of bodies work with us, as do a small number—six or seven—of what we would call trading standards staff.

The Convener: Are those people dedicated to Scotland?

Fiona Richardson: Yes.

The Convener: Does Andrew Bartlett want to comment?

Andrew Bartlett (Advice Direct Scotland Ltd): We need to manage the expectations of consumers who come to us. All trading standards services in Scotland can share their protocols with us in real time, so we try not to overpromise—for example, if a case comes up in relation to which

we know that a trading standards officer will not attend the premises. We would always welcome more people on the front line.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): When consumer Scotland is established, there will inevitably be expectations that information and intelligence will be shared across the way and up the way. How does Advice Direct Scotland work with trading standards services? Can you give us a flavour of the relationship and the information-sharing model? How do you see the model working when consumer Scotland is established?

Andrew Bartlett: We share relevant cases with the trading standards service in the area where the consumer lives and in the area where the trader is based. If the issue is one on which a service’s protocol tells us that it will take action, we will share the individual’s sensitive personal information, so that the trading standards service can carry out enforcement action, if it sees fit. We also send intelligence: we might, for example, say that we have heard people in the service’s area complaining about doorstep selling, but they do not want to be specific or put themselves forward.

We also share information with Trading Standards Scotland. We change the information that we gather, to try and give the guys the tools that they need to deliver a service. For example, if someone is concerned about a doorstep seller, we now collect the registration number of the vehicle, because a vehicle registration number is far harder to change than a mobile phone number. We try to gather information that is useful on a practical level and on an enforcement level.

Willie Coffey: Will that relationship be mirrored with consumer Scotland when it is established? Do you foresee difficulties with data sharing?

Andrew Bartlett: We already share data in real time with the Scottish Government, so the Government has a headline view of where we are, at all times. We are very keen to support local authority trading standards and Trading Standards Scotland, in line with their current programmes.

We are about to launch a programme on puppy farms, along with the Scottish Society for the Prevention of Cruelty to Animals, the British Veterinary Association, the Dogs Trust and the Scottish Government’s chief veterinary officer. We will provide a landing page for vets, so that they do not have to interrupt their busy days to make phone calls, and we hope that we will be able to gather intelligence that will help trading standards services to stamp out the trade.

Willie Coffey: At previous evidence sessions there was discussion about there perhaps being a need for legislative changes on data sharing at UK level. Would you like to see such changes?

Fiona Richardson: Under the Enterprise Act 2002, there are restrictions on how certain bodies can share across the UK information that they find through their enforcement work. Part 9 of the act includes restrictions on how enforcement information can be shared. Sharing high-level data is generally fine as long as it is anonymised, does not relate to a particular trader and is about business practice or a business sector. However, from our point of view it would be of assistance if consumer Scotland were to be a recognised body under the act, to better enable that process.

Richard Lyle (Uddingston and Bellshill) (SNP): Good morning. I understand that there has been discussion about consumer Scotland having formal involvement with trading standards services on consumer and competition issues. What are panel members' views on that? Do you have any insight into why that has not been included in the bill?

Fiona Richardson: Everyone else on the panel is being quiet, so I will go first. Enforcement is reserved to the UK Government, so it is outwith the Scottish Government's powers to provide formal oversight on that. It would not necessarily be a deal breaker for consumer Scotland not to have such power. The other side of the coin is that local trading standards services are looking for more funding and resource support to enable them to continue to run effectively. However, that is a slightly different thing to consumer Scotland providing oversight and direction to trading standards services.

Richard Lyle: I was previously a councillor. Mr Paton—how will the bill affect your officers?

Graeme Paton: The bill might help us to develop a fuller picture of consumer detriment from the various disparate sources of advice that consumers use to help them to resolve their issues. They do not always come to ADS or trading standards services; they might go to Resolver or to a citizens advice bureau through Citizens Advice Scotland. A fuller picture and the ability to redirect consumers to the correct body to deal with their complaint might help us to see that picture: for example, if we have only one complaint on an issue and Resolver has three, we could put them all together to make a difference for consumers.

The concern is not so much about the lack of an enforcement power in Scotland as it is about there possibly being a clash between the demands of Westminster and Holyrood. If such a power existed, we would have two legislative bodies telling us what they want us to do. Such a clash would cause problems for us in respect of knowing which requirement we should follow.

Richard Lyle: The best one. *[Laughter.]*

Graeme Paton: Or the loudest one.

Richard Lyle: Thanks for that.

Jamie Halcro Johnston (Highlands and Islands) (Con): Graeme Paton said that the service lacks resources and that officer numbers have been cut by half in 17 years. Does the funding come from local authorities?

Graeme Paton: Yes.

Jamie Halcro Johnston: How do you see the funding picture developing over the next two to five years?

Graeme Paton: With my other hat on, I am trading standards manager for Aberdeen City Council. So far, the picture has been one of slow development. We face cuts year on year: there is no getting away from that. The austerity picture is still there. Speaking as a TS manager, I am currently trying to juggle recruiting someone with being able to make the savings that are required to balance the budget.

As far as I can tell, that situation is not going to improve drastically in the next few years. That is the case even in the face of additional resources being provided by the Scottish Government to local authority trading standards services to deal with tobacco and nicotine vapour products. That has meant that we have been able to recruit officers, and we now do a lot of business advice and enforcement work in that area. However, despite the additional resources, we still face cuts.

10:00

Jamie Halcro Johnston: Are there cases that are not being investigated, or are not being investigated as fully as you would like, because of the restrictions?

Graeme Paton: We work on a risk basis. Simply put, in my authority, if investigations need to be done, they are done, and other things are not.

Jamie Halcro Johnston: There are areas where you can enforce and the proposed new body cannot. If there is more awareness of consumer issues, do you expect that your workload would increase? What would you need in order to accommodate that?

Graeme Paton: It is about supply and demand. We have to know what additional demands would be being placed on us in order to know whether we could respond to them. If the complete picture produces more complaints for us to look into, or more intelligence for us to act upon, we would clearly have to have additional resources and staff in order to meet that demand.

Jamie Halcro Johnston: Have you had any discussions with Scottish Government or local government representatives about whether more resource could be available?

Graeme Paton: I am not part of any such discussions at the moment, but colleagues in SCOTSS are in discussion with the Convention of Scottish Local Authorities on a workforce review, with a view to getting more trainees in at ground level, while we still have the capacity to train them, so that we can reinforce our services for the future. I believe that there have also been discussions with the Scottish Government on that. The Government has not said yes, but it has not said no, either, so we are still quite positive.

Colin Beattie (Midlothian North and Musselburgh) (SNP): The bill gives consumer Scotland advice, advocacy, research and information-gathering powers. Is that the right mix of powers? Should anything else be added to that?

Fiona Richardson: In essence, the powers are lifted from the UK legislation—the Consumers, Estate Agents and Redress Act 2007, which provided powers to advocacy bodies—and put into Scottish legislation. Those powers should be enough to make consumer Scotland a strong consumer advocate, which, on reading of the bill, is what the body is initially intended to be. The bill is very much enabling legislation. I can see that consumer Scotland has been given powers to be an advocate, but I cannot entirely see how it is going to deliver on that.

Colin Beattie: Do you think that the powers are adequate for its purpose?

Fiona Richardson: To be an advocacy body, yes.

Colin Beattie: Is there anything that could usefully be added to it?

Fiona Richardson: We would have liked the body to act as a quality assurance body for the provision of consumer advice. We thought that that would have been a worthwhile thing for the body to do. Obviously, there is a lot of different consumer advice provision in a lot of different sectors across the country, and it would be good to see that that advice was being delivered to a particular standard that was being monitored and measured.

Colin Beattie: Who is responsible for quality assurance at the moment?

Fiona Richardson: Nobody.

Colin Beattie: Nobody?

Fiona Richardson: In certain sectors, there will be oversight, but there is not general oversight.

Andrew Bartlett: We have a quality management system. We are ISO 9001 accredited and our data is protected under ISO 27001. We have a compliance team and our front-line staff do peer reviews, so Fiona Richardson would look at some of Graeme Paton's work and Graeme would look at some of Fiona's work, to ensure that we are at a level. We have levelling sessions, and we take feedback from all the organisations that we send referrals to. For example, if one of Graeme Paton's team felt that the information that we had supplied was not correct, or that there was an error in the advice that had been given, we would take that feedback back and learn from it. Quality never stops.

Graeme Paton: Local authorities' trading standards services used to participate in a quality assurance system but that was voluntary and it fell into abeyance a few years ago. SCOTSS has discussed trying to bring it back, but with all the other competing demands on our time we have not had time to address it.

To return to your original question, consumer redress would also have been beneficial; that would sit well alongside the powers on consumer advice and advocacy. For dealing with complaints, it would have been beneficial to bring alternative dispute resolution to the table under a redress system.

Colin Beattie: Redress implies some form of enforcement, which the proposed consumer body will not have the power to do. Given that enforcement is still reserved, should or could the body have an element of enforcement?

Graeme Paton: A degree of enforcement could be included, but the dispute resolution that we are thinking of is more about mediation than enforcement. As a trading standards officer, I have dealt with and mediated in consumer complaints with traders many times, to avoid the need for the consumer to pursue their rights, by raising a small claim or taking it further. That is the kind of dispute resolution that I have in mind.

Colin Beattie: Alternative dispute resolution is not included in the bill. Should it be included, or should the decision on whether to develop that be left to consumer Scotland?

Graeme Paton: The question is whether it has been devolved, rather than whether it should be there. It is one of the four pillars that was not devolved—the other was enforcement. Therefore, if consumer Scotland is established and realises that it needs that power in order fully to discharge its duties under consumer advice redress, perhaps it will need to approach the UK Government to see whether that could also be devolved.

Fiona Richardson: That power has not been devolved, so the Scottish Government would not

be able to look at it. As it pulls together its white paper on consumers, the UK Government is looking at alternative dispute resolution. The white paper was supposed to be published in the summer, but given the current status of the UK Government we do not have a publication date for it. It would have made some direction about alternative dispute resolution. There is no reason why, in the future, the UK Government could not give powers to consumer Scotland to look at doing that. That might be an appropriate route.

Colin Beattie: However, at the moment, the power is not devolved.

Fiona Richardson: No.

Colin Beattie: Consumer Scotland will have the powers to commission advice. How should it use those powers?

Andrew Bartlett: We need to look at practical advice, not just the quantitative aspect of saying, "We have spoken to X number of people." We need to understand the underlying issues and the practical routes that consumers can follow. Not everything will end up at the door of trading standards. Rather than pointing people at templates, we give them fully completed letters that they can email to a trader with whom they are in dispute. That has been successful. We are trying to provide better self-help journeys, so that people who can help themselves will do so.

People will seek advice where they choose. At the moment, we are the only organisation that the Scottish Government has directly commissioned to provide an advice service. We try to give people practical, actionable advice, rather than saying that they have rights but not giving them any information on how to exercise them.

To return to your previous point, where appropriate we try to link people with an alternative dispute resolution provider, not just for the sake of doing it. If we know that the organisation gets results, we will look to connect our consumers with an ADR provider.

Colin Beattie: Consumer Scotland will have the power to both provide and commission advice. How is that going to fit in?

Andrew Bartlett: Do you mean how will it fit into our model?

Colin Beattie: Yes.

Andrew Bartlett: We would hope to still be one of the organisations that is providing advice, but unfortunately—or fortunately—in the modern era, there can no longer be a single gateway to advice because the internet has taken the idea and run away with it. Therefore, we have to accept that there will be multiple providers, which will not all come from the third sector. We are a charity and a

non-profit organisation, but there will be organisations from the for-profit sector and we will see all sorts of ADR appear over time.

We also have to be wary. For example, on the very day that the Thomas Cook refund scheme went live, the best-looking site was actually a fraud. Therefore, we need to make sure that our consumers are aware of where they should go.

Gordon MacDonald (Edinburgh Pentlands) (SNP): The bill's provisions state that consumer Scotland must use its powers in a collaborative way. However, we have also heard that there are concerns about duplication of activities. How do you see consumer Scotland complying with those provisions without duplicating the activities of other consumer organisations?

Andrew Bartlett: In terms of which activities?

Gordon MacDonald: Advocacy, advice, research: the whole gamut.

Andrew Bartlett: Inevitably, consumers will go for advice where they see fit. They will go to an organisation that they have found online, or that somebody has recommended to them, or that the Scottish Government has recommended. With regard to duplication, the situation is very clear. For example, face-to-face organisations provide great face-to-face services and we should not think that we can simply displace them with an online-only offering. We need to understand that there is valuable intelligence in the face-to-face service. Primarily, face-to-face agencies are provided by the community, for the community and in the community and consumer matters will be one issue, rather than the driving issue, for them.

At www.consumeradvice.scot, we are just there for consumers—that is what we do. There are other parts of our business, which I do not propose to touch on today, unless the committee particularly wants me to. www.consumeradvice.scot is there to give practical, actionable, relevant consumer advice and information through the channel of the customer's choosing. If somebody wants to come to us on web chat, we should deal with them on web chat. If they want to speak to us on the phone, they should phone us. It is important that the service is free at the point of use: that is a key message.

Fiona Richardson: We have some concern that a new body could duplicate work that is already being done by other people in the landscape, which could possibly disrupt some of the partnerships and relationships that are already there. The other side is that, if there is a strong central body that can bring those people together and build an effective, collaborative network that is based on shared data, everybody can gain a real benefit. The proof will be in the pudding when the

body is set up and we see how it goes about building such relationships.

When a new body is brought into such a landscape, there will be some territorial concerns from people who are already there. However, we have to look at where things can be improved and the gathering, collation and analysis of data that is held across different areas are examples of where things can be improved at the moment.

Gordon MacDonald: Section 6(3) imposes a duty on consumer Scotland to work in co-operation with other consumer organisations. Does that not allay some of the concern that you have in that area?

Fiona Richardson: Yes; I hope that the provision would allow us to build those relationships. At UK level, we have the consumer protection partnership, which brings together a variety of different bodies. We have always advocated strongly for something similar in Scotland, but more formalised with regard to the roles and responsibilities of the partners, what they should each contribute to the network and what work they should take on as a result of being a part of it.

Gordon MacDonald: Under section 13, we understand that, in terms of research, the new organisation will maybe look at two or three subjects a year, but it will publish its work programme in advance. How helpful will it be to the wider consumer protection and advice sector that the new body will publish its work programme in advance?

10:15

Fiona Richardson: Having a published work programme in advance will be good, because we will be able to see what the body is working on. It is welcome that it will have the ability to conduct high-level research and take a future look. One problem that we have always had in enforcement is that, by the time that we have discovered where a new problem is, it is too late and it is already well established, so it can be difficult for us to tackle. It would be helpful to be able to identify those interventions earlier.

Andrew Bartlett: We would welcome an advance view. It would also be helpful for us to understand what information consumer Scotland feels would assist it, so that we could try to get the intelligence rather than say at the end, "It would have been good if we had had this." We can collect that very easily.

Gordon MacDonald: In effect, it will mean that everybody can focus on the subjects for the year and assist the organisation.

Andrew Bartlett: Very much so.

Gordon MacDonald: We have touched on information gathering. The new organisation will have powers to gather data from a range of organisations in order to understand business models or markets. Are those powers sufficient for that task?

Graeme Paton: I understand from our discussions with the Scottish Government that those powers will not include the ability to request information from local authorities, which seems to me to be a bit of a gap, given the amount of information that we hold. Our information comes not only from Andrew Bartlett's ADS system; we gather information from businesses and various other sources to build up a bigger picture. Local authorities hold a great deal of information that might be beneficial and that cannot be obtained from any other source. Local authorities will want to co-operate with consumer Scotland at every level and such powers would perhaps make that easier for us.

Gordon MacDonald: Are there any data-sharing issues relating to that?

Graeme Paton: Only those that Fiona Richardson previously identified under part 9 of the Enterprise Act 2002.

Andrew Bartlett: We think that the more data that can be shared, the more effective the outcomes will be and the more focused consumer Scotland can be.

Richard Lyle: Consumer Scotland is expected to be evidence led, which will require voluntary information sharing from a variety of organisations that are active on consumer issues. How do the information-sharing arrangements between trading standards services and Advice Direct Scotland work at the moment?

Andrew Bartlett: We have a portal and we share information as appropriate with local authority trading standards and Trading Standards Scotland. Obviously, that is all done with informed consent from our consumers, which they can withhold.

Richard Lyle: Do you foresee any barriers to sharing trading standards information with consumer Scotland?

Andrew Bartlett: There is a barrier to sharing people's sensitive personal information, but there is no barrier at all to sharing anonymised data. My view—I stress that it is my view—is that it should be a relatively straightforward task.

Richard Lyle: How can consumer Scotland maintain a focus on issues affecting vulnerable consumers?

Fiona Richardson: I do not particularly like the bit in the bill that relates to vulnerable consumers,

which I feel is slightly restrictive and potentially a slightly old-fashioned way of looking at what we would now more commonly describe as consumer vulnerability. That vulnerability can change. As a consumer, I can be vulnerable at particular points due to the circumstances at the time, but at other points I am very well informed and empowered—or I should be.

The provisions in the bill that relate to vulnerable consumers or consumer vulnerability perhaps do not put the body in the strong place that it needs to be in to look at those areas. It is not a simple case of saying, “Old people are more vulnerable than other people.” As a number of submissions have noted, no mention is made of young consumers and their particular vulnerabilities either.

There is no doubt that consumer Scotland should focus its attention on vulnerabilities, but I do not think that the bill is particularly well drafted at this stage to enable it to do that.

Graeme Paton: In paragraph 30 of its written submission, the Competition and Markets Authority sets out an alternative way of looking at vulnerability, which looks at its causes rather than defining it rigidly as the bill does. Perhaps that has merit.

Dean Lockhart (Mid Scotland and Fife) (Con): The definition of “consumer” in the bill does not include small business. Do you see that as an issue in practice, given that other consumer-facing legislation does cover small businesses, such as those that have up to five or 10 employees?

Fiona Richardson: My team sit within COSLA, so our submission went through both our governance board and the community wellbeing board before coming to the committee. The community wellbeing board felt that it was an issue and that small and microbusinesses, of which there are many in Scotland, could be disadvantaged through not being included.

Clearly, there are other UK consumer protection statutes that include small and microbusinesses. The question would be why this one does not do so. Most European legislation for consumer protection does not, but individual member states have taken the decision to extend it where appropriate.

The Scottish Government’s work on delivery surcharges is interesting. Those affect many of the small and microbusinesses that are based in rural Scotland and are sending things out, as well as consumers who are trying to buy things in. There is a question of whether the provisions could be strengthened.

Andrew Bartlett: Currently, we would refer a business-to-business issue to the relevant trading standards service. As an organisation, we would,

with the correct training, have no reservations about supporting small and microbusinesses.

Dean Lockhart: Graeme Paton, do you have a view on this question?

Graeme Paton: Not really. It very much depends on how consumer Scotland defines a consumer. Certainly, there are instances in which sole traders and other such business entities are defined as consumers. We provide business advice to large companies and small businesses on the basis that they are businesses not consumers.

Dean Lockhart: Given your experience of this area on an everyday basis, if the definition of consumer is limited to individuals and does not cover sole traders or small and microbusinesses, what do you think the practical implications will be? Will there be a two-tier system? Will small traders with one or two employees be left to their own devices and excluded from the system?

Graeme Paton: Local authority trading standards services provide business advice, and we are available to do that in whichever form a business wants. Whether we have the capacity to do that as much as we would like to is a question but, certainly, one of our primary goals is to prevent consumer detriment by visiting traders and advising them on how to comply with the law and changes to the law. The law with regard to cigarettes and NVPs has changed considerably over the past few years and we have been at pains to go out and visit businesses, including some that are small corner-shop businesses. We provide them with the necessary materials to comply. That facility is already there and, if businesses want advice, we are here to help.

Andrew Bartlett: We do not foresee a scenario in which we let people fall through the cracks. We would either deal with the issue ourselves or speak to our colleagues to come up with the most appropriate route. You may rest assured that we are certainly not going to sit back and watch sole traders and microbusinesses fall through the cracks; that would be picked up very quickly.

Dean Lockhart: Ultimately, I guess that it is a question of resource. If you get a certain amount of resource to cover an expected number of so-called consumers who need help, and small business is excluded, you might not have the resource to back up such an approach.

Andrew Bartlett: I can say, bluntly, from our perspective, that that is our challenge. If we are successful and get far, far more people to contact us, and we find ourselves 18 per cent up, year on year, just on the old channels and not including the new ones, we will need to go to the Scottish Government with an evidence-based request for more resource.

We will also need to take feedback from Graeme Paton and all the other trading standards managers in Scotland—we have all met twice already and there will be a third meeting in the near future—so that we understand our different pressures and ensure that the consumer gets the best outcome.

Dean Lockhart: That is very helpful. Thank you.

Jackie Baillie (Dumbarton) (Lab): The bill will create a consumer duty on public bodies. Does the panel support the approach? What difference will it make in practice?

Graeme Paton: As someone who writes committee reports to local authorities when they must make decisions on spending and so on, I think that the consumer duty is welcome. However, I can see it becoming one of many considerations that local authorities have to balance when they are making decisions on spending. The duty is welcome but—frankly—it will go into the pile with the rest of the considerations, such as environmental, financial and human resources considerations, all of which local authorities have a duty to take account of when they make decisions.

Andrew Bartlett: We welcome anything that will improve protection for consumers, so we support the duty.

Jackie Baillie: How will it improve protection for consumers?

Andrew Bartlett: The issue will be thought about at policy level; it is just one strand of informed policy making.

Jackie Baillie: I think that we just heard that it will be almost a tick-box exercise. I, too, used to write committee reports. At the end of the report, there is a list of considerations that require to have been taken into account.

Graeme Paton: It is not at all a tick-box exercise—I apologise if I gave you that impression. We look at all the considerations and say, “This policy is going to impact this way or that way, and here’s how we strike a balance.” The consumer duty will be exactly the same; we will see how a policy affects consumers and we will strike a balance. It has to be that way.

Fiona Richardson: We support putting consumers at the heart of policy making, of course. We hope that such an approach might help to avoid what my team refers to as “the green deal fiasco”, when the UK Government brought in the green deal without proper consideration of consumer protection at any point. A lot of consumers suffered detriment because of that UK Government-backed scheme. It might militate against such things happening if people thought

about the unintended consequences of policies when they were designing them.

Much will depend on the guidance that is developed in relation to the consumer duty. Currently, it is a headline duty to consider consumers when making policy. I do not think that anyone can argue against such an approach.

In the financial memorandum, it says that the bill will create no additional burden on local authorities. However, adding another statutory duty on local authorities will of course create an additional burden, unless consideration just becomes a tick-box exercise, in which case there is no point in bringing in the duty.

Jackie Baillie: Thank you.

The Convener: I do not think that the bill provides a mechanism for how the duty is to be enforced—I see the witnesses agreeing with me. Does that mean that the duty simply relates to decision making on policy? How would you describe it? How will it make any difference to anything?

Fiona Richardson: I suppose the intention is that, when public bodies make strategic decisions, they will consider what effect those decisions will have on consumers. However, without having the detail on how they are going to do that and what it means, it is difficult to see what impact it will have.

10:30

Graeme Paton: Consumer Scotland could use the duty to go back to those decision makers and ask them how they considered the consumer duty when they made their decisions. It could then consider whether it was a tick-box exercise or whether the matter was rigorously examined before the decision was made. I would say that decision makers should go for the latter.

Willie Coffey: What are your views on the consumer and trader interface? These days, contact is not personal. It is online or on the phone via a call centre. Has the model for that interface strengthened or weakened the consumer’s ability to get redress or representation?

Andrew Bartlett: You will be surprised to learn that I think that it has strengthened it. This is about giving people access to authoritative information and actionable solutions to their problems through the tools that they use. If somebody wants to go along to a face-to-face agency, that is the most appropriate thing for them to do. We do not advocate all funding being diverted from face-to-face agencies to online services or suggest that we should not have a face-to-face presence in local communities.

For people who work, for example, the online world is essential, and lots of people are really confident doing business on the phone. My mother is 76 and she is an avid phone user, but she would not go online to exercise her rights. Younger people, though, live in an online world. We need to make advice and information available on all channels. Next year, we will launch on WhatsApp, not to be trendy but because an incredible number of people use it as a day-to-day tool, and that will encourage them to seek advice and information.

Fiona Richardson: I suppose that our concern is about how we find out about the problems of those people who do not complain anywhere, because they tend to be the most vulnerable and disadvantaged. Maybe they do not complain because they do not feel capable, they are not empowered or they do not know how to do so. How can we assess and measure that hidden detriment? Maybe there is a role for consumer Scotland to play there through its research.

Graeme Paton: In the SCOTSS response to the consultation, we pointed out that some research that was done in Dumfries and Galloway found that those on low incomes are less likely to make complaints about consumer detriment. As Fiona Richardson said, perhaps consumer Scotland could concentrate on pointing out to consumers what their rights are and empowering people to complain. Reaching out to such people would be beneficial.

Willie Coffey: It is perhaps not about the complaint stage. When a person buys something from a trader online or in a shop, they may have an issue about how to set it up and get it working, before they come to you guys. Is the model for that as good as it could be? I often hear from constituents that it takes half an hour on the phone or that they are kept waiting in a call-management system with a hierarchy of buttons to press and they never get to speak to anybody. It is all automated stuff. Is that really the best that we can do for consumers?

Andrew Bartlett: Lots of traders could improve their customer service. I can assure you that you will not wait for ages if you ring consumeradvice.scot.

Willie Coffey: Is there an issue here? Should consumer Scotland try to influence the agenda?

Fiona Richardson: Is it an advocacy issue? Could consumer Scotland speak about it on behalf of consumers? I hate those hierarchies of options where callers have to make choices. If we could ban them entirely, I would be happy.

Willie Coffey: Thank you.

The Convener: We will leave it there. I thank our three witnesses very much for coming in.

I will suspend the meeting to allow a changeover of witnesses.

10:34

Meeting suspended.

10:38

On resuming—

The Convener: We will continue consideration of the Consumer Scotland Bill. Our second panel of witnesses includes Professor Iain Black, who is a professor of marketing at the University of Stirling; Sarah O'Neill, from Sarah O'Neill Consulting; Sheila Scobie, who is director of nations for the Competition and Markets Authority; James Walker, who is the chief executive officer of Resolver; and Graham Wynn, who is assistant director for consumer, competition and regulatory affairs at the British Retail Consortium. I welcome all five of you.

I will start. What can consumer Scotland add to the landscape for protection of consumers? What will it bring to the table, and what could it bring? I ask Graham Wynn to begin.

Graham Wynn (British Retail Consortium): Thank you, convener. The key thing is that consumer Scotland should do something unique rather than duplicate what is already there. We see consumer advice as a key role. Consumer Scotland should also look at new areas that other agencies do not look at. One such new area is the digital economy, as our submission suggests. There is a whole new way of retailing that affects consumers and involves the digital economy, artificial intelligence, personalised advertising, use of personal data, video surveillance, strip pricing, in-store tracking and cloud computing. They all raise a lot of issues for consumers to do with their rights and whether they should be worried about them. Consumer Scotland could examine such issues and give advice to consumers on the new types of retailing and uses of digital technology.

Citizens Advice Scotland and others give very good personalised advice on personal information and difficulties to do with that. It is time for a body that is able to look at the broader issues and give consumers advice on the difficult issues that other organisations do not have time or resources to look at. Digital retailing is an example that other bodies do not have the resources, time or targeting to deal with.

Sarah O'Neill (Sarah O'Neill Consulting): My take on the question is informed by my time working for Consumer Focus Scotland and, before that, the Scottish Consumer Council for many years. Since Consumer Focus was finally abolished in 2014, there have been gaps in a

number of areas. Public services and legal services, for example, were major areas of work for Consumer Focus, and I have not seen anyone take on that role in the past few years.

We need an overarching advocacy body to carry out research at a high level. Research in many areas was previously done that has not been done in recent years. That gap needs to be filled.

It must be made very clear that consumer Scotland will not work on things that other people are working on. It should work with others, and will have a public duty to do that. My experience of work in consumer advocacy organisations is that that is how we did things—we would always talk to others, figure out what people were working on and collaborate if we could. We would use our powers only if we absolutely had to.

Professor Iain Black (University of Stirling): I speak on behalf of myself and academics from Scotland's leading universities and business schools, including Deirdre Shaw, who is a professor of consumer research. We bring academic research evidence regarding consumption, consumers and consumer harm.

We would be broadly in favour of a modified version of consumer Scotland that would broaden the definitions of "consumer" and "consumption", to move away from the point of acquisition. We have to be very careful about the notion of using a consumer frame at a time of environmental crisis, because a consumer frame brings individualism and an expectation of more and more consumption, which are wholly incompatible with climate crisis.

We also suggest that there is opportunity for co-regulation rather than self-regulation, to make sure that we can keep a close eye on the activities of business.

The definition of "harm" should be broadened to include environmental harm; consumers need to be protected from the environmental harm that is caused by manufacturers and our global supply chains. The people who are most vulnerable to harm from the environment are the people who live in poverty in our country.

10:45

Gordon MacDonald: Before I move on to the question that I was going to ask, I will ask first about the gap in provision. I understand that there is concern about how the new organisation will fit in with the existing landscape of consumer support organisations. We have seen evidence that approximately 22 per cent of Citizens Advice Scotland's work is consumer related. An Audit Scotland report that came out a couple of years ago said that potentially 1.3 million people in

Scotland have problems with goods and services and would have grounds to complain. That 22 per cent of CAS's workload works out as 53,000 to 54,000 clients. Is there enough provision of advice and so on for consumers who have problems?

Sheila Scobie (Competition and Markets Authority): That is an interesting question. We see more organisations than Citizens Advice Scotland as sources of information and intelligence for us and for other enforcers in the landscape. There are a number of other third sector organisations, some of which have specific targeted responsibility for looking at particular sectors—for example, Transport Focus.

One of the roles that one might envisage consumer Scotland playing is in co-ordinating information and intelligence across all the advice services by tapping into intelligence channels—including information from citizens advice bureaux, Advice Direct Scotland or Resolver—then identifying the issues that really matter for consumers.

Gordon MacDonald: I accept that point. There are a couple of those independent organisations in my constituency. I just wonder whether there is enough capacity to give good advice to consumers.

Sheila Scobie: I do not have a particular view on that. As Sarah O'Neill mentioned, Citizens Advice Scotland took over from Consumer Focus and the Scottish Consumer Council, and has been supported over the years to provide the service. The CMA feels that we have been able to tap into Citizens Advice Scotland's data: it has shared information with us and has kept us updated with information on Scottish consumers, which has fed into our process.

I do not see a gap. Our view, nonetheless, is that there might well be, as Fiona Richardson said, consumers who are not complaining but could complain, and there could be information about issues in sectors in which we do not have oversight. If consumer Scotland could identify and get into those sectors, that could be a very useful source of advice and intelligence for us.

James Walker (Resolver): I would say there is sufficient capacity on a very simplistic level. There are two elements. The first concerns the effort that the consumer needs to make in raising an issue, which is partly about whether the consumer believes that the issue is worth raising. In other words, if it will take 25 minutes to deal with the issue on the phone, is it worth doing, or should the consumer just give up?

The second element is about people who are vulnerable and need more assistance and more time. The more that consumers can be helped to do stuff themselves, the more time will be

available to help vulnerable people. The vulnerability element is the hard one.

I was just looking at the data. A good illustration from the data for the energy sector is that the consumer in Scotland is about 3 per cent to 4 per cent more likely to be vulnerable than the consumer in England and Wales. You can see that there is a difference. Also, more people in Scotland were sold payment protection insurance, judging from the pay-out rates in the finance sector for resolution. There is variance among sectors and geographies in the UK.

The important point is that, if we have a method that requires the least amount of effort for the consumer, and which allows those who need most assistance to get it, we will have capacity in the system. Capacity issues arise through people being in the wrong channel to get the aid that they need—that is where we end up with problems.

Gordon MacDonald: Thank you. I will move on to my original question. The bill gives consumer Scotland a fairly broad range of powers with regard to advice provision, the views of consumers, collecting information, organising research and carrying out investigations. Given the existing consumer landscape, does the bill strike the right balance between each of those areas?

Sarah O'Neill: Overall, I think that it does. As Fiona Richardson suggested, the powers very much mirror the provisions in the Consumers, Estate Agents and Redress Act 2007. It is difficult to know what the balance should be in respect of providing sufficient flexibility for interpretation while also thinking about how prescriptive we want to be about what the new body should do.

For example, the bill refers to advice and information. I take it from that that the role of the new body is primarily about giving advice to the Government and others, and that it will provide information to consumers, rather than necessarily providing advice. The Scottish Consumer Council and Consumer Focus Scotland did a lot of work on that: we produced for consumers many information guides on areas in which we had identified from our research that there was a need for such provision. For instance, we published a booklet on common repairs, which was very popular. It was one of our most successful publications, but it has not been updated since the Property Factors (Scotland) Act 2011 came into force, because nobody has been looking at that area. We also produced guides on access to personal information and education law for parents—all sorts of things.

The bill will allow consumer Scotland to do that, where gaps are identified and where there is a need for people to have information so that they

can, as we heard, help themselves. That is something else that it would be useful to look at.

James Walker: I will make two points. First, the task of information gathering should not be underestimated. There are a lot of sources of information, and it is important that we bring them all together in order to understand the landscape. A very good example is that people who live in the Scottish islands make the most complaints about flight delays, per 1,000 head of population, in the whole UK. One would not see that simply from looking at the numbers, because the number of cases is small.

The second issue concerns co-ordination in the market. There are a number of players, and helping them to ensure that they are acting effectively together, in unison and in the right direction, and minimising overlap will allow delivery of more effective and efficient consumer support.

Graham Wynn: The bill probably strikes the right balance, and it certainly focuses on the right aspects of consumer requirements.

As I said, provision of advice and information will be key to the new body's capacities. It will clearly not be able to provide individual redress in the way that James Walker's organisation does. I have used Resolver, and it is very good. It resolved my problem, which I had been trying to deal with for a couple of days, within half an hour, so that is possible, even for a vulnerable consumer like me who is over 60. Apparently, I am vulnerable, because I am over 60—I do not know how many others in the room are—which I find rather strange.

The consortium has a slight concern around investigations, in which safeguards are needed, especially for investigations that look for information from businesses. We hope that there would be a request first, followed by an evidence-based request, rather than simply a fishing exercise. A lot of information is confidential, and there is sometimes a need to keep it that way.

Also, the new body must not duplicate the CMA's role in undertaking market studies and that sort of thing.

Nevertheless, the Scottish Retail Consortium—which I am here today to represent, although I am from the British Retail Consortium—is generally supportive of the bill as a whole and in its individual aspects, as long as they are co-ordinated. We need to be sure that the new body will operate in a proportionate and sensible way in one or two areas.

Professor Black: I cannot comment on the specific provisions, but I will comment on the overall direction of the bill. Essentially, it is putting

the onus on the victim, who has to come forward. The victim may have suffered a substantial financial loss or have purchased goods or services that do not work.

The one thing that none of us can get back is time—45 minutes spent on the phone is 45 minutes that we will never get back at the end of our lives, and such things become more important as we get older.

We are saying that consumer Scotland will inspect, and that the consumer will make the complaint. There is a question about whether there is capacity for that.

Further regulation of the people who cause problems should be considered. Are the regulations tight enough? Is there an inspectorate to ensure that goods and services are of merchantable quality and do not damage the environment? Is there a history of phoenix corporations, in which the same business just goes round and round? I would like additional capacity so that people do not have to spend their lives on the phone, even if they are getting fantastic advice from organisations.

In many ways, putting organisations out of business could be seen as a success, if they are doing things that they know they should not do.

Gordon MacDonald: Should the bill be changed to reflect that?

Professor Black: By looking at consumers, we are looking too far down the chain. Although I would contest the definition of consumers, we need to protect citizen consumers. We need regulation and an inspectorate to stop businesses doing the wrong things in the first place. That is where we could provide a different situation from that in the rest of UK.

Sarah O'Neill: The point that I was going to make probably ties into that. For me, consumer Scotland's main focus should be on advocating for consumers at the beginning of the process. It should take a preventative approach so that we do not end up with problems further down the line. That is where the duty to the consumer comes in, in trying to identify issues before they occur, so that consumers do not suffer later.

That also relates to the point about investigation. In this context, investigation means research—diving into an issue in depth, trying to find out where the problems are and making recommendations for resolving them are all key.

The other important point is that a consumer advocacy organisation needs to build on-going relationships, because that is how it finds out what consumer issues need to be addressed. Such relationships will also allow it to do its work: because people trust it and understand what it

does, they will provide information without its having to use its powers. Consumer Scotland should speak to people regularly, be involved in initiatives such as the consumer protection partnership, be on Scottish Government working groups and give evidence to Parliament—all of which are key.

Sheila Scobie: Following on from what Sarah O'Neill said, I note that the exemplar for consumer Scotland is the Consumer Council in Northern Ireland, which has broadly the same powers as consumer Scotland will be given and has been using its powers very effectively for a number of years. On working in partnership, the key recommendation that the CMA made to the Scottish Government on consumer Scotland was that it should take its place in the wider UK landscape, as the Consumer Council for Northern Ireland has done. It can be more effective to be part of such a partnership and to look at issues that affect consumers across the UK, such as the digital economy, rather than just customers in Scotland.

Colin Beattie: I come back to Professor Black's suggestion that focusing on wellbeing—and I would like panel members to define what they think that is—rather than consumer harm would allow Consumer Scotland to achieve more, especially on environmental issues. What does the panel think about that? Perhaps Professor Black might like to kick things off.

Professor Black: The importance of wellbeing also relates to fitting the bill into the Scottish Government's broader goals. Concentrating on harm—consumer harm—is a very narrow approach, whereas the goal that the Scottish Government set in the national performance framework is to increase people's wellbeing, health, happiness, enjoyment and social interaction in communities. If we view that as what we are trying to achieve, we do not focus so much on the very narrow issues, such as the way in which something was sold, whether a pack size was correct or whether what was delivered was the same as what was advertised.

That fits in with our broader view. We could take the important aspects of what consumer Scotland can do and, with changes to the definitions, fit those into the Scottish Government's wider goals. That would take the approach away from the individualist nature of "a consumer" and bring it into the area of wellbeing; we could then start to look at some of the social benefits, as well as the social harms that the agency could try to prevent.

11:00

Colin Beattie: Is there not a danger that, by widening it out in that way, the focus will be

diffused? At the end of the day, it is the consumer who is—I hope—being supported. The wider wellbeing approach sounds good, but if we move up to that level, would we not lose the individual focus?

Professor Black: Yes; I am making life more difficult for you. We could try to replicate the mechanisms that exist elsewhere, or we could try to make the agency fit the Government's wider goals. A broader range of mechanisms and targets would then have to be examined.

We have to take into account the fact that we are not consumers—there is no such thing as a consumer. You might be an MSP who consumes, a father who consumes or a mother or father who buys things for their family. If I ask my students to write down who they are, none of them will say that they are a consumer. They go through a list of other things that they are instead—a football player, a mother and so on. Therefore, we have to ensure that the protection element takes account of the idea that what we buy sits within a wider area of who we are in our families and the roles that we play in society and in the communities in which we live. If we take that broader view, we can provide stronger support for individuals and families in communities.

Sarah O'Neill: That is an interesting point. I have often struggled with the word “consumer”, because much of the work that I have been involved in has looked at consumers of public services—people who do not pay for such services but who still need them because they are essential services. It is often the most vulnerable people who rely on those services.

Rather than thinking about individual consumers, because there is no such thing as “the consumer”—everybody is different and we all have different needs—we should be looking at the collective consumer interest. I can see that fitting within this focus.

That brings in interesting issues, as Iain Black said. We did work on sustainable development and the consumer about 20 years ago at the Scottish Consumer Council, but it fell by the wayside because it was not a priority. However, I agree that we should be thinking about those issues and the collective consumer interest.

It is not just about the people who consume a service at the moment; it is about the people who might consume it but who cannot get access to it—it is about future consumers. A key question to consider when we talk about climate change is how it will impact on future consumers and how we can balance their interests with those of current consumers.

James Walker: We can divide this into two elements. The first element is that wellbeing will

be delivered because of how I see consumer Scotland working. It is not about helping the individual; it is about making sure that the knowledge of all the issues that individuals have is collated, gathered and turned into information and knowledge to help with the direction of policy, which will therefore help to protect consumers. In essence, you are picking up what is happening from the markets, learning and making sure that consumer issues are dealt with.

When we look more closely at wellbeing, what may be missing is the element of trust that exists, or does not exist, between businesses and consumers. Issues with the quality of reviews are often reported, and people ask whether they can trust reviews; we have also talked about whether there should be an ADR scheme for Scotland. Those elements are about the trust that exists between consumers and businesses and the danger for consumers when they make a decision but do not have enough knowledge. Wellbeing comes into that, as a consumer needs to know that they will be protected and looked after.

The environmental angle is another part of this. To be fair, it is not something that I considered in our submission, but if you look at consumer protection from any part of an environmental chain and start thinking about a circular economy, for example, those elements still play into it. Both players still need to be able to trust each other. Having trust within the marketplace is important.

Sheila Scobie: The debate is interesting, and it pertains to the provision in the bill that places a consumer duty on public authorities. As we have heard, public authorities have a range of statutory duties and, inevitably, in considering the consumer aspects, they will make judgments about wellbeing. Those consumer aspects could loosely be defined as issues of price, quality, convenience, fairness, trust and other public policy outcomes such as safety, health and environmental issues. It will be for public authorities to make the right judgment based on all the duties that apply to them, and an inevitable consequence of the consumer duty will be that wellbeing issues will be considered.

Graham Wynn: Obviously, that approach would provide what is nominally a consumer body with a unique perspective—a rather different perspective and role. It seems to be more about citizens than consumers. Where do we draw the line? It is the sort of issue on which the body could perhaps commission research and produce a paper—maybe Professor Black would like to provide it, and maybe that is the idea. It seems to me that that should not be the body's core duty; nevertheless, it should not be excluded.

Professor Black: I want to come back in on a couple of points. I referred to the issue in my

written submission. The Wellbeing Economy Alliance's wellbeing economy forum has been attended by the First Minister along with the Prime Minister of Iceland. There is a well-known and structured notion of what a wellbeing economy is and looks like.

On the juxtaposition of the consumer and the citizen, again, the citizen-consumer is a well-known frame that brings the social and the community into the individual. It is a strong way of framing the issue.

Colin Beattie: Consumer Scotland will not have an explicit role in considering competition issues. Is that a problem?

Sheila Scobie: It feels like that is the right question to ask me.

Colin Beattie: Yes, it was for you.

Sheila Scobie: I do not think that we can separate competition and consumer issues. Although we are called the Competition and Markets Authority, we are the competition and consumer authority and have powers relating to consumer protection as well as competition enforcement powers. In our work, we think about competition and consumer issues at the same time. Our duty as a competition authority is to promote competition for the benefit of consumers. We cannot disentangle the two.

Consumer Scotland can play a role, as Consumer Futures and Citizens Advice Scotland do now, in informing us about how markets are working for consumers, about how consumers are experiencing the power dynamics in markets and about trust issues and questions around the poverty premium and loyalty premium. There are all sorts of issues on which we would not have a focus unless we had heard from consumer organisations about how those issues affect individual consumers and collectives of consumers. Consumer Scotland could play a role in informing the way in which we exercise our competition enforcement powers.

Colin Beattie: Do other panel members have a view?

Sarah O'Neill: I absolutely agree with Sheila Scobie. I have worked previously with the Office of Fair Trading and with the Competition and Markets Authority. We have worked closely together on particular issues. For example, the Scottish Consumer Council raised issues about the property factors market with the Office of Fair Trading, which was the CMA's predecessor, and it took up the issue and did a market study. Ultimately, that led to the legislation on property factors that is now in place. We work closely on a number of issues, including competition in the legal services market. We have different

perspectives, but the CMA has the role of investigating markets and can take enforcement action if necessary.

Graham Wynn: In our submission, we mentioned

"the underlying concept that open markets and consumer protection are inextricably linked and that empowered consumers can drive up standards in consumer facing businesses."

That is the underlying proposition from the Scottish Government, and we support the approach that good competition between businesses is an important element in giving consumers the goods and services that they need, at the best possible prices. That is an underlying concept. On whether or not consumer Scotland needs a specific role in relation to looking at the competition elements, Lord Tyrie of the CMA has put forward interesting points on the consumer perspective, in relation to the CMA's competition and consumer roles. That should underlie the approach.

Richard Lyle: Some respondents to the committee's call for views suggested that consumer Scotland could have a role in streamlining the consumer landscape. Do you agree? How could that work in practice?

James Walker: I go back to a comment made by Andrew Bartlett, who was on the previous panel of witnesses. Consumers have a tendency to go where they want to go, rather than where we want them to be, so I am not sure what benefit streamlining would provide. Consumers engage with the services that they think will help the most. From the consumer perspective, rather than streamlining, it should be more about how we make sure that consumers are supported to engage in the way that they want to engage.

A good example is that our largest user group is 18 to 24-year-olds, which is probably the age group in which Advice Direct Scotland has a limited number of users—I am making a presumption, because people say that that age group is the hardest to engage with. Perhaps streamlining is not needed at the front end of how consumers engage. Where streamlining might be needed is in how data gets put together and therefore how policy is enacted and recommendations are dealt with. Rather than everyone doing things separately, how can economies of scale come into play if there is a greater set of knowledge?

Richard Lyle: Professor Black, is it harder being a consumer? You do not like the word "consumer" but I will still use it.

Professor Black: In many ways, the market-driven world in which we live, being a consumer is empowering. If people have the money and they

are consumers, they can have the life that they want. For years, people have been saying that the consumer is king. I do not like that phrase but the notion is that, if people have money, they have choice. They can travel where they want to and as frequently as they want to. It is empowering but it comes at a social cost, at a cost to the person and at an environmental cost. Because of the way that our economy is constructed, being a consumer with money is the best possible position. However, it is not good for the common good and it is not good for the environment.

Richard Lyle: We can wear only one pair of shoes at a time. Thank you.

Jamie Halcro Johnston: A couple of issues that I wanted to cover have already been covered.

How should consumer Scotland use its powers to provide or commission advice?

The Convener: Any takers?

Graham Wynn: I will kick off, just to get rid of the silence.

As I have said, the contribution that consumer Scotland could make is to look at new issues, rather than duplicating advice that existing organisations already give well. There is such a thing as information overload for consumers. A few years ago, *Which?* magazine, the then Department for Business, Innovation and Skills and one or two other organisations did a survey that found that consumers do not look at information or advice. We know that that happens, because product recalls do not get through—people ignore notices and communications.

Therefore, it is important to take a targeted approach, as I said, and to give consumer Scotland perhaps not a unique role but a different role in ensuring that, in giving advice to consumers—and very deliberate advice—it considers topics that other organisations do not have the resources to consider.

11:15

I mentioned the digital economy, artificial intelligence and the internet of things. How do we ensure that things are secure and that security is kept up to date? Should people worry about such matters? I am not pointing the finger at Microsoft in particular, but I noticed that it closed its cloud service for books. People did not realise that they owned not the book itself but only access to the book, and there were a number of complaints when they no longer had access.

Such things are part of a whole new economy that people do not necessarily understand, and they would not necessarily go to the existing organisations to get advice on such matters.

Consumer Scotland could give broad advice and information on the sorts of thing that consumers should look out for, such as using one's own data as money and all the other concepts that we hear about and of which consumers wonder whether they should be nervous or welcoming.

That could be a particular role for consumer Scotland, which needs to carve out its own role—ideally, a different role from that of everyone else, while co-ordinating with other organisations and not overlapping with what they do.

Jamie Halcro Johnston: The committee has heard in previous evidence sessions that the new body could do high-level research and promotion. If the resource that is to be provided to the new body were to be made available to existing bodies—perhaps ones that have special interests, such as the care of older people or a particular sector—what would stop such bodies doing that high-level work?

Graham Wynn: Nothing, I guess, if the bodies were given the right resources, although those bodies' attention might then be diverted from what they do best and are best known for, which might be to the detriment of the role that they currently perform. Obviously, if an organisation has resources it can do things. That is the same for consumer Scotland; it all depends on the resources.

James Walker: I guess that we could get an existing organisation to do everything that consumer Scotland would do.

For me, the fundamental issue is the need to take information from lots of different sources and to work with that information to look at the bigger picture. Some organisations are never able to see the bigger picture; I see trends that Citizens Advice Scotland or Advice Direct Scotland might not see, and they see stuff that we do not see. When someone starts to look at everything together, they start to get the bigger picture.

A slight concern of mine is that if we are always thinking of the future, we are in danger of missing the now. As I see it, the bill is partly about trying to prevent something from being on the front page of the *Daily Mail*—that is, when the *Daily Mail* manages to pick up a problem that the Government has not noticed. The key is to have an organisation that can start to look at the bigger picture of what is going on and which can influence the different players in the market, and their position in the market, to ensure that action is taken, rather than just acknowledging that there is a problem.

Jamie Halcro Johnston: The point about the top end or overarching side of things is interesting. In that context, how do we ensure that consumer Scotland focuses not on what appear to be high-

profile or popular issues but on important areas in relation to which there is no coverage or co-ordination at present?

James Walker: That comes down, first, to the direction and objectives that are set for consumer Scotland and, then, to the way in which the body uses and interprets data to turn that data into knowledge. I made a point earlier about flight delays. Who would know that, in the whole of the UK, the most delays per head of population happen in the Scottish islands?

Jamie Halcro Johnston: I would. I am from Orkney. [*Laughter.*]

James Walker: Yes, but from the perspective of regulation, I have never seen the issue come up; the same goes for issues to do with parcel delivery in the same areas of Scotland. Those are hot topics at present and they have a significant impact. However, something does not have to be chasing the headlines to be important.

Sarah O'Neill: The important thing is the forward work plan. I think that consumer Scotland will want to set out criteria for why it will do certain pieces of work and why they are important. For example, what is the level of detriment? How many people will it affect? Is anyone else working on it? I see that as something that the body will consult on before it publishes its work programme. It will speak to all the relevant players or stakeholders and ask what the key issues are. They may or may not be things that are on the front page of the *Daily Mail*.

Parcel deliveries is something that Consumer Focus worked on, but it seems to still be an issue, possibly partly because it is a reserved issue. There are not many differences in how consumers in Scotland and those elsewhere experience things, but where there are differences, the main reason is generally to do with issues of rurality. Those usually relate to access to services, difficulties in getting things, higher prices and so on. I hope that consumer Scotland will focus on the issues with the greatest detriment that affect the most consumers and those who are vulnerable.

I echo what has been said about advice. If consumer Scotland provided advice itself, it would need to be very clear about how that was being done. Having been on the receiving end of that kind of thing in a policy team, with people phoning up looking for advice, I know that staff are not necessarily qualified to respond and that it can take up a lot of time and divert people from their core work.

If the suggestion is that an advice body would be taken within the auspices of consumer Scotland, as I understand from previous evidence sessions, that would be a different matter, as long

as it was clear that it was being branded differently. We had that approach at Consumer Focus with the extra help unit, which now sits with Citizens Advice Scotland and helps vulnerable energy consumers. Although it was in our office, it was branded differently and people did not contact the main office as it was seen as a separate entity. That approach could work.

On the commissioning of advice, I think that overseeing advice is difficult because it is difficult to separate out consumer advice from other issues. How do we separate consumer advice from debt advice, housing advice and employment advice? All the research says that people tend to experience problems in clusters, and we have lots of other advice provision in Scotland. The recent legal aid review looked at the co-ordination of legal advice and assistance. I do not think that consumer advice can be looked at separately. It has to be looked at in the context of how it can best fit with all the other advice that is out there.

Jackie Baillie: On that point, I am conscious that Sarah O'Neill conducted a piece of research on Citizens Advice Scotland and the provision of legal assistance—I am the anorak who read the report. Given what you have just said, where do you see consumer Scotland bringing that additionality? We are very conscious of what Citizens Advice Scotland does, and you described the clusters of problems that it is good at resolving. Where will consumer Scotland sit? How will it bring additionality? I think that we need clarity on that.

Sarah O'Neill: Do you mean in relation to advice or in general?

Jackie Baillie: In general.

Sarah O'Neill: You have read my report. In the work that Citizens Advice Scotland does, it makes a massive contribution to access to justice. As you will know, most of its work is focused on benefits, debt, housing issues and employment, and I think that I am right in saying that the issues that it categorises as consumer issues are primarily debt related. It provides very good advice to the people that it serves, but it has a particular constituency that is not necessarily representative of the whole population.

The other point is that the issues that Citizens Advice Scotland sees are issues that have already arisen, where people have had problems. I am saying that we need to get in much earlier and try to identify potential issues before they become problems further down the line. Both things are important, but that is something that consumer Scotland could add—it could look at issues that might affect huge numbers of people, some of whom may be vulnerable and may not go to citizens advice bureaux or other advice agencies.

Willie Coffey: I want to talk about data gathering and usage. Graham Wynn and Sheila Scobie talked about the digital economy and I want to ask you about issues in relation to that. Do you remember the old days when we bought something and hardly ever heard from the seller again? We might have got only an annual letter, for example, about servicing our car, insuring our television or something like that. However, we now get bombarded constantly with messages offering opportunities to buy things, do we not? If we use mobile phones, we must aware of what is going on in terms of our personal data being gathered, perhaps without our knowledge—in fact, definitely without our knowledge. Where would that issue sit in consumer Scotland's agenda and would that body have a role to play in protecting citizens or consumers in that regard?

Professor Black: It might come as a surprise to hear that, although I am called a professor of marketing, I see myself as a professor of sustainable consumption. I think that marketing needs to be strongly restricted. If consumer Scotland is to provide additionality, it will be about learning the lessons from social marketing and tobacco control and saying that, for environmental and social good, there is a role for restricting marketing such as beautifully timed, well-designed messages that know exactly where we are standing and cause us, for example, almost to smell the coffee or whatever. The amount of knowledge that marketers have and how good they are at using it is scary. Their messages are designed, in essence, to do only one thing: to get us to buy more of their products.

We must understand the damage that such consumption can do to the individual by taking them into debt through, for example, paying with contactless cards. Perhaps members might use the old method of paying with money, but I have got out of the habit of doing that. One thing that we know about using electronic money is that people get into more debt by it. The more that individuals use their contactless phones, the more harm that that causes, not only for them but for their families, through lack of money. In the old days, our grandmother might have had to get to our grandfather for his wages before he went to the pub on a Friday night, which is part of my family history in Clydebanks. We now see modern versions of that social problem.

There is therefore a role for restricting marketing and the invasive messages that are directed at people. We might have ticked a box somewhere to receive marketing messages, but people tend not to read the terms and conditions or are unable to access them. That happens to the extent now that a number of marketing emails just say "Whatever" rather than invite people to indicate "Yes" or "No" to receiving messages. The marketing people

know that people will not read the terms and conditions, so they jokingly put down people's usual reaction of "Whatever" instead. As I said, there is a role for trying to restrict marketing and the harms that it causes.

Graham Wynn: I do not know about restricting marketing—it depends what you mean by that. We have to be careful not to be anti technology, because that can lead to unfortunate consequences. The key point is to ensure that consumers understand what they are consenting to and that those systems work so that we get the marketing that we want and not other marketing. Of course, that is very difficult to do and it is also difficult to enforce and get resources for.

We should not forget that certain messages are useful. For example, if we get a message that says that it is time that we got our car serviced otherwise we might have a problem, that could be a useful message. In fact, I understand that individual cars can now transmit information—this is beyond me—to a dealer that tells them to get in touch with the car owner because their car needs a new whatever so that it does not stop on the motorway, for example. That is useful information.

Coming back to the bill, it will be very much for consumer Scotland to advise consumers as a whole, rather than individually, about exactly how to ensure that they do not get marketing messages that they do not want and that they understand whether they are giving away too much data unnecessarily. However, that is certainly not an easy task.

We could all say, "Let's restrict marketing." That would be fair enough, but I suspect that it might be quite difficult to do that—or maybe Professor Black does not think so. You just want to ban it, do you?

Professor Black: There are mechanisms by which we could do that, which I could go into if you want me to.

11:30

Sheila Scobie: I agree with a lot of what Graham Wynn said. On digital markets, it is definitely a challenge to get into the detail of what is happening.

On the role that consumer Scotland can play in providing consumers with advice, we made a specific recommendation to the Scottish Government about the possibility of consumer Scotland playing an important role in educating young people about how they interact with online services. We think that, although young people are very good at the tech and know what to do online, they do not necessarily always understand what their rights are and what means of redress are open to them if things go wrong. We felt that

consumer Scotland could lead the way on that, and we are keen for that recommendation to be taken forward.

A lot is going on at the UK and international levels on digital markets. We are currently undertaking a market study of digital platforms, and we will look at such issues in association with other partners, such as the Advertising Standards Authority, which plays a part in this area, and the Information Commissioner's Office, which is responsible for data protection issues.

Willie Coffey: Consumers have a right not to be contacted and the general data protection regulation includes a right to be forgotten. However, that does not seem to apply in a number of cases, despite people's attempts to deregister from constant emails—sometimes that works and sometimes it does not. In the model of marketing that involves us constantly being bombarded, has the consumer lost the ability to protect their identity and their privacy? Should that ability be strengthened? Will consumer Scotland have a role to play in that?

Sheila Scobie: That is very much an issue for the ICO, which is responsible for policing the GDPR, but I think that there is a role for consumers, too. It might be a case of making sure that they have the right level of advice.

This is not universally the case but, in general, people have a choice about where to go to buy goods and services. They do not need to stick with a supplier that might appear to be dominant or might appear to be the preferred supplier of others. It is possible to shop around, and we might encourage consumers to do that if they do not think that they are getting the service that they want or if they are being pushed marketing that they do not want.

Professor Black: There are issues of trust in the organisations that we are dealing with. I absolutely agree that there is a need to protect people's data and to give them the opportunity to be forgotten. However, Facebook's entire capitalisation is based on being able to advertise to us, which means that, whatever we put in place, it will try to get round that by changing the settings on the updates and so on. The information will be available to us, but it will be buried and the process will happen at 2 o'clock on a Tuesday when we have plugged our phone in and it manages to get by us.

I would not support 100 per cent a model that involves waiting for the consumer to act before the Government does anything. There needs to be more inspection before the consumer stage.

We might think that we have a lot of choice, but we have the choice that the market gives us. There is not a lot of difference between Asda,

Sainsbury's and Tesco—essentially, they are selling us the same products at roughly the same prices. The institutions that Government has constructed mean that it is not as easy to start up a fishmonger's or to have a local fruit and veg shop. We think that we have choice, but the institutions of Government and the economy have created the choices for us. We also get limited messages from the limited level of media that we have, which leads us to think that we have choice when, in fact, we have the choice to do as we are told.

Dean Lockhart: Good morning, panel. The bill defines "consumer" as the individual consumer and does not cover small businesses, microbusinesses or sole traders. Given the comprehensive nature of the legislation, is that the right approach?

Sheila Scobie: I do not have a particularly strong view on that, but the Competition and Markets Authority has considered small businesses and microbusinesses when we have been conducting our market study work. Our investigations into the energy and banking markets looked particularly at microbusinesses as consumers and made recommendations for specific remedies to address the issues that they were facing in accessing both finance and an energy supply. We therefore advocate a fairly broad approach to the matter.

When I was listening to the earlier part of the meeting, it occurred to me that it might be worth thinking about how easy it would be for public authorities to include microbusinesses in the definition of consumers in the context of the consumer duty that might apply to those authorities. It is certainly something to bear in mind.

Graham Wynn: For the past 20 years, I have been involved in European legislation through a European trade association, EuroCommerce. The issue has come up a lot in that context and each time the general view has been that one should separate out business-to-business legislation from business-to-consumer legislation. That is, in part, because the rights and obligations for a consumer and for a business dealing with a consumer are often, and need to be, different from those between two businesses, for which there is freedom of contract.

I understand why you raised the question. Freedom of contract may exist for small businesses, but sometimes a contract is, relatively speaking, imposed upon them. However, if there are problems between small traders and for small traders selling to large traders and vice versa, those should be dealt with in their own right and their own way. We should not pretend that they are exactly like consumers. They are similar, but

you will want to take into account certain other necessary aspects.

As I say, if you want the legislation to deal with B-to-B issues, that is fair enough. Certain things have gone through both here and at the European level in terms of food dealings and that sort of thing. However, I think that businesses and consumers are best kept separate or you will divert attention from one to the other and the situation becomes less clear. It is interesting that most, although not all, member states of the European Union have kept them separate.

James Walker: From a simplistic point of view, that is the easiest way to do it. However, the situation in our world at Resolver is more complex. A significant number of small businesses raise issues that they are having with their telecoms or energy provider through Resolver, and they often have the same level of recourse as they would if they were a consumer. It is not a simple case of them being fully separate. In my world, there are areas in which small businesses have the same rights and, actually, the same problems as consumers. For example, they might have three employees and not be able to get the broadband to work when it is key to their business. They are affected as much as a consumer is—in some respects they are probably affected more, because they are being prevented from trading—and yet they sometimes have very limited powers to deal with the issues.

Sarah O'Neill: I do not have a particularly strong view on the matter either, but it needs to be bottomed out. Consumer Focus Scotland had powers in relation to businesses in certain circumstances, and I think that the extra help unit still deals with vulnerable businesses that are facing disconnection; that is the main area that I remember. It is difficult, because the lines between individuals and businesses have become more blurred in recent years. I am a sole trader in my consultancy, for example, so am I a business or an individual if I buy a computer?

The issue needs to be thought about. Other organisations such as the Federation of Small Businesses may have a role to play; it might be something that can be worked on together. My concern is that resources might be taken away from focusing on individuals and collective consumer interests, but the idea needs to be explored and I would not dismiss it out of hand. We are probably talking about very small businesses and we would need to be very clear about what that meant. I think it should be about having a power to include small businesses, depending on what the other priorities are, rather than a duty to look after their interests.

Dean Lockhart: Thank you for that feedback. It has been an interesting area of questioning,

because we have received mixed feedback from different panel members and witnesses. I do not think that anyone has a particularly strong view either way. James Walker made the point that a sole trader or an individual person running a business has, in many ways, the same needs as consumers; they do not have the B-to-B power of negotiation when they are looking at some of the issues that we have discussed with flight delays, parcel delivery and e-commerce. In that context, and given that other legislation extends to small business—I think that Sheila Scobie is right that it would have to be very small businesses—would a much higher level of resource have to be in place if we extended the definition of consumer to cover small business? Would a step change in resource be required to provide and enforce the protections for small business?

James Walker: It probably depends on the definition—not of a small business, which can easily be bottomed out, but of the landscape that is covered. If it is the whole landscape, an increase in resource would probably be needed, but it does not sound like a significant increase. The main issues that the small businesses that I see struggle with are the same issues that consumers have. They do not come to Resolver with issues with a supplier or trader, but with issues about not being able to get their mobile, energy or broadband service. It is that service element that throttles what they are trying to achieve.

Graham Wynn: It depends on the level at which consumer Scotland will operate and whether it will try to deal with the sorts of things that James Walker is dealing with—sale of goods and services issues, essentially. I do not get the impression that consumer Scotland's role will be to deal with a small businessman who, for example, cannot get broadband or whose mobile does not work, or to look at the reasons why a small hairdresser's hairdryer has broken, which might be that they have bought a consumer product rather than something that can be used every day on 20 or 30 people. Giving advice to small businesses in general about what they need to look out for, what their rights are and how they could go about sorting out their problems—similar to what the small business commissioner does; I cannot remember whether he operates in Scotland—is one thing. If consumer Scotland will get down into the nitty gritty of the specifics, as James Walker does in sorting out a specific problem for someone, then we would perhaps need to look at it a bit differently, and resource would be a bigger issue.

Jackie Baillie: The previous panel and this one have touched on the definition of the “vulnerable consumer”, Graham Wynn. I paraphrase—

Graham Wynn: That is me!

Jackie Baillie: Just because you are over 60, that does not make you vulnerable.

Graham Wynn: It does in the bill.

Jackie Baillie: Is the definition perhaps too narrow? Do we need to include something about context?

Graham Wynn: I just picked that out because I am over 60 and I noticed that, according to the bill, I am apparently vulnerable. I often feel vulnerable. However, I agree with the panellist—I cannot remember whether it was in this panel or the previous one—who said that it is about circumstances. When we take our cars in for servicing, especially these days when it is all done by computer, we are all vulnerable and have absolutely no idea whether the service has been carried out or not. Some people are vulnerable in relation to financial services, as has been said—young people more than old, probably, because old people count their cash. Therefore, it is difficult to give a definition in terms of this person, that person or the other person.

We are all vulnerable at various times. I am not sure how one would define vulnerability, other than to say that people who lack information in relation to the product or service that they are buying, and lack the ability to gather that information, are vulnerable.

It is difficult to say that a certain thing makes one vulnerable. I happened to notice the over-60 thing and thought that it was a bit ageist, but there are other things. I know that the CMA has toyed with that definition for some time, but I do not know whether it has come to a proper conclusion.

11:45

James Walker: We will probably all say the same thing, which is that vulnerability is a situation. Having a definition or concept of “vulnerable” that means that one day a person suddenly becomes vulnerable is unrealistic. People move in and out of vulnerability.

We have taken all the market definitions of vulnerability and created an algorithm. We run at about 85 per cent accuracy of being able to identify whether someone is vulnerable. Bizarrely, it is not a black and white scenario—there are shades of grey. For example, we can say that someone is likely to be vulnerable if they are elderly and live in a rural location, but if we add that the bus comes through once a day and it did not turn up that day, that moves them up the scale of vulnerability—every increment on the scale is an increase in how vulnerable someone is.

When we began building the algorithm, we started out with a concept of whether someone was vulnerable or not, but we have ended up with a scale to measure how vulnerable we think someone is—we cannot simply say yes, someone is vulnerable or no, they are not, because circumstances change.

Sheila Scobie: I agree with what everyone else has said—we are all more or less on the same page. It is difficult to know what I can say that will add to that.

Jackie Baillie: You do not need to say any more.

Sheila Scobie: I will say that there is something about defining something in legislation that fixes it in relation to that specific time. We should recognise that vulnerability is more dynamic than that. A better approach would be to look for alternative ways in which to put that on the agenda, through the work programme or some other mechanism.

Jackie Baillie: Context and flexibility are the points that I am taking away from that. I assume that you are thinking the same way, Professor Black, so I will move on.

Professor Black: I had a small point on that.

Jackie Baillie: I am going to ask you the next question, so you can cover it in your answer. The bill will create a consumer duty for public bodies. Do you support that? Will it make a difference? I will start with you, Professor Black, as I know you have distinct views on the matter.

Professor Black: Yes. This is potentially dangerous. The notion of bringing consumerism into public life was brought into being by an author called Philip Kotler, who literally wrote the textbook about marketing—he has made multimillions of dollars over multiple iterations. Within two years of writing about the idea that patients and students and so on are consumers, he backed away from it and said that there were power and agency differences there.

In higher education, we now have the national student satisfaction survey, which means that chancellors and vice-chancellors have become extremely focused on whether the institution's NSS score has gone up and whether the overall student satisfaction score has gone up. If it has done, they think that they have done a good job as a university. That means that we have shifted towards trying to make the students happy—instead of putting together our thinking about what we need to do from a pedagogical perspective to get our students to engage with their studies and think, we are focused on what we can do to make things easier and nicer for them. There is a fundamental issue there.

It might be that you want to take that route, but there is a danger that that provides a market solution to something for which a market solution is not the best solution available. It is well known that if someone wants to privatise a public service, the first thing to do is to defund it and get people angry about the quality. The second thing to do is to bring in a privatisation frame, by introducing a market frame: if we call people in the health service consumers, all of a sudden they think individually and have certain expectations. Finally, they are presented with a solution, which is the private sector, and they have been nicely set up to accept that privatisation. That might be the direction that you want to go in, although I suspect not. Bringing that frame into the public sector has potential dangers.

Sarah O'Neill: I take Iain Black's point, but I have a different view. As I said, it was a big area of work for the Scottish Consumer Council and Consumer Focus, much of which was on public services, such as on parental engagement in education and patient involvement in decision making. That is where I see the consumer duty coming from and I see it as being very positive that public bodies are having to think about such things. Whether we want to use the term "consumer", it is positive that public bodies are thinking about the impact that their services have on their users. The service users do not buy services, but they use them and they are very vulnerable in some cases—to go back to vulnerability in social care services—so it is important that the public body engages people in decision making and thinking about how policies might impact on them from the very beginning.

I am not sure what is meant by "public bodies". For example, does that include the Scottish Government when it is producing legislation on a variety of issues, which might not relate to public services? Does the Scottish Government need to think about that when it implements the Consumer Scotland Bill, for example? It would be very difficult to apply the provisions of the bill to private bodies because of issues of legislative competence. However, one of the things that I thought about was whether they could be extended to private bodies that provide public services, as is the case under freedom of information legislation, for example. Perhaps private bodies providing social care services and prisons might be within the legislative competence.

I see the bill as being positive. Consumer Scotland would have an important role in providing guidance to bodies and working with them. In the past, consumer bodies have worked with the Scottish Public Services Ombudsman and others to try to improve things for consumers of public services.

Sheila Scobie: I agree with much of what Sarah O'Neill has just said. Although the focus of much of the work that we do is on competition, as Graham Wynn mentioned, our chairman has made some reform proposals to the United Kingdom Government that would expand our remit so that we would be more focused on the impact of activity on consumers. That focus on the consumer, rather than just on competition, is an interesting way forward. We broadly welcome that focus in the Consumer Scotland Bill.

As Sarah O'Neill suggested, the devil is in the detail and it will be interesting to see who the bill applies to. It would be fair if it were to apply to a broad range of players who provide those sorts of public services.

The Convener: I thank our panel for coming to the committee today.

11:52

Meeting continued in private until 12:35.

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