

THIS TRANSCRIPT IS ISSUED ON THE UNDERSTANDING THAT IT IS TAKEN FROM A LIVE PROGRAMME AS IT WAS BROADCAST. THE NATURE OF LIVE BROADCASTING MEANS THAT NEITHER THE BBC NOR THE PARTICIPANTS IN THE PROGRAMME CAN GUARANTEE THE ACCURACY OF THE INFORMATION HERE.

MONEY BOX

Presenter: PAUL LEWIS

TRANSMISSION: 1st SEPTEMBER 2012 12.00-12.30 RADIO 4

LEWIS: Hello. In today's programme, the Government says it will ban retailers from imposing unfair surcharges when we pay by credit or debit card; and, yes, you have heard that before. New rules are announced to control the way firms promise to help us claim compensation, but what difference will they make? Why do people have to work so hard to get the NHS to pay for long-term care costs?

TAYLOR: It gets so complicated and so confusing. I feel sometimes that they wear you down hoping that you'll go away and not pursue it any further, if you know what I mean.

LEWIS: We hear about the deadline in England to get those NHS claims backdated. And that little three or four digit number on the back of your credit or debit card - should you be asked for it in a shop or gym? And, if you are, should you give it?

But we start with airlines and other online and telephone retailers. Will they finally be banned from making us pay hefty surcharges for using a debit or credit card? The Government announced a consultation today on doing just that. And if your déjà vu meter is showing a strong signal, it did first announce it last December, so why is it only just consulting and when will these charges finally be stopped? Live now to Norwich to talk to Norman Lamb, the Government's Consumer Affairs Minister. Norman Lamb, last December you announced you'd do something about this, and now in September 2012, you're beginning the consultation. Why the delay?

LAMB: Well I came into the job in February this year and I think ...

LEWIS: *(over)* That's a poor excuse, if you don't mind me saying.

LAMB: No, no, no, it's not an excuse at all. I'm just saying that I think the commitment that

was made before I came in was that we would act before the end of this year, and I've been determined that we do that. We have to go through a consultation process to make sure that we get all the details right, but I'm determined that we get legislation in place before the end of this year.

LEWIS: I understand the need to consult, but you know this was 8 months ago, more than 8 months when you said you'd do it, and people have been ... I've had a lot of tweets and emails from people saying well why aren't they doing it; when's it happening? This has been going on for nearly 2 years altogether now.

LAMB: Well, look, I'm as frustrated as anyone at how long these processes take, but there's been ...

LEWIS: Yeah, but you're the minister.

LAMB: Yeah, I know, and there's been work going on in both the Treasury and in my department about the impact assessment on industry and how it will affect companies operating primarily over the internet. But I have been consistently pushing to ensure that we get this in place before the end of this year, and I think we can achieve that.

LEWIS: Okay. It's going to ban excessive surcharges. What will an excessive surcharge be?

LAMB: Well it's where companies seek to make a profit on simply the way in which you make a payment. And I think we all have been through the experience of perhaps spending 25 minutes online filling in endless pages when we're buying airline tickets, for example, or a package holiday, and then you get to the very last point and you're suddenly asked to pay quite a significant amount extra simply for using your credit or debit card. And of course you know that that's the only way that you can pay for the service ...

LEWIS: Yes, indeed.

LAMB: ... so you're forced into doing it. So it's getting to grips with companies that in a sense give a false upfront, very low cost for what you're buying and then add something on at the very last minute.

LEWIS: I understand that, and of course many of these complaints are about airlines, but when this was first announced, mentioned a year ago, Ryanair, one of the biggest low cost

airlines, said it didn't actually charge a surcharge. Oh no, this was an administration fee of £6 per person per one-way flight, so £48 for a family of four. That's not a surcharge, they say, so it will be allowed. How are you going to stop that?

LAMB: Well there'll be other rules in place that require companies to be upfront about what they're charging. I think the thing that people find so offensive, certainly what I find offensive, is that you get seduced into buying something. You think the charge is very low and then you get to that final point.

LEWIS: *(over)* And will you stop that?

LAMB: And so requiring companies to be upfront about how the cost is broken down. It also of course means that those companies that want to be open and transparent with their customers get a fairer deal as well because you know at the moment those companies that seek to mislead people are getting an unfair share of the action.

LEWIS: Norman Lamb, thanks very much. And you can let the minister know what you think through the Department of Business website from Monday.

ANSWER PHONE MESSAGE: *(Phone rings)* NatWest, Barclays, HSBC and Lloyds TSB customers. After losing the PPI court case, all UK major banks are offering full automatic refunds on all PPI policies. To get your full refund within 12 weeks, press 5 or press 9 to be removed from our database.

LEWIS: Well we've all had calls and indeed texts like that, and few things annoy people more. In the last 2 weeks, the Government has announced a major clampdown on claims management companies in England and Wales. These firms promise to help us recover compensation for mis-sold financial products, or after an accident, which in some cases we've never had. Money Box listener Nick got a cold call from a claims firm, which offered to work for him on a no win, no fee basis, but it still took a large upfront payment to pursue 11 claims on his behalf.

NICK: They took from me as an upfront payment £4,335 from my credit card, and this was even before they'd made any inquiries whatsoever. This was a total upfront fee. I do feel very bitter because I appreciate that they have to make a profit, that they obviously do put some work into dealing with people's complaints, but the amount of money that they actually take

off the person, I think is outrageous.

LEWIS: Well that was one Money Box listener's experience. Live now to talk to Kevin Rousell who's Head of Claims Management Regulation at the Ministry of Justice. Kevin Rousell, how will the changes you're planning help people like our listener, Nick?

ROUSELL: Well it's exactly designed to give listeners like Nick more time to consider what they want to do; not to be pressured into making an agreement to claim too early. And certainly we're planning to make it compulsory for contracts to be signed in writing rather than agreed over the phone before a fee can be taken.

LEWIS: So no fee could have been taken from him until he'd been sent paperwork and signed it and sent it back?

ROUSELL: That's right. I mean at the moment businesses are required to supply the paperwork anyway, but some are trying to get around that by agreeing with a customer over the phone that they look at a text message or a email to try and sort of get ... with the current rule.

LEWIS: And when will that come into force?

ROUSELL: Well we're consulting at the moment for the next 6 weeks, and the plan is to bring it into force, subject to the consultation, next April.

LEWIS: Next April - April 2013.

ROUSELL: Yeah.

LEWIS: You're also going to give people the right to complain to the Legal Ombudsman, aren't you, if they've got a complaint about a complaint handling firm? What powers will the ombudsman have?

ROUSELL: Well the ombudsman's jurisdiction is going to be extended some time next year to provide a full independent complaint service for dealing with complaints. At the moment, we're just a regulator. We don't have powers to award redress or compensation for consumers with individual concerns about a company.

LEWIS: Isn't the danger though that even if a complaint's upheld and the ombudsman

awards redress - and I believe it can be up to £30,000 - often these small claims firms come into business, go out of business very quickly, change their names. People who've lost money from a firm that's now suddenly gone out of business won't get anything, will they?

ROUSELL: Well our aim as a regulator is to drive those companies out of the market sooner rather than later, so that doesn't happen.

LEWIS: Well sure, that's fine to drive them out of the market. But if somebody's been awarded compensation and they've disappeared, with financial compensation there's a levy, isn't there? All the firms involved have to pay an annual fee and that's saved up and pays compensation from bust firms.

ROUSELL: Yes, that's right. I think one of the sort of medium-term things is to try and look at other options to provide a more secure site than that. I mean the thing is ...

LEWIS: So there could be a levy on all these claims management companies?

ROUSELL: Well looking at the possibility of compensation funds or indemnity insurance requirements are things which may be looked at in the future.

LEWIS: And what about the main complaint we get, which we dealt with at the start - is cold texts and cold calls? What can you do to stop them because they are often illegal, aren't they?

ROUSELL: They are. They're already banned, cold texts certainly, and the information commissioner I know is putting a lot more resources into enforcement at the moment. The trick we've got to do is make sure the regulators work better together because we've all got bits of information about these companies.

LEWIS: Well that's a hard trick because you've not really managed it so far, have you?

ROUSELL: I think we've done what we can with claims management companies. What we need to do is try and tackle these illegal companies who aren't claims management companies.

LEWIS: Listening to that is Andrew Wigmore, Policy Director at the Claims Standard Council. Andrew Wigmore, you represent, what, about 200 of the 3,000 claims firms. When are they going to stop cold texting and cold calling?

WIGMORE: Well most of our members are quite aware of the rules; and the indication that you've just given there, the fact that we only have 200 members out of a possible 3,000 authorised businesses, gives you a very good idea of the type of separation that we believe there is in this sector. There are some very good companies who offer a very good service and play by the rules and they work very closely with the Ministry of Justice and all the other regulators to try and do what is right and in the best way they possibly can. But they aren't the problem. The problem is the ones that Kevin has just illustrated. It's the ones that absolutely want to try as far as they can to fleece the system.

LEWIS: So you're saying that every one of your members when they get a list of people they can call or text, they check that list themselves, do they, to make sure everyone on that list has at some point agreed to receive a text or a call?

WIGMORE: Well this is when this whole issue gets very difficult because people will say that's what they call opt-in data; and, checking that, there are various mechanisms and instruments that you can use and they do. The trouble is a lot of the issues that are very prevalent now, and you've highlighted on the programme many times and Kevin certainly at the Ministry of Justice is very aware of, there are these what they call super-diallers that are offshore and have been abused by a few where they have absolutely blitzed everyone. And that is really where the problem lies: identifying those and stopping those organisations.

LEWIS: We know that happens, but you're telling me that every single one of the 200 odd members you represent will only call or text people who have specifically opted in to get these messages?

WIGMORE: Hand on heart, I would like to think so. But there's probably a reality check in that, in that there's probably people who have misused the system in some way.

LEWIS: Alright, let me ask you one final question. Should there be a levy on claims management companies, so that there is a compensation fund for victims who've been fleeced by firms that have gone bust?

WIGMORE: I think so, yes. I mean we welcome this new legislation and the consultation certainly because I think it will absolutely get rid of many of the companies that are causing the problem. So, yes, definitely.

LEWIS: So you'd like to see them weeded out partly by charging everyone a compensation fee, and your members would be happy with that?

WIGMORE: I think a majority of the good companies will be, yes, because they want to run a proper business; and those that do will stay, those that won't will disappear, and absolutely we would welcome that.

LEWIS: Andrew Wigmore, Policy Director of the Claims Standard Council, thanks. And Kevin Rousell's staying with us for a later item. There's no regulation, I should say, of claims management firms in Scotland despite a consultation in 2009 which found overwhelming support for the idea.

If you or a relative has been paying for care that should have been free under the NHS, you'll need to act quickly if you want to try and get that money back. The deadline in England for starting a claim is the 30th September. If you apply after that, you won't get backdating, though you could get it for the future. Of course you might not even realise that you can get free care, and that includes care in your own home as well as in a specialist live-in residential care or nursing home. But you can if the main reason for the care is medical. The NHS should pay the full amount, nursing and accommodation costs, no matter what your income or assets, provided it's for a primary health need. But what does that mean? Robert Beaman had Parkinson's disease and dementia and needed 24-hour nursing care, as his daughter, Daughne Taylor, explained to me.

TAYLOR: Dad was in a wheelchair. He couldn't walk; he couldn't load-bear at all. He'd got double incontinence. He couldn't feed himself, he couldn't dress himself, he couldn't wash himself, he couldn't get in and out of bed himself. He had no memory of anything. He didn't even know what day it was. It was all of those things added up.

LEWIS: Well despite his condition, Daughne found it very hard to get the NHS to agree that her father was a medical need and to accept its responsibility to pay. Her advice though is, don't give up.

TAYLOR: We very nearly did because it gets so complicated and so confusing. One person doesn't know what the other person's doing. You've got the social services involved, you've got the PCT involved, you've got the nursing home or the nursing carer involved. They don't all talk to each other. I feel sometimes that they wear you down, hoping that you'll go away

and not pursue it any further if you know what I mean.

LEWIS: Well Daughne's determination paid off. She got back nearly £84,000 of the care costs her father should never have had to pay. Lisa Morgan is a partner at Hugh James solicitors, which specialises in recovering care home fees from the NHS. She's taken several key test cases with the firm. Lisa Morgan, Daughne persisted, got the money back. What does make someone eligible for NHS fee paying care?

MORGAN: If their primary need is a health need, they should be the responsibility of the NHS. And in Mr Beaman's case, as the family have already said, they nearly gave up, but luckily didn't and did recover all their money back.

LEWIS: And luckily I think came to you for help. It can be very complicated though, can't it? People do try by themselves. What do they actually have to do? It's not just a case of writing and saying dad can't walk and is doubly incontinent, is it?

MORGAN: No, that's right. The first step they must do before this deadline is to notify the relevant Primary Care Trust that they feel they have a claim. They need to provide them with basic information - name, date of birth, date of death (if that's applicable) and where their relative was being cared for.

LEWIS: And they also have to go through these website ... They call them "decision making tools", don't they, on the NHS website, which you can use yourself and you can put in all the details and the home can make an assessment and then you can apply in England to the PCT, the Primary Care Trust. Can people do it themselves? I know Daughne gave up, hers was a particularly hard case, but really people can do it themselves and not pay even someone like you for it, can't they?

MORGAN: They can do it themselves, but my experience and what Mrs Taylor has already said, it can be extremely complicated. And it's very emotional as well and the amount of records, the medical records that have to be reviewed can be very overwhelming for the family. But no, I do agree, they can do it themselves. However, if families don't feel they're able to do it themselves or can't cope, they can instruct other people to assist.

LEWIS: And Daughne Taylor suggested there that there was almost wilful obstruction by the NHS and social services, and I've certainly heard many tales like that. Is that true or is it

just that most people don't understand these very complicated rules?

MORGAN: No, I would agree. I have seen a number of perverse decisions and it's taken 2 to 3 years to challenge the NHS, so that they finally make the correct decision that should have been made in the first place.

LEWIS: And where should people go? Obviously they can go to you, but there are other solicitors, aren't there, organisations that will help?

MORGAN: There are other solicitors. And I would advise them to do their research, contact organisations like Solicitors for the Elderly, but ask what experience they do have in dealing with these types of claims.

LEWIS: And also what they charge. I mean what do you charge, for example?

MORGAN: We offer initial free assessment by way of a questionnaire. We then offer the client a number of funding options, and one may be a no win, no fee agreement.

LEWIS: But you charge, I think as I recall, it's 18% plus VAT. So 22%, isn't it?

MORGAN: That's right, if we do offer a no win, no fee agreement.

LEWIS: Lisa Morgan, thanks very much for your help. And still with us is Kevin Rousell, the Head of Claims Management Regulation at the Ministry of Justice. Kevin Rousell, does the Ministry of Justice regulate claims firms that promise to get care fees refunded?

ROUSELL: No, it doesn't. I mean there are some claims firms who provide a range of services, which includes this, but the regulated area doesn't include claims for care home fees.

LEWIS: So who does?

ROUSELL: Well it's down to Trading Standards. I mean consumer protection against rogue trading, if you like, is provided by Trading Standard departments across the country, so if you've got a concern about a particular company, contact your local Trading Standards.

LEWIS: But I'm sure I've seen claims firms that do a number of things, and they do say regulated by the MoJ, don't they?

ROUSELL: Yeah, that's been brought to our attention in recent weeks and we're rooting those out in terms of making sure they make it clear that they're not regulated in respect of this particular activity.

LEWIS: So they won't be able to have on a website advertising care home fees that they're regulated by the Ministry of Justice?

ROUSELL: Exactly, that's what we're rooting out at the moment.

LEWIS: And you're also changing that for the future. They're not going to be able to say it at all, are they?

ROUSELL: That's right. I think the term Ministry of Justice is well-known and sometimes people think it means that the Ministry of Justice is actually endorsing a company and it's not.

LEWIS: No and of course it isn't, no, so in future it'll say something different. Thanks very much, Kevin Rousell, and also thanks to Lisa Morgan who we heard from earlier. Useful links on our website on how to go about making a claim and you can try and do it yourself. The instructions are all there.

Money Box has learnt that some organisations have been breaking bank card security rules designed to keep our credit and debit card details safe. Banking regulation says the three digit or four digit sometimes security code, the CVV number on the back of your card, is only supposed to be requested when someone buys goods or services but isn't present like over the phone or online. But Money Box has discovered a leading gym provider had been asking customers to write it down, so it could be stored, even though this breaches strict industry fraud guidelines. Bob Howard reports.

HOWARD: Paul, Money Box was contacted by Rachel from London. Rachel decided to join the Central YMCA Club gym. She popped in and was asked to fill out a direct debit form with her bank account details, which she promptly did. But to complete the process, the gym said it required other payment details from her as well.

RACHEL: In addition, they were asking for my credit card details in case the direct debit payment should ever fail. So I was slightly surprised at them needing to do that, but filled in my credit card details. But within that written form, they were asking for the security code

from the back of my credit card, which I said I wasn't prepared to give them.

HOWARD: Rachel didn't think it was safe to write down the three digit security code which would then be stored by the gum. The Central YMCA Club tried to reassure her it would be stored securely and only authorised staff would have access to it. In the end, it said unless she was prepared to submit the code or pay the full one year membership upfront, she couldn't join. So Rachel decided to call her credit card provider, John Lewis, to check whether she could write down the security code after all.

RACHEL: They said that if I were to knowingly hand over the security code to be kept for a duration and in paper and in those circumstances, that would mean I would no longer be covered by their commitment that they would pay us back for any unauthorised debits that went onto our credit card. So basically they were saying no, that wasn't an authorised way of using the codes.

HOWARD: So Rachel contacted Money Box and we spoke to the biggest card providers. They confirmed that the three digit security code CVV2 number should only be requested when the customer isn't present and should not be stored. Rachel's card is a Mastercard, but despite numerous requests, it refused to tell us what rules its merchants must abide by. But Visa rules, which we have seen, certainly make it clear that CVV2 numbers must not be stored.

VISA RULES: All merchants are prohibited from storing CVV2 data. When asking a cardholder for CVV2, merchants must not document this information on any kind of paper order form or store it on any database.

HOWARD: The Central YMCA Club gym is not the only organisation which has been breaking these rules. Rachel says she's been asked by some charities to submit her security code with a payment; and card prevention expert Andrew Goodwill says other firms have also been warned.

GOODWILL: It's very serious. The CVV2 number should never be stored with a credit card number and a customer's details. In this day and age, it's just ridiculous that any company would even consider doing that. It tends to be lack of knowledge where companies want to be able to take money from cards, but they don't actually look into all the aspects of it.

HOWARD: Nobody from the Central YMCA Club gym was available for interview, but David Thompson, its Director of Professional Services, did respond via email. He said since Rachel's complaint, the gym had now decided to suspend the collection of security codes and remove all those currently held.

DAVID THOMPSON EMAIL: We apologise unreservedly for our error, which we have sought to rectify as quickly as possible. We are immensely grateful to Rachel for bringing it to our attention and disappointed that this error may overshadow the good work of the charity.

HOWARD: So customers at the Central YMCA Club gym in future should no longer be asked for their security code, but have the hundreds of gym members who've already handed over the three digits potentially compromised themselves should they ever in future find there's been fraud on their card? That's what the John Lewis credit card call centre had told Rachel. We put this to HSBC, which runs the John Lewis Partnership credit card, and the bank has had to make an embarrassing retraction.

HSBC STATEMENT: We've listened to the call and the customer was given incorrect information regarding fraud liability. It isn't against the terms and conditions for customers to hand over their CVV number to a retailer whether written down or verbally. Giving over the three digit number to a merchant doesn't then make the customer liable for any fraud that may result. We must apologise for giving the customer the incorrect information and will reconfirm to all our card handling call centre staff our correct policy.

HOWARD: So Paul, to summarise, if you're ever asked to disclose your card security number and you're not online or on the phone, you should say no. The merchant doesn't need it and shouldn't be asking you for it.

LEWIS: Bob Howard reporting there.

And Lesley McAlpine's here with some news about compensation for Ulster Bank customers affected by that long computer failure earlier this year.

McALPINE: Yes, Paul. Ulster Bank will reimburse reasonable out of pocket expenses, including charges placed on people's accounts in error. Customers will receive £20 compensation.

LEWIS: And, Lesley, you've also got details about new rules which make banks explain how much of their savings are protected.

McALPINE: That's right. From Friday, 31st August, all banks, building societies and credit unions had to display a poster in the window and in the branch and a small notice by each cashier showing the Deposit Protection Scheme limits and which other firms they're linked with. However, a quick survey done by Money Box on Friday found that local branches of major banks we went into didn't seem to be complying with the rules. However, all those banks say they are now complying.

LEWIS: Yes rather rapidly after our survey. Thanks very much for that, Lesley. That's it for today. There is more on our website: bbc.co.uk/moneybox. You can read my newsletter, download the programme, and of course send us your ideas - as many of you do. Vincent Duggleby's here on Wednesday at 3 with Money Box Live, this week taking your questions on saving and investing. I'm back with Money Box next weekend. Emails coming in already about cold calling and about those CVV numbers. I'm back next weekend with Money Box. Today the reporter Bob Howard, the producer