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December 2010

OFT warns consumers about promises to wipe out debts

The Office of Fair Trading (OFT) has warned consumers that companies who offer to wipe out their debts using a legal loophole are being misleading.

The advice is in response to the dramatic rise in the number of claims management companies who say they can wipe out debts using sections 77-79 of the Consumer Credit Act 1974. These are the sections that specify that if a copy of the credit agreement cannot be produced then a debt becomes unenforceable.

The OFT has now published a guide clarifying the situation. It points out that for a fee of £1 consumers can request a copy of their hire or credit agreement so they can find out what was originally agreed, what the agreement is now if it has changed, and how much is still owed. If the lender does not provide this information then the agreement becomes unenforceable.

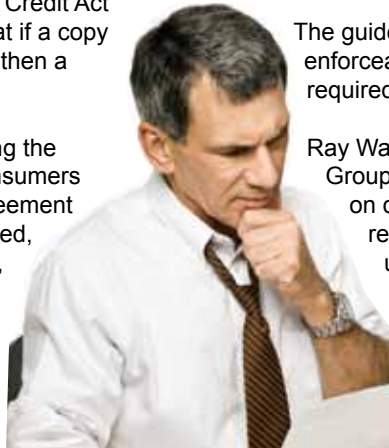
It means the lender cannot get a county court judgment against the borrower or take

back items bought on credit. However, the guide then goes on to say that "even if a credit or hire agreement becomes unenforceable, consumers would still owe any outstanding money to the lender, interest could be added to their loan or hire agreement, default charges could be made, and any failure to pay could impact on their credit record".

The guide also makes it clear that the debt becomes enforceable again as soon as the lender provides the required information.

Ray Watson, Director of the OFT's Consumer Credit Group, said: "Consumers have a right to information on debts they owe, but it is important that they realise that these sections of the Act cannot be used to write off legitimately owed debts.

"Although the debt can be classified as unenforceable until the right paperwork is provided, people are encouraged to seek advice and help on how they can continue to repay the money they owe."



Recession prompts 50,000 calls to Business Debtline

More than 50,000 small firms have contacted Business Debtline since the start of the recession in 2007.

The calls show no sign of abating with 2,200 businesses seeking advice from the debtline in September alone. Business Debtline is run by the Money Advice Trust, which is a registered charity. Its Chief Executive, Joanna Elson, said: "The help Business Debtline

offers small businesses is often crucial in ensuring not only their survival as a business, but also the well-being of their creditors, as well as the broader financial health of the UK.

"To have helped more than 50,000 businesses throughout the credit crunch is a huge achievement, and one we can be proud of. However, there are still many small companies seeking advice

on how best to manage their debt. Independent evaluation of the service offered by Business Debtline helps to demonstrate the positive impact of debt advice for small businesses.

"78% of callers who set up an arrangement with their creditors report maintaining it; and a large majority of callers reported that they were more confident about managing their business finances, less likely to get into problems in the future, and more in control of their business after obtaining advice."

Stephen Alambritis, Chief Spokesperson of the Federation of Small Businesses said: "Business Debtline provides a very good service to small businesses in dire straits.

"By helping to improve the financial capability of the UK's small business owners, this service plays an important role in achieving wider economic stability.

"The UK's 4.8 million small businesses are the lifeblood of the economy and we should do what we can to ensure they are protected, as far as possible, from the long shadows cast by a deep recession."

Public sector cuts could lead to more insolvencies

Public sector budget cuts could damage private sector companies and lead to more insolvencies, according to PricewaterhouseCoopers (PwC).

Research by PwC shows that 3,313 companies became insolvent in the third quarter of 2010. That was a fall of 18% on the previous quarter and a 29% fall on the third quarter of 2009. On a rolling 12-month basis, there was an 18% decrease in insolvencies.

While the figures appear to be very encouraging, PwC believes there may be more difficult times ahead because of the budget cuts in the public sector. Mike Jervis, a partner in the business recovery services practice at PwC, said: "UK businesses are certainly

not out of the woods yet as we expect looming public sector cuts will hit the bottom line of many public sector suppliers.

"Companies within the construction and service industries could potentially be among the worst hit. A modest increase in interest rates would also make a material difference to many struggling companies.

"All of these actual and potential macro changes need to be factored into company cashflow forecasts and scenario planning should be a key discipline. Obsession with cashflow remains a vital management tool."

Consumers spending more but 'there's trouble ahead'

Consumer spending is continuing to increase but there may be more problems ahead, according to researchers at Barclaycard.

Figures released by Barclaycard show that consumer spending on credit and debit cards rose by 9.2% in August compared to the same month in 2009.

It was the fourth month in a row that the annual growth rate increased by more than 9%. Barclaycard believes the figures challenge reports of reduced confidence and a slowing down in consumer spending. It suggests there is a gap about what consumers say



about their financial prospects and how they actually behave when it comes to spending.

Stuart Neal, Head of Barclaycard UK Payment Acceptance, said: "With leading retailers warning that the Government austerity drive will keep the economy in the doldrums and hit consumer confidence hard, it is good to see a fourth month of increased spending."

However, he believes there could still be some problems ahead as Government budget cuts take effect.

"Confidence remains relatively high, but it will be important to see how spending fares when public spending cutbacks begin to hit people's pockets, and not just the headlines."

Review finds problems with debt management firms

A review of debt management companies by the Office of Fair Trading (OFT) has revealed widespread problems across the industry.

The review included onsite compliance visits by OFT officers, a website sweep and a mystery shopping exercise.

The officers discovered that misleading advertising was the most significant area of non-compliance. In particular, there was often a failure to disclose that a fee is retained by the business.

There was also a tendency to misrepresent debt management services as being free when they are not. Frontline advisers working for debt management companies were also found to be lacking in competence and providing poor advice based on inadequate information.

As a result of the review, the OFT is updating its guidance to take into account what it describes as new and emerging unfair business practices. It will also work with the two main trade bodies, the Debt Managers Standards Association and the Debt Resolution Forum to support their initiatives to introduce higher standards into the industry.

Ray Watson, the Director of the OFT's Consumer Credit Group, said: "People who are heavily indebted, desperate and vulnerable need advice which makes their problem better not worse and should not be exploited. Debt management firms must be clear about their charges and the options available to customers.

"We are also looking to the two main industry bodies to lead the way in raising standards and to meet their commitments to make the industry more professional and responsible."

Government wants fairer credit services

The Government has begun a call for evidence to see how consumers can get a fairer deal when it comes to credit and personal insolvency.

Ministers want to improve the system so people can be helped to manage their borrowing better.

The review, organised jointly by the Treasury and the Department for Business, Innovation and Skills, will also look at ways to provide more help for people who run into financial

difficulties. The call for evidence seeks views on the existing approach to consumer credit and personal insolvency, and invites ideas on how to make the system work better.

The Government wants to hear from businesses and charities as well as consumers.

Following the review, ministers now plan to publish their proposals for improvements by summer next year if possible.

Where next

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