

# Compliance Forum

An overview of the latest Commission Disclosure
Supreme Court case as well a forward look at what's on
the regulatory horizon.

Wednesday 28th May

20 25



Compliance

**SHCOSMITHS** 



# Agenda

**Session 1: Commissions Update - What do we know from the Supreme Court?** 

**Keynote speaker – Wayne Gibbard (Shoosmiths)** 

Session 2: The FCA's Vulnerability Review.

**Charlotte Matthews (Financial Conduct Authority)** 

Session 3: Complaints Handling in an evolving Regulatory Landscape.

Janine Eden (Deloitte)

Mark Hollands (Financial Ombudsman Service)

**Session 4:** Horizon Scanning in the Vehicle Rental and Leasing Industry.

**Jonathan Davis (Ingeni Services Ltd)** 

**Session 5:** Panel Session - The importance of Management Information.

Phillip Garlick (Product Partnerships Ltd)

Patrick Mcgovern (S&W Partnerships LLP)

Nickie Brooks (Jurni Leasing)



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## Competition Law Do's and Don'ts

All BVRLA events are subject to the application of competition law and therefore must be conducted in compliance with competition law.



#### DO NOT

- Discuss individual company prices, price changes, terms of sale and profit margins.
- Discuss information as to future plans of individual companies, production, distribution or marketing plans, including proposed new territories or customers.
- Discuss matters relating to individual suppliers or customers or any commercially sensitive information.



#### **BE WARY**

#### YOU MUST SEEK ADVICE IF:

You receive information from another competitor, or are asked to provide information, that you believe is confidential or commercially sensitive.

#### **ALWAYS:**

- Ensure a detailed agenda is circulated in advance and are followed closely and minutes of the meeting are recorded and kept.
- Begin the meeting with the reminder that the attendees should not discuss commercially sensitive information under any circumstances.
- Be prepared to halt a meeting if conversations cross into potentially unlawful territory.



#### **NO PROBLEM**

- Discussion on any matter relating to the aims and objectives of the committee for example issues of law and policy affecting the industry.
- Discussing BVRLA policies, lobbying tactics & strategies, and other BVRLA activities.
- Discussing information about industry activities obtained from third parties or other media sources provided the availability of the information has not been arranged with a competitor.
- Discussion with other trade bodies or organisations which will be of general benefit to the industry.

# **Keynote Speaker**

**Commissions Update Wayne Gibbard, Partner, Shoosmiths** 



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### Commissions & redress:

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The Supreme Court and beyond...

Wayne Gibbard

May 2025



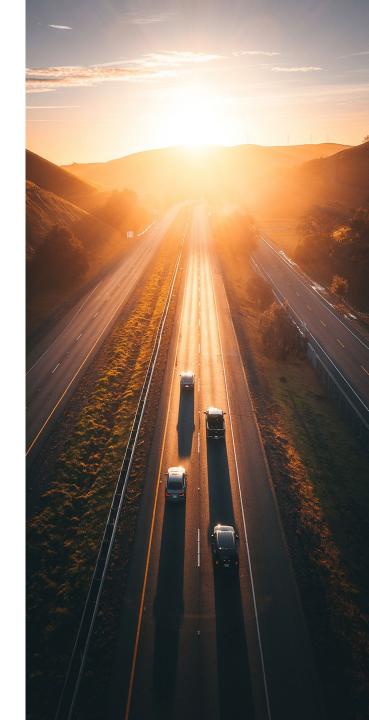
### In the rearview mirror...

- April 2007 FOS took on responsibility for consumer credit complaints
- April 2014 FCA as regulator
- April 2017 FCA Business Plan (Review of motor finance (2017-18 Business Plan)
- July 2017 Scope of motor finance review detailed
- March 2018 FCA Review of Motor Finance
- October 2019 Consultation Paper on commissions (CP19/28)
- July 2020 Policy Statement (banning DCA) (PS20/8)
- January 2021 FCA banned DCA
- March 2023 FCA Motor Finance Portfolio letter Consumer Duty
- January 2024 Intervention on DCA (pause on complaints)
- April 2024 Dear CEO letter (financial resources)
- October 2024 Court of Appeal decision (Hopcroft, Johnson and Wrench)
- December 2024 Judicial Review decision (FOS complaint)
- December 2024 FCA extend pause on complaint handling to non-DCA and leasing
- Supreme Court hearing 1-3<sup>rd</sup> April 2025 (judgment July 2025?)



### Current status

- DCA commission review motor (FCA)
  - Ban on DCAs
  - Complaint handling pause (extended and widened)
  - Review of redress (s.166)
- Fiduciary duty and "secret" commission (judicial)
  - Disclosure and consent requirements
  - Scope of ad-hoc duty
  - Extension of pause
- Judicial review (FOS)
  - Irrationality of decision making and legal analysis
  - Quantum and redress
  - NB: Claims super highway...
- Legal claims (CMC)
  - Pursuit of existing claims
  - Additional head so of claim



## The Supreme Court – The issues

- 1. When acting as credit brokers, do car dealers owe consumers a "disinterested" and/or fiduciary duty to provide information, advice or recommendation?
- 2. If so, were the payments of commissions by the lenders to the car dealers secret such that the lenders become primary wrongdoers?
- 3. Can the lenders be liable in the tort of bribery? If so, what is the correct approach to remedies?
- 4. If there was sufficient disclosure of the commission to negate secrecy, was there insufficient disclosure to procure the consumers' fully informed consent to the payment such that the lenders are liable as accessories for procuring the credit brokers' breach of duty?
- 5. Can insufficient disclosure also suffice to make the relationship between lender and consumer "unfair" for the purposes of the Consumer Credit Act 1974 ("the 1974 Act")?



# So, what will happen?

- Supreme Court have to consider capacity of dealer
- Limitations, or extensions to duties
- The FCA have given clues on their approach in Barclays (Clydesdale) decision and Supreme Court
- Impact on other verticals, such as hire
- Application to different customer groups
- Redress programmes (scope)
- CMC challenges
- Sector response
  - CCA reform
  - Process and control enhancement
  - Transparency and disclosure



# Key considerations your organisation should be thinking about—we can help.

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- 1. Now is the time to understand your data sources, gaps and integrity.
- 2. Redress process design is an iterative and dynamic process that takes time.
- 3. Scope and eligibility contingency plan for different criteria.
- 4. Design a process map which accommodates for split complaints in a redress scheme.
- 5. Robustly query and challenge FCA/Skilled Person decisions, findings and review outcomes.
- 6. Futureproof process design by mitigating the risk of a high-volume of consequential loss claims.
- 7. A strong project governance framework is key to keeping on track.



## · Your team 's experience











#### Wayne Gibbard

- Wayne is the driving force behind Shoosmiths' automotive finance practice, renowned for his visionary leadership of FSC and unparalleled industry expertise.
- With a distinguished career spanning over 25 years, Wayne has held pivotal roles at financial services and automotive giants, including Volkswagen Financial Services, GMAC, NatWest, Cisco, and Santander.
- Wayne is uniquely placed to coordinate the multidisciplinary teams that come together under FSC and deliver exceptional outcomes for clients.

#### Tom Speller

- Tom is the director of Shoosmiths
   EIGHT, the firm's connected services
   business. He is responsible for
   ensuring the firm extends a suite of
   cutting edge, value adding products
   which couple core expertise with new
   services, technologies and delivery
   methods to offer more complete
   business solutions to clients.
- Tom is formally a Director within
   Corporate Strategic Solutions at
   Barclays Corporate & Investment Bank,
   having previously been worked in
   banking at ABN AMRO and as a finance
   lawyer at Citi and Norton Rose
   Fulbright.
- Tom will support Wayne in product delivery.

#### Peter Richards-Gaskin

- Peter brings 18 years of unparalleled financial services experience, specialising in managing high-profile remediation, large-scale litigation, investigations, and regulatory reviews.
- Notably, he served an 18-month secondment as Head of Legal for the landmark remediation of the Royal Bank of Scotland's Global Restructuring Group, setting the gold standard for subsequent remediations.
- Peter is recognised as a leading expert by Chambers UK and The Legal 500 for his expertise in banking litigation and regulatory disputes, making him a trusted authority in navigating complex legal and regulatory landscapes.

#### **Brendon Vipond**

- With over 22 years of expertise in the financial services sector, Brendon is a highly regarded authority in financial services remediation, known for designing and implementing successful remediation and redress schemes.
- Brendon has led numerous large-scale remediation projects and redress schemes for global financial institutions, including advising a large UK clearing bank on the FCA mandated review and designing an automatic redress scheme for a commercial lender.
- Brendon was a senior advisor to the Royal Bank of Scotland in relation to its remediation scheme for small and medium-sized enterprise customers within its Global Restructuring Group.

#### Jonathan Mills

- Jonathan specialises in supporting clients with complex litigation issues and is recognised for his practical and focussed advice.
- Jonathan works for a range of motor finance lenders and specialists in the asset finance sector.
- Jonathan has defended a portfolio of broker commission claims from multiple claims managements companies and getting them dismissed

### FCA's Vulnerability Review.

**Charlotte Matthews, Consumer Policy Manager, FCA** 







# Complaints handling in an evolving regulatory landscape.

Janine Eden, Senior Manager, Deloitte LLP
Mark Hollands, Ombudsman Manager, Financial Ombudsman Service









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### What's on the Horizon?

Jonathan Davis, CEO, Ingeni Services Ltd









### Where are we now?

- With upcoming changes to the regulatory landscape, what do we know about the compliance in our industry?
  - A lot more than you think
  - The future ISN'T uncertain
  - Change is somewhat predictable
- What we do know
  - Disclosure requirements
  - Redress for discretionary commissions
  - FCA rules and advice may need to change
- Compliance isn't something to be feared
  - Aim for 'as automatic as breathing'
  - 100% is the only acceptable target



# Scan the Horizon and Plan for Change

- Change is only a problem if you don't PLAN for it
  - The only way to navigate uncertainty
  - The sinking of the Titanic
- Be cyber-savvy and get ahead of the issue
  - Make it integral to your business
  - Look at data protection and authentication
  - Is your cyber insurance up to date?



# Scan the Horizon and Plan for Change

- Dealers will ALWAYS be important
  - Digital Tourists v Digital Natives
  - The Digital Marketing & Consumer Credit Act
    - Digital tourists still require help for the next 10-15 years
- Human interaction is key for understanding context and making good decisions
  - The customer journey may be digital or face-to-face
  - Both journeys must be equally well thought out
  - Both must be high quality and compliant
- Future digital purchasing via Apps rather than websites



# **Key Takeaways**

- We know a lot about what is coming so we have time to plan.
- Change is not the problem! Our attitude to change is where problems may arise.

Remember: life is...

1% what happens

**99%** how you react to what happens!

You can **choose** how to react!

The most important indicator of future success is a willingness to stay teachable and be open to change.





### The importance of Management Information.

Phillip Garlick, CEO, Product Partnerships Ltd
Patrick Mcgovern, Manager, S&W Partnerships LLP
Nickie Brooks, Chief Compliance Officer, Jurni Leasing









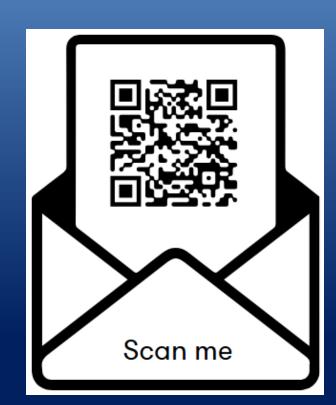
# Thank You

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# Compliance Training

- Essentials Modules + SAF Modules = Accreditation
- Complaint Management course; 5th June, 6th August, 14th October
- Driven By You Initiatives
- Sponsorship Opportunities





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### **BVRLA** Leasing Broker Conference 2025

**NEW VENUE** 

**NEW BRANDING** 

### **NEW OFFERING FOR EXHIBITORS / PARTNERS**

Venue: Advanced Manufacturing Training Centre, Coventry (AMTC)

Date: Thursday 9th October 2025

#### **AIM**

- Refresh the Agenda
- Deliver a **better experience** for Delegates
- Deliver more value to Partners & Exhibitors





# Fleets in Charge Conference

**CHANGING DEMAND OR DEMANDING CHANGE?** 

THE MOST INSIGHTFUL ELECTRIC VEHICLE EVENT OF THE YEAR

2 JULY 2025 | QEII CENTRE LONDON



Full-day event with keynote speakers, panel discussions, breakout sessions and multiple networking opportunities.



200+ in attendance, incl. members, stakeholders from government, industry bodies, fleet operators and complementary industries.



Flagship conference with significant marketing support and buzz.

A thread through the full agenda for 2025 will be about how to stimulate demand for zero-emission vehicles. Sessions will shine a light on the barriers that remain and the sectors that need the most attention to be able to make the transition, with a blend of key note speakers and panel sessions exploring each in turn to provide actionable solutions and further food for thought.

"If you want to stay ahead of the curve, the BVRLA's Fleets in Charge Conference really puts EVs at the forefront." Attendee

