

<b>Institution:</b> University of Hull
<b>Unit of Assessment:</b> C20: Law
<b>Title of case study:</b> Consumer Law Reform
<p><b>1. Summary of the impact</b> (indicative maximum 100 words)</p> <p>Research published in peer-reviewed journals/books and reports commissioned by government departments have had significant impact on UK government policy relating to the reform of domestic consumer law.</p> <p>Impact can be seen in legislation adopted to transpose EU directives into domestic law, as well as the development of reform proposals during the current period (notably the Consumer Rights Bill [draft bill published on 12 June 2013]). The research was also used to give evidence to a House of Lords Select Committee and to assist the Law Commission with several projects.</p> <p>The ultimate non-academic beneficiaries are UK consumers, because a clearer and streamlined set of legal rules will make it easier for them to identify their rights and encourage greater compliance by business. Other non-academic beneficiaries are staff from Consumer Direct and the Citizens Advice Bureau who advise on consumer law, and the UK government itself.</p>
<p><b>2. Underpinning research</b> (indicative maximum 500 words)</p> <p>The research underpinning the impact in this case-study comprises 2 externally-funded research reports, a journal article and 2 book chapters (see Section 3). Both reports were commissioned by the relevant government department to help shape policy and respond to legislative developments at the European level.</p> <p>The first report (2) was written by Professor Christian Twigg-Flesner (Lecturer 2004-2005; Senior Lecturer 2005-2007; Reader 2007-2010; Professor 2010 to present) (who was also the project co-ordinator), with Deborah Parry (Senior Lecturer 1990-2005; now Senior Fellow), Geraint Howells and Annette Nordhausen (see Section 4) in Spring 2005 (finalised in May 2005). Hull-based staff contributed about 60% of the overall work. The report was commissioned to explore the actual impact of the EU Unfair Commercial Practices Directive (UCPD), once adopted, on domestic consumer law. The DTI requested information about what needed to be done in order to implement the Directive into domestic law, and also the scope for further simplification of domestic consumer law. The report considered the case for both repealing existing legislation and modifying this to bring it into line with the UCPD (see also (5) for a critical discussion). It concluded that, whilst it was possible to amend existing legislation to bring it into compliance, there was considerable scope for simplification of the regulatory regime in respect of consumer transactions.</p> <p>The second report (1) was directed by Professors Geraint Howells (University of Manchester) and Professor Twigg-Flesner, with Rick Canavan (Lecturer 2008 to present), Deborah Parry (see above), Andrew Bell, Annette Nordhausen Scholes and Chris Willett (see Section 4), and was produced during summer/autumn 2010 and published in November 2010. This research was commissioned by the Department for Business, Innovation and Skills (BIS) on the question of consolidation and simplification of the law relating to the sale and supply of goods. The report presented the case for consolidation of the currently fragmented law, simplification of terminology, and improved regulation of service quality.</p> <p>Elements of the work from the second report were published as part of an analytical piece ((5), written with Deborah Parry).</p> <p>The findings of both reports were accepted by BIS (and its predecessors). Taken together, the underpinning research identifies shortcomings with existing domestic consumer law and suggests how this could be alleviated, whether in response to specific developments at the European level, or by preparing domestic legislation.</p>

In addition, Professor Twigg-Flesner has researched into the impact of proposed new EU legislation and its potential impact on UK consumer law ((3) and (4)), in which he argued that the proposed Consumer Rights Directive would be detrimental to consumers. The key findings of these outputs formed the basis for his giving evidence to a House of Lords Select Committee Inquiry into the proposed Directive.

### 3. References to the research (indicative maximum of six references)

#### Funded reports

1. *Consolidation and Simplification of UK Consumer Law* (prepared for the Department for Business, Innovation and Skills), November 2010  
<http://www.bis.gov.uk/assets/biscore/consumer-issues/docs/c/10-1255-consolidation-simplification-uk-consumer-law>
2. *An Analysis of the Application and Scope of the Unfair Commercial Practices Directive* – (prepared for the Department of Trade and Industry (DTI)), May 2005  
<http://webarchive.nationalarchives.gov.uk/+http://www.bis.gov.uk/files/file32095.pdf>  
 Contract value £25,944.94.

#### Journal Articles

3. “The proposed Consumer Rights Directive – less haste, more thought?” (2009) 6 *European Review of Contract Law* 368-391 (with Daniel Metcalfe, then Research Assistant at Hull providing 35% input and listed as co-author)

#### Book Chapters

4. “Fit for purpose? The proposals on sales” in G. Howells and R. Schulze (eds.) *Modernising and Harmonising Consumer Contract Law*. (Munich: Sellier, 2009)
5. “The Challenges Posed by the Implementation of the Directive into Domestic Law – a UK Perspective”; in S.Weatherill and U.Bernitz (eds.), *The Regulation of Unfair Commercial Practices under EC Directive 2005/29: New Rules and New Techniques* (Oxford: Hart Publishing, 2007)

### 4. Details of the impact (indicative maximum 750 words)

Impact from this body of research can be divided into primary and secondary impact.

*Primary* impact can be identified particularly in respect of the influence of the research reports prepared for the DTI and BIS.

The findings of the 2005 report (2) were utilised in preparing the Consumer Protection from Unfair Trading Regulations 2008, which implement the UCPD into domestic law. The Regulations repealed around 30 existing pieces of consumer law and thereby greatly simplified this area of legislation. The partial Regulatory Impact Assessment published with the consultation on the Regulations (URN 06/2122) contains a list of measures to be repealed, and this was carried through into the regulations (Schedules 2 and 4 to the 2008 Regulation contain a list of legislation that was amended or repealed, which is based on the measures identified in the 2005 report). This list reflects the recommendations made in the report to simplify the overall regulatory landscape (having dismissed the alternative of amending many measures to comply with the requirements of the UCPD).

Between 2006 and 2010, Professor Twigg-Flesner (together with Deborah Parry and Rick Canavan in some instances) were involved in a number of meetings at the DTI/BIS to discuss the potential for further-reaching reform of consumer law, building on the research undertaken in 2005. These discussions related, in particular, to the need to consolidate and simplify the law relating to the sale and supply of goods. As a result of the discussions, in 2010 BIS commissioned research

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(1), and the resulting report has influenced work (evidenced by references in consultation documents and Explanatory Notes) leading towards the introduction of the Consumer Rights Bill (draft bill published on 12 June 2013), which will consolidate and simplify many of the provisions of the law relating to the sale and supply of goods in one Act. Since the report was finalised, Professor Twigg-Flesner has been involved in further meetings with officials at BIS about the potential scope for reform, based on the research findings.

*Secondary* impact relates to the continuing involvement of Professor Twigg-Flesner in advising BIS and the Law Commission on a number of consumer law reform projects during the review period. For example, the research on the UCPD (especially in (2)) formed the basis for discussions about the Law Commission's advice on a private right of redress (November 2008) and further pre-consultation discussions on consumer redress for misleading and aggressive practices.

Based on published research (3) and (4), Professor Twigg-Flesner was invited by House of Lords Select Committee on the European Union (Sub-Committee G) to give written and oral evidence for its enquiry into the proposed Consumer Rights Directive. The written memorandum (published in HL Paper 126-II, Evidence for 18<sup>th</sup> report, 2008-09 session) was based on research (4) and (5), and oral evidence given on 26 March 1999 (transcript in HL Paper 126-II, pp.4-18). His evidence was referred to repeatedly in the final report (see Section 5) and the broad conclusions of the report reflect the evidence given.

Underpinning report (1) was a collaboration with Geraint Howells (University of Manchester) (who jointly edited the report with Professor Twigg-Flesner), Andrew Bell and Annette Nordhausen Scholes (both Manchester), and Chris Willett (De Montfort University).

Underpinning report (2) was a collaboration with Geraint Howells (then Lancaster University) and Annette Nordhausen (then University of Sheffield).

**5. Sources to corroborate the impact** (indicative maximum of 10 references)

Team manager, Commercial and Corporate Law, Law Commission (and see also the Law Commission's final report recommending the introduction of new legislation published March 2012, Law Commission Report 332, fns.15 and 53, referring to the 2005 report).

The 2010 report was cited repeatedly in the BIS public consultation, *Enhancing Consumer Confidence by Clarifying Consumer Law* (July 2012) – see paras.4.19, 5.3, 5.65, 5.164 and 5.171). The draft Consumer Rights Bill was published on 12 June 2013. The Explanatory notes published with the Bill repeatedly refer to the 2010 report as being part of the basis on which the Bill was drafted (at paras.17, 46-7, and 184-5).

Evidence given to House of Lords Select Committee was cited in the main report (*EU Consumer Rights Directive: getting it right* HL Paper 126-I (2008/9 session)) at paras.25, 29, 34, 60, 62, 78, 114, 121, 144, 148, 149, 165, 168, 169, 180, 184 and 186