



ACS Submission: Late Payment: challenging grossly unfair terms and practises

ACS (Association of Convenience Stores) welcomes the opportunity to respond to the Department for Business, Innovation and Skills' consultation on challenging late payments. ACS represents 33,500 local shops across the country including the Co-operative Group, Spar UK, Nisa Retail, Costcutter and thousands of independent retailers.

Late payments for small and large retailers alike can be a big problem, stifling cash flow and delaying investment in other areas of their business. Local shops deal with a range of suppliers and service providers, but the nature of retailing means they are generally less exposed to late payments than other small businesses. Local shops' transactions focus on direct services to consumers and 81% of sales are cash transactions¹.

We support government action to further highlight the damage that late payments can cause SMEs. We support proposals to allow business representative bodies to nominate themselves to represent their members in court on late payment issues.

ACS has responded to the relevant consultation questions below:

7) ACS has very few requests from retailers to intervene or address late payment issues. The majority of calls received by ACS on contractual agreements are about exiting contracts or renewals.

ACS has a dedicated legal helpline to support retailers to manage and address these contractual difficulties. ACS is a representative body and our members look to us to represent their views to Government, not to intervene on contractual terms.

13) ACS would not nominate itself to take legal action on behalf of retailers and challenge contractual terms on late payments. In order to do this, it would take significant additional resources in a sector that is not hugely impacted by late payment issues when compared to other sectors. ACS would review the scale and nature of unfair practices in contracts on a case by case basis and decide on what action to take.

In the past, ACS has campaigned for competition authorities to intervene on unfair practices that affect the entire sector, such as competition in the grocery and the newspaper and magazine supply chain, but this is distinctly different from direct interventions in individual contracts.

22) ACS would welcome further clarity around the legal definition of 'grossly unfair'. For independents retailers, this would support them to better understand poor contractual agreements. Considering the bargaining power of the supplier and purchaser would also aid small retailers when they are challenging complex contractual arrangements.

For more information on this submission please contact Sophie.mew@acs.org.uk or call 01252 515001.

¹ ACS Local Shop Report 2014