



# KNOW THEIR RIGHTS

Businesses take note – Understanding the new Consumer Rights Act now, will save you time and money.



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On the 1 October the Consumer Rights Act 2015 came into force bringing a range of sweeping changes that will impact on every business in the UK that sells directly to consumers.

The Act is probably one of the biggest shake-ups of consumer law in modern times as it aims to consolidate and reform what has previously been a raft of legislation that was difficult to understand and interpret. The Act introduces a number of new and important changes that businesses should be aware of

and DMH Stallard has been working with its clients over the last few months to make sure they are prepared.

Generally, the Act represents a substantial increase in the rights of consumers so our headline message is that businesses should be taking time now to review their standard terms of business along with any documentation used for transactions with consumers to make sure they comply with the new requirements brought in by the Act.

## Businesses selling digital content

*"This is the biggest shake up of consumer law for a generation, bringing legislation in line with the fact many people now buy online."*

**The former Secretary of State for Business, Innovation and Skills, Vince Cable**

Probably the most radical change is how the Act is now applied to digital content and is in response to more and more consumers buying

digital products such as online film, games, music downloads and e-books.

Businesses who sell digital products should be especially aware as the Act now defines statutory minimum rights for consumers who purchase such goods. In particular, if a consumer purchases digital content which damages his or her device or other digital content, then the supplier could be responsible for repairing the damage or compensating the consumer.

The financial risk to businesses here could be significant bearing in mind the value of devices that consumers now use often run into thousands of pounds.

Whilst the Act provides clarification on consumer rights relating to the supply of digital content, there has been no similar legislative clarification with the supply of digital content from business to business.

## So what rights do consumers now have?

One thing that we've seen is the new Act dramatically improves the options available to consumers for both the supply of services and the sale and supply of goods. Options available to consumers include the right to reject goods for 30 days after purchase; and the right to request a repair or to replace goods beyond the initial 30 day period. Where the sale of services are concerned, consumers now have rights to a reduction in price; and in some circumstance are entitled to compensation.

"One thing that we've seen is the new Act dramatically improves the options available to consumers...."

## What should businesses do now?

The Act has resulted in consumers having increased protection from the Courts.

It's really important therefore that businesses review their existing terms and particularly their consumer notices, as the Act now places a greater element of both reputational and financial risk on the business.

The Act treats consumer notices in much the same way as contract terms in that they are now subject to the test of fairness and those which are subsequently found to be unfair cannot be enforced against the consumer. It's also important to note that written notices must be transparent and brought to the consumer's attention in such a way as to ensure the consumer is aware of any terms set out

by the business.

Courts are now under a duty to consider whether all contract terms are fair, even if neither party raises fairness as an issue. Businesses must therefore keep this in mind when reviewing their terms and conditions with consumers.

## Other Practical Steps Businesses should consider

All traders selling to consumers, are required to give the consumer details of a certified Alternative Dispute Resolution (ADR) provider and inform the consumer about whether they intend to use that provider from 1 October 2015.

In addition, businesses should now be reviewing their formal complaints policies and procedures and consider formal training for customer service staff to ensure they are aware of the changes in law and any new policies the business is implementing. These are all important issues that businesses should be considering.

**DMH Stallard's specialist Retail Team have provided a comprehensive guide for businesses that can help them comply with the new Act. If you think you are not fully prepared then our team will be able to help you. Email the team at [enquiries@dmhstallard.com](mailto:enquiries@dmhstallard.com) for more information**

