

Office of Fair Trading Annual Report and Accounts 2011–12

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This is part of a series of Annual Reports which, along with the Main Estimates 2012–13 and the document Public Expenditure: Statistical Analyses 2012, present in the Government's outturn and planned expenditure for 2012–13.

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CHAIRMAN'S STATEMENT

Against the background of unprecedented international financial turmoil, especially in Europe, the UK has continued to face very challenging economic conditions, making life extremely tough for businesses and consumers alike. The OFT's focus on driving competition, supporting economic growth and protecting vulnerable consumers is all the more important in such times.

In this context, we have secured substantial achievements across all areas of our work in 2011–12. We have increasingly used our tools in combination, seeing for example a notable increase in enforcement cases arising out of market studies. Our studies on consumer contracts, advertising of prices, off-grid energy and mobility aids have laid the foundations for strategic enforcement this year, resulting in important precedents in areas including price comparison websites, group buying, and minimum terms and cancellation rights in standard contracts. Meanwhile, super-complaints from consumer groups on sub-prime credit, card payment surcharges and travel money helped us secure important improvements for consumers. Following market studies, we referred three markets – aggregates, private healthcare and audit – to the Competition Commission (CC) for further investigation, the highest number of referrals in recent years.

The year saw a surge in the number of merger investigations; our team examined more than 100 transactions, referring nine to the CC and accepting undertakings to address competition concerns in a further five cases. These included some high profile and complex cases, such as Kingfisher plc's acquisition of 30 former Focus DIY stores, Amazon.com Inc's acquisition of The Book Depository and a series of oil distribution cases. One of our references – Stericycle's purchase of Ecowaste Southwest Limited – was uncovered by our intelligence team, and has subsequently been prohibited by the CC. We also worked closely with the European Commission on the proposed acquisition by International Airline Group of bmi from Lufthansa, to deliver remedies that safeguard UK travellers' interests.

Our consumer credit team determined 106 cases this year. We achieved particularly significant licence revocations against Log Book Loans and Yes Loans. We continue to take a high impact enforcement approach to safeguard consumers, particularly in the debt management sector and the payday lending sector, where we have launched an extensive compliance review.

Our work to investigate anti-competitive behaviour has remained a priority. We carried a higher volume of competition law cases this year, with a peak of 22 civil cases open in the second quarter. In August, we issued a decision in our dairy products case, imposing penalties totalling almost £50 million on four supermarkets and five processors. Most parties entered into early resolution agreements and so secured reductions in their fines; one supermarket has brought an appeal against our decision. At the end of the year we brought the long-running airline fuel surcharges case to a close, imposing a substantial penalty of £58.5 million on British Airways (BA). Although this was lower than contemplated in the original early resolution agreement, the penalty reflected developments in the case law and extensive cooperation by BA. We have continued to look at alternative ways of resolving cases, this year securing commitments from motor insurers to address concerns relating to the sharing of pricing data, our first multi-party commitments case.

Parties rightly have the ability to challenge our administrative decisions and some reversals on appeal, either on level of penalty or liability, are to be anticipated in any regime. Overall, our record is strong; during the course of the Competition Act regime, fewer than five per cent of parties in respect of which the OFT has made decisions have been successful in overturning those decisions on liability at appeal. But this year we experienced significant setbacks at the Competition Appeal Tribunal in our Construction, Construction Recruitment Forum and Tobacco cases. We are taking careful stock of the implications of these judgments. We are determined to learn lessons for both our processes and cases, and we will continue to pursue difficult and complex cases, especially

those that are important for the economy, the protection of consumers' interests or that raise novel issues.

We are also making important strides forward in our internal handling of competition cases, and the way we engage with businesses and practitioners. As part of our commitment to continual improvement, and in response to feedback during the consultation on the competition regime, we have announced proposals to enhance our procedures to improve the speed, robustness and fairness of our decisions. We believe this work can help lay the foundations for a stronger competition enforcement regime ahead of the creation of the Competition and Markets Authority (CMA). As with our consultations on changes to our leniency and penalties guidance, we are grateful for the input of many interested parties. And our commitment to improving our work is not limited to competition; this year we launched an internal 'enforcement debate' to identify ways to improve our enforcement across the board.

Enforcement is not our only tool; across all our work, we also look to improve markets through guidance, influencing and awareness raising. This year we have produced guidance for firms across the economy, including sector-specific guidance for consumer credit firms and practical guidance for businesses on compliance with competition law. We have continued our advocacy and public markets work, providing advice to government and contributing to public debates about stimulating growth. We published our findings on how to use tools such as comparison websites, feedback forums and league tables to empower users of public services. We also published a guide for public bodies on competition law, to help them stay within the rules, particularly as these markets are opened up to greater competition.

Overall, our work this year has achieved a benefit to consumers of at least eight times our cost to the taxpayer; £402 million compared to £49 million. This has been secured through a focus on effective prioritisation, high impact work and value for money for the taxpayer. We have lived within a budget that was over eight per cent smaller, in real terms, than the previous year's and have made significant savings by, for example making more efficient

use of our office premises in order to re-let vacant space. And our work continues to have a strong deterrent effect; research published during the year shows that for each completed OFT competition enforcement case, up to 40 potential infringements are deterred.

Recent months have seen the departure of Executive Director Robert Laslett and the announcement that John Fingleton will be stepping down during 2012 as Chief Executive. I would like to thank them both for their work. Robert played a significant role in the organisation, notably in our consumer work, cementing strong relationships with our partners. John has made a major contribution over the past seven years to the OFT and the regimes it operates. Under his inspired leadership, the OFT has developed into a high performing organisation, always focused on delivering good outcomes for consumers and the economy, wherever possible working with the grain of markets and avoiding interventions that chill innovation or burden business. His commitment to effective competition advocacy and his articulation of the impact of government actions on markets have been especially notable. His intellectual leadership, not just in the UK but also internationally as Chair of the International Competition Network Committee, leaves a lasting legacy for competition agencies around the world.

I am delighted that John will be succeeded by Clive Maxwell, an Executive Director and Board member who has been with us since 2009. Clive has played a major role in the OFT's thinking about the regimes we are responsible for and our future work. This wealth of experience and expertise make him very well qualified to provide strong leadership to the organisation through the changes we face going forward.

During the year there has been significant debate about the future of the consumer, competition and credit regimes. The OFT has had a major input into the design of the new regimes and is now preparing for the creation of the CMA, the establishment of the new consumer protection structure and the transfer of our credit work to the Financial Conduct Authority. Against this backdrop, I would like to offer my personal thanks to OFT staff. I have been continually impressed by their commitment, enthusiasm and passion during a

period of considerable uncertainty. It seems fitting that at the end of a challenging but productive year, we have, as a result of their efforts, received the Global Competition Review Award for European Competition Agency of the Year.

Looking forward, we are committed to continuing to undertake a broad portfolio of work, independently and with partners, which delivers maximum benefit to consumers and the economy. At the same time, we will work constructively to plan and move towards transition to the new regimes and institutions. We are determined to ensure that the changes underway do not affect delivery and impact.

Working closely with others, we will prepare the ground for transition thoroughly so that the new institutions are in the best possible position to be fully operational and effective from the start.

A handwritten signature in black ink, appearing to read 'Philip Collins', with a stylized flourish at the end.

Philip Collins
Chairman

1 ABOUT THE OFT

The OFT is the UK's consumer and competition authority. Our mission is to make markets work well for consumers. Our work enables competitive markets to deliver the incentives for greater business efficiency, and to ensure that firms are responsive to consumer demands.

Our goal is competitive, efficient and innovative markets where standards of customer care are high, consumers are empowered and confident about making choices and where businesses comply with consumer and competition laws but are not overburdened by regulation. Effective competition and well-functioning markets drive the long term productivity growth vital for economic recovery without adding costs to the public purse or business.

Our work

Good consumer outcomes rely on competitive markets providing choice and value, whilst vibrant competition relies on consumers shopping with confidence. Our dual competition and consumer remit allows us to take a holistic approach to our work and the wide range of remedies at our disposal allows us to act in a flexible and proportionate manner. The majority of our work consists of:

- Enforcing competition and consumer law
- Analysing markets
- Merger control
- Licensing and supervisory work in the consumer credit and estate agency markets, including anti-money laundering supervision
- Advocacy
- Working with partners to deliver information and education programmes to businesses and consumers
- Providing advice to individual consumers via the Consumer Direct service (closed April 2012)

How we do our work

Prioritisation

Where our remit gives us discretion to choose whether or not to act, we focus our interventions on areas which pose the greatest threat to competitive, open and well-functioning markets. Our Prioritisation Principles¹ describe the factors we consider – impact, strategic significance, risks and resources – and balance when we make these decisions.

Minimising burdens on business

Across all our work we are committed to acting in a targeted and proportionate manner. We consider carefully what intervention tools and remedies (including voluntary resolution) might be most appropriate to ensure we obtain proportionate and effective outcomes.

In line with the Government's Better Regulation agenda, our mission to make markets work well for consumers includes ensuring that our interventions do not impose unnecessary costs on business – as these will typically be passed on to consumers in the form of higher prices, lower quality or reduced choice. So where we perform direct regulatory functions – such as credit licensing – we adopt a risk-based approach, ensuring that we focus our resources on those areas where harm is most significant, therefore keeping costs to legitimate businesses as low as possible.

Through increased transparency, improved engagement with organisations potentially affected by our work and independent evaluation of our activities, we aim to ensure that we are fully aware of the impact of our work on business.

Partnership

Delivering our objectives depends on forming close partnerships with a range of bodies. The OFT is part of a wider framework of organisations whose role it is to protect and empower consumers and to promote competition across the economy. We are committed to working closely with our partners at local, national and international level.

¹ www.of.gov.uk/OFTwork/consultations/Prioritisation

In particular, we work with the Competition Commission (CC) and local authority Trading Standards Services (TSS), concurrent regulators (through the Concurrency Working Party) and sectoral regulators (including the Financial Services Authority (FSA) and Monitor) to share experience and coordinate our activity in areas of mutual interest, ensuring consumer protection and activity to promote competition are joined up across markets.

On the international stage, we also work with the European Commission and other consumer and competition agencies, reflecting the increasingly globalised nature of the UK marketplace.

Our ability to carry out our mission effectively also depends on close collaboration with voluntary sector and business organisations, which helps to ensure we are aware of the issues that matter to firms and consumers, provides essential intelligence and evidence for casework and assists in reaching out to businesses and consumers to raise awareness of, and compliance with, the law.

Transparency

We produce and maintain a range of guidance across the competition, consumer and credit enforcement regimes to improve the transparency of our procedures and help businesses and their advisors better understand and comply with the law.

Our 2010 transparency statement² sets out our commitment to those involved and interested in our work, explaining how we will engage with them and what information we will provide through the life of a case or a project. This includes consistently providing parties with information at the start of enforcement action and regularly updating parties on case status and timescales.

We have also improved the information we routinely make available about our current

casework and projects. This can be found via a central page on our website.³ More detail on how we publicise our work and engage with interested parties can be found in chapter eight.

Evaluation

We are committed to gaining a better understanding of the impact of our work on consumers and the economy. Our 2011–15 Business Plan⁴ commits us to the publication of at least one independently-audited in-depth ex-post evaluation of an intervention each year. More detail on our evaluation work can be found at chapter 8.

Over the Spending Review period, 2010–2015, the impact of our work will be assessed through indicators agreed with HM Treasury as part of the OFT's 2011–15 Business Plan.⁵ These are:

- Estimation of direct savings to consumers from the OFT's activities (Positive Impact Report) and associated benefit to cost ratio – *to be published annually*
- At least one independently-audited in-depth ex-post evaluation of an intervention – *to be published annually*
- Provide customer service key performance indicators for: Consumer Credit Licensing, Mergers and Anti-Money Laundering supervision – *to be published quarterly*
- Provide statistics and information on the OFT's enforcement and non-enforcement activities, including results on appeal – *to be published annually*
- Publish statistics of direct settlement, third party interventions and undertakings in lieu – *to be published annually*

The indicators will be published on our website.⁶

² www.of.gov.uk/about-the-oft/accessing-information/transparency/

³ www.of.gov.uk/OFTwork/of-current-cases/

⁴ www.of.gov.uk/about-the-oft/of-structure/accountability/business-plan

⁵ <http://www.of.gov.uk/about-the-oft/accessing-information/transparency/business-plan-indicators>

⁶ www.of.gov.uk/about-the-oft/accessing-information/transparency/

Accountability

The OFT is accountable to the public through Parliamentary scrutiny both in Westminster and via the devolved administrations, for example through investigations by select committees.

Each year we produce an Annual Plan,⁷ setting out our objectives for the year, which is laid before Parliament. We are accountable to Parliament for the delivery of these objectives via the presentation of our Annual Report pursuant to section 4 of the Enterprise Act 2002. Under section 5 of the Government Resources and Accounts Act 2000, we are required to prepare resource accounts for each financial year, which are audited by the National Audit Office. We are also accountable to government and Parliament for our use of public money via our performance framework with HM Treasury.

Our decisions under competition law, including those made under the Competition Act 1998 (CA98) and decisions on references of mergers or markets to the CC, are subject to appeal to the specialist Competition Appeal Tribunal (CAT), an independent body established under the Enterprise Act. Our licensing decisions under the Consumer Credit Act 1974 are also subject to appeal heard by the First-tier Tribunal. Where we enforce consumer protection law through the courts, our actions can be appealed there. In addition, the public have the right to seek judicial review of administrative action and to complain to the Ombudsman (the Parliamentary Commissioner for Administration).

⁷ www.of.gov.uk/about-the-of/annual-plan-and-report/

THE BOARD



Philip Collins
Chairman



John Fingleton
Chief Executive



Vivienne Dews
Executive Director



Robert Laslett
Executive Director



Clive Maxwell
Executive Director



Alan Cook
Non-Executive Director



Alan Giles
Non-Executive Director



Frédéric Jenny
Non-Executive Director



Anthony Lea
Non-Executive Director



Philip Marsden
Non-Executive Director



William Moyes
Non-Executive Director

2 THE BOARD

The OFT Board is principally responsible for strategic direction, policy priorities and performance monitoring. The executive management team, which is accountable to the Board, is responsible for most operational and enforcement decisions. During the financial year, Alan Cook resigned as Non-Executive Director, reducing the Board from 11 members to ten. Robert Laslett stepped down from the Board in April 2012. John Fingleton will be stepping down in the course of 2012. He will be succeeded as Chief Executive by Clive Maxwell.

Chairman

Philip Collins became Chairman of the OFT in October 2005. He is a solicitor who has practised in the UK and EU competition law field for more than 30 years, initially in London and latterly in Brussels.

He was formerly a partner in Lovells where, in 1978, he was the first partner appointed to specialise in competition law. With the subsequent development of the practice, he was made head of the firm's competition and EU law practice.

Subsequently, and until September 2005, he was Senior Counsel at Wilmer Cutler Pickering Hale & Dorr LLP, based in Brussels. Philip was one of the founders of the Competition Law Forum established at the British Institute of International and Comparative Law and was a member of its Advisory Board from its foundation in 2002 until 2005. He is also a member of the Editorial Board of the European Competition Journal.

Chief Executive

John Fingleton became Chief Executive of the OFT in October 2005. John studied economics at Trinity College, Dublin and Nuffield College, Oxford. He taught economics at Trinity College for almost a decade, and spent shorter periods at the London School of Economics, the Graduate School of Business at the University of Chicago, and the Université Libre de Bruxelles. His academic research focused on industrial organisation, regulation and competition policy.

As Chairperson of the Irish Competition Authority from 2000 to 2005, John oversaw the introduction of new legislation, initiated criminal and civil enforcement, set up a new mergers regime and engaged in widespread competition advocacy, especially in the areas of transport, the professions and financial services.

He played an active role in international competition policy and in domestic economic policy, particularly relating to competitiveness. In February this year, John announced his decision to step down from his role as Chief Executive Officer later in 2012.

Executive Directors

Vivienne Dews became Executive Director of the OFT's new Corporate Services function in April 2008. Vivienne leads delivery of OFT services to consumers and businesses including credit licensing, anti-money laundering supervision and the OFT's enquiries department. In addition, she is responsible for the OFT's in-house services such as human resources, finance and procurement, facilities management and IT. Vivienne joined the OFT from the Health and Safety Executive, where she was Director of Resources and Planning, and led corporate support and other services. The earlier part of her career was spent mainly at the Home Office. From 1999 to 2001, she was Chief Executive of the Public Information Technology Organisation. She is a member of the Chartered Institute of Public Finance and Accountancy.

Robert Laslett joined the Board as Executive Director in August 2010, leading on cartels enforcement and our work in goods and consumer markets. He was previously at the Department for Work and Pensions (DWP), where he was Chief Economist for Pensions and Director for Private Pensions. Prior to joining the DWP in 2003, Robert's career ranged widely across the public and private sectors, both in the UK and overseas. In 2000, he established and headed the London office of Boston-based Charles River Associates, an economic consultancy specialising in competition and regulation issues. In February 2012 Robert decided to step down from his role as an Executive Director from the end of April 2012.

Clive Maxwell joined the Board as an Executive Director in September 2010. During 2011–12 he led on Mergers and Services, Infrastructure and Public Markets. Before then, he was Senior Director of Services at the OFT from October 2009, on secondment from HM Treasury. Prior to his work at the OFT, Clive undertook a wide range of roles for HM Treasury from 1992 to 2009 including as Director of Financial Stability, responding to the financial crisis in 2007–09. Clive has represented the UK in numerous international and EU fora, including the EU's Financial Services Committee, of which he was Vice-Chairman from 2008–09. He worked in Brussels on secondment to the European Commission in 1994–95, dealing with economic and monetary issues.

Non-Executive Directors

Alan Cook was appointed for a four-year term from April 2010. He has many years experience in financial services and has worked extensively in both the private and public sectors. He is currently Chairman of 'Action for ME', the UK's leading charity supporting sufferers of ME/chronic fatigue syndrome, and is also a Non-Executive Director of the Department for Transport and the Financial Ombudsman Service. Alan was formerly Managing Director of National Savings and Investments and Chief Operating Officer of Prudential. He is a Chartered Insurer, a Fellow of the Royal Society of Arts, a Fellow of the Chartered Institute of Management and a Freeman of the City of London. He was awarded a CBE in 2006. Alan resigned from the Board at the end of April 2011 on being appointed Chairman of Irish Life and Permanent in Dublin.

Alan Giles joined the Board in 2007 and was reappointed for a further three-year term from April 2011. He has many years' experience in retail businesses. He is currently Chairman of Fat Face Group and a Non-Executive Director of Rentokil Initial plc. He was formerly Chief Executive Officer of HMV Group plc, Managing Director of Waterstone's Booksellers Ltd and Executive Director of WH Smith Group plc.

Professor Frédéric Jenny joined the Board in 2007 and was reappointed for a further two year term from April 2012. He is a Professor of Economics at ESSEC Business School in Paris. He is currently Conseiller en Service

Extraordinaire, Cour de Cassation (Member of the French Supreme Court) and Chairman of the OECD Competition Law and Policy Committee. He was closely involved in the establishment of what is now L' Autorité de la Concurrence (Competition Authority) in France and latterly became its Vice-President, and is internationally recognised for his work in the competition field.

Anthony Lea joined the Board in 2008 and was reappointed for a further two year term from April 2012. He is an economics graduate who has spent most of his career within what is now the Anglo American group, latterly as Finance Director which included responsibility for legal affairs and competition law compliance. He was a Non-Executive Director of various companies in the group including AngloGold Ashanti, De Beers, Englehard Corporation and Terra Industries. He is currently Chairman of the World Mining Trust plc and a Non-Executive Director of the British Standards Group. He is also Chairman of the Emerging Africa Infrastructure Fund and a Trustee of the RAF Benevolent Fund.

Dr Philip Marsden was appointed for a four-and-a-half-year term from October 2008. He is a Canadian and English lawyer who has practised in Toronto, Tokyo and London, and has also worked as an official in the Canadian Competition Bureau. He has a particular interest in competition and consumer policy and is currently the Director and Senior Research Fellow at the British Institute of International and Comparative Law in London, with responsibility for its Competition Law Forum. He is also Non-Executive Director on the Board of the Jersey Competition Regulatory Authority, visiting Professor at the College of Europe, Bruges and General Editor of the European Competition Journal.

Dr William Moyes was appointed for a three-year term from April 2010. He is currently a Non-Executive Director of the Priory Hospital Group, a lay member of the Legal Services Board and also holds two pro bono appointments, namely Governor of Heythrop College (part of the University of London) and Trustee of the Catholic Trust for England and Wales.

Previously he was Executive Chairman of the Independent Regulator of NHS Foundation Trusts (Monitor) from 2004 to 2010 and Director-

General of the British Retail Consortium (2000 to 2003). A civil servant from 1974 until 1996, he held a variety of posts in the fast stream and senior civil service. He was a member of the Economic Secretariat in the Cabinet Office between 1980 and 1983, and Director of Strategy and Performance Management within the Management Executive of the NHS in Scotland from 1990 to 1994.

He was seconded to the British Linen Bank (a wholly owned subsidiary of the Bank of Scotland) in 1994, establishing its PFI advisory and equity investment team, which focused on large deals, mainly in health. He was also Director of the British Linen Bank (1996) and Head of the Infrastructure Investments Department at the Bank of Scotland (1998 to 2000).

3 KEY THEMES FOR 2011–12

Our Annual Plan for 2011–12 set out two overarching objectives for the year: **high impact enforcement** to achieve compliance with competition and consumer law and **influencing and changing the behaviour** of businesses, consumers and government to make markets work well. It also identified sector and thematic priorities for our work in light of economic and market trends, and evidence about the issues most affecting consumers and business. These were:

- Protecting vulnerable consumers
- Developing trust in online markets
- Transparency and fairness in advertising and prices
- High innovation markets and business models
- Economic infrastructure sectors
- Markets impacted by commodity price rises
- Public services markets

This chapter provides highlights of our work under each of these broad themes during 2011–12. More detail on the individual cases we have taken and the issues we have tackled is provided in subsequent chapters.

Protecting vulnerable consumers

2011–12 remained a tough year for consumers, particularly the most vulnerable. High unemployment, a fall in real income levels and increases in the price of food and other essentials combined to put pressure on household budgets.

Our 2011–12 Annual Plan committed to build on our track record of action to protect the most vulnerable consumers. Our mobility aids market study, which led to a coordinated programme of enforcement working closely with TSS partners and a consumer awareness campaign, is an example of this commitment being put into practice.

We sustained the pace of enforcement in consumer credit regulation. We determined 106 cases this year, including cases against firms in the debt management and sub-prime credit brokerage sectors, where we also responded to a super-complaint from Citizens Advice. During the year we also published Mental Capacity Guidance⁸ for consumer credit businesses and launched a review of payday lenders’

compliance with our Irresponsible Lending Guidance.⁹

Developing trust in online markets

The significance of online markets continues to grow, stimulated by smartphone technology and rapid take-up of new digital products and services. We have continued to respond to emerging online business models that carry new risks for consumers, taking a number of consumer enforcement cases in the course of the year, for example investigating potentially misleading advertising practices by the increasingly popular group purchasing site, MyCityDeal Ltd which trades as Groupon UK. Further examples are detailed in chapter four.

Given the global nature of the internet, international cooperation is an important element of our online enforcement activity. To share knowledge and maximise the impact of our work in this area, this year we continued our liaison with overseas agencies. For example, we participated in a Europe-wide

⁸ www.offt.gov.uk/about-the-offt/legal-powers/legal/cca/mental-capacity-guidance/

⁹ www.offt.gov.uk/news-and-updates/press/2012/11-12

sweep of compliance with EU Consumer Credit Directive advertising rules online.

Online markets also came to the fore in our competition workload, for example in merger and enforcement investigations relating to the online sale of books and e-books.

Transparency and fairness in advertising and prices

Past investment in capability and strategy through the contracts and advertising of prices market studies created a strong strategic platform for enforcement in this area during 2011–12.

For example, we took successful action in the High Court against the use of unfair terms and practices in gym contracts, and responded to a super-complaint from Consumer Focus on confusing travel money charges. In response to a super-complaint from Which? we launched an investigation into a number of airlines to consider whether they are complying with relevant consumer protection legislation in relation to payment surcharges.

In addition, we launched a call for evidence to consider concerns about recent increases in private motor insurance premiums and subsequently launched a market study to consider further issues that emerged regarding repairs and replacement vehicles.

High innovation markets and business models

Returning the UK to sustainable economic growth has been an overriding government priority this year. Our work has sought to support innovation through the creation of a level playing field, to clarify and raise awareness of the application of the law to innovative business models and practices, and to protect consumers from detriment arising from unfamiliar offerings and practices.

At the beginning of the year, we identified low carbon markets as a particular area of interest. The OFT subsequently approved the Code of Practice of Renewable Energy Assurance Ltd – a trade body for firms engaged in the sale, installation and servicing of small-scale energy generating systems such as solar panels and wind turbines. We have also worked closely with the Department of Energy and Climate Change (DECC) across the year to advise on the development of the Government’s Green Deal.¹⁰

We highlighted the interaction between Intellectual Property Rights and competition as a key area of focus in light of the role of such rights in supporting investment in innovation, as well as the potential for their abuse to act as a barrier to effective competition. This has led to the launch of Competition Act enforcement around agreements relating to disputed patents and to work with the European Commission in respect of EU copyright issues.

Economic infrastructure sectors

Our 2011–12 Annual Plan highlighted the crucial role of infrastructure in the performance and growth of the UK economy and quality of life for consumers. This year we focused on a number of relevant sectors to ensure that infrastructure can play this important role.

For example, working closely with Ofwat we conducted a market study to understand whether the market for organic waste treatment services in England and Wales is working well.

We also worked closely with sector regulators responsible for other utilities, for example concluding a new Memorandum of Understanding with Ofcom. Our recent call for evidence on the experience of consumers in remote communities¹¹ has also sought to examine the role of infrastructure (in particular broadband access and transport links) in isolated and highly rural markets.

¹⁰ www.decc.gov.uk/en/content/cms/tackling/green_deal/green_deal.aspx

¹¹ www.ofcom.gov.uk/OFTwork/consultations/remote-communities/call-for-evidence

Markets impacted by commodity price rises

There were rises in the price of a number of commodities during the past year. However, consumer and business complaints focused squarely on the impact of fuel price increases.

We considered this in a number of contexts, including market analysis, merger review, enforcement activity and influencing, with businesses involved in the provision of heating oil, bunker fuels, liquefied petroleum gas (LPG), road fuel and petrol stations.

Fuel was also the subject of consumer enforcement actions. As a result of investigative work arising from the off-grid energy market study, we recently secured voluntary agreements from the major LPG suppliers to make changes to their domestic bulk contracts and improve transparency around switching and cancellation rights.

We also examined road fuel prices in two instances. In response to public concern over local prices we looked at aspects of the supply of petrol and diesel to the islands of Scotland. We also considered a complaint about various practices in the wholesale and retail sale of road fuels and the effect that they have on independently owned and operated fuel retailers.

A number of significant merger notifications through the year involved markets affected by, or impacting on, commodity prices. For example, in the Rontec Investments/Total Downstream UK case, we considered the acquisition of petrol forecourts (and other assets) and accepted a divestment remedy to address competition concerns in one locality.

Public service markets

Our Annual Plan 2011–12 highlighted the increasing role of the private and voluntary sectors in providing public services. Ensuring that the resulting competition is fair and healthy was identified as a key priority and was the focus of much of our competition advocacy work through the course of the year, detailed in chapter seven.

This year we looked at the functioning of a number of private markets likely to increasingly interact with public markets in future. One key

intervention was our private healthcare market study, which looked at the growing market for privately funded healthcare provision and found reasonable grounds for suspecting that there are features of the market that prevent, restrict or distort competition, leading us to make a market investigation reference to the CC.

A further market study into the private and NHS dentistry markets was launched in the course of the year. The findings were published in May 2012 and identified a need for greater patient choice and competition.

4 HIGH IMPACT ENFORCEMENT

In the course of the year, the OFT has undertaken a large and varied enforcement caseload under our competition, consumer and credit enforcement powers.¹² Cases concluded in the year include 11 investigations under competition law, 19 investigations under consumer law, 106 consumer credit cases and 30 anti-money laundering cases. Across our entire portfolio we have sought to prioritise cases with a wider strategic significance, deterrence effect and precedent value, seeking to maximise the potential benefits to consumers and the economy.

Acting against anti-competitive behaviour

The importance of our competition enforcement work was underlined by research¹³ published in December 2011 that found for every completed OFT competition law enforcement action, up to 40 potential infringements are deterred.

Separate research¹⁴ showed that businesses' knowledge of competition law doubled over the four years to 2010, a period of high profile competition law enforcement.

We carried a higher volume of competition law cases this year, with a peak of 22 civil cases open in the second quarter. In the course of the year we opened six new CA98 cases and completed 11 cases. Of these, sanctions were imposed in two cases, formal commitments accepted in one case, and one case closed due to a finding of no grounds for action. The seven remaining cases closed principally for reasons of administrative priorities.

We have also continued to open criminal cartel cases under the Enterprise Act, where the evidence merits it. Over the year we subsequently closed three such cases principally on grounds of insufficient evidence. We have two ongoing cases.

It is the mark of a properly-functioning competition regime that cases will be closed where the evidence or circumstances do not support continuing.

Abuse of dominant position in the pharmaceuticals sector

In April 2011, the OFT imposed a fine of £10.2 million on Reckitt Benckiser after concluding that the company abused its dominant position by withdrawing and de-listing NHS packs of its Gaviscon Original Liquid medicine in 2005. The fine was the subject of an early resolution agreement concluded on 14 October 2010, under which Reckitt Benckiser admitted its conduct infringed UK and European competition law and agreed to cooperate with the OFT.

Coordination of dairy retail prices

We imposed fines totalling £49.51 million on four supermarkets and five dairy processors, having concluded that they infringed the Competition Act 1998 by coordinating increases in the prices consumers paid for milk in 2002 and cheese in 2002 and 2003. Not all companies were involved in all three infringements. One of the parties has since appealed the OFT's decision to the CAT.

Pricing of fuel surcharges for long-haul passenger flights

At the end of the year we brought the airline fuel surcharges case to a close, imposing a penalty of £58.5m on BA.

We investigated collusion by BA and Virgin Atlantic over the pricing of passenger fuel surcharges for long-haul passenger flights to and from the UK between August 2004 and January 2006. We issued a Statement of

¹² Detailed statistics on our competition work in 2011 – 12 can be found in Annexe C at: www.offt.gov.uk/annualreport

¹³ www.offt.gov.uk/news-and-updates/press/2011/131-11

¹⁴ www.offt.gov.uk/news-and-updates/press/2011/75-11

Objections to the parties in November 2011, leading to the final resolution of the case and the imposition of the fine in April 2012. Under our leniency policy, Virgin Atlantic was not fined, having brought the matter to the OFT's attention.

The substantial fine was lower than contemplated in the original early resolution agreement, but reflected developments in the case law and extensive cooperation by BA.

Investigation into the sale of e-books

Following a significant number of complaints, the OFT opened an investigation into whether arrangements that certain publishers have put in place with some retailers for the sale of e-books may breach competition rules. In December 2011, we decided to close our investigation as the European Commission was well placed to arrive at a comprehensive resolution of the matter and would do so as a priority.¹⁵ We continue to cooperate closely with the European Commission in relation to its ongoing investigation, in order to help secure the best outcome for UK consumers.

Data sharing between motor insurers

Following an investigation that identified an increased risk of price coordination among motor insurers using a specialist market analysis tool called Whatif? Private Motor, we accepted formal commitments from six insurance companies and two IT software and service providers to limit the data they exchange between them.

The firms included Insurers Ageas Insurance Ltd (formally Fortis Insurance Ltd), Aviva Insurance UK Ltd, AXA Insurance UK plc, Liverpool Victoria Insurance Company Ltd, RBS Insurance Group Ltd, and Zurich Insurance plc – UK Branch; and IT software and service providers Experian Ltd and SSP Ltd.

Other ongoing cases

Throughout the year, we continued to investigate a number of other suspected

breaches of competition law in a range of sectors, for example in hotel online bookings, pharmaceutical patents, bunker fuel and outdoor advertising. We also continued investigations into cartels, for example in the commercial vehicle manufacturing sector.

Appeals

During the past year the OFT has suffered some setbacks on appeals before the CAT.

In March and April 2011, the OFT received CAT judgments on 25 appeals in relation to the Construction Decision, which had been made against 103 parties in September 2009. All appeals were in relation to penalty, and six were also in relation to liability. The judgments in the penalty appeals reduced the level of penalties imposed by the OFT. On the six liability appeals, the CAT overturned findings in relation to two parties, upheld findings in relation to two parties, and upheld some of the findings in relation to two parties.

In April 2011, the OFT received judgments following three penalty appeals in relation to the Construction Recruitment Forum Decision.¹⁶ The CAT reduced the level of penalties imposed on the three parties.

Six appeals in relation to our Tobacco Decision¹⁷ were allowed by the CAT in December 2011.

We are taking careful stock of the implications of these judgments. We are determined to learn lessons for both our processes and cases, and we will continue to pursue difficult and complex cases, especially those that are important for the economy, the protection of consumers' interests or that raise novel issues.

Overall our record is strong. During the course of the Competition Act regime, fewer than five per cent of parties subject to OFT decisions have been successful in overturning OFT decisions on liability at appeal.

As noted above, the OFT's decision on the coordination of dairy retail pricing is the subject of an ongoing appeal by one party.

¹⁵ www.ec.europa.eu/commission_2010-2014/almunia/index_en.htm

¹⁶ www.of.gov.uk/OFTwork/competition-act-and-cartels/ca98/decisions/Construction-recruitment-forum

¹⁷ www.of.gov.uk/news-and-updates/presstatements/2011/134-11

Protecting consumers from unfair commercial practices and unfair contract terms

We maintained a strong focus on consumer enforcement throughout the year, working in close partnership with TSS to take high impact and strategically significant cases. In the course of the year we opened 24 new cases, completed 19 cases, and currently have 27 ongoing cases. Our activity addressed behaviours likely to undermine consumer confidence in online markets, tackling emerging business models with the potential to confuse and mislead, and taking cases with precedent value and the potential to deliver wider benefits in other markets. We focused on the use of unduly complex terms and conditions and charging structures, to protect the most vulnerable consumers from misleading and unfair behaviour.

High Court ruling on unfair terms in gym contracts

In May 2011 the High Court ruled in relation to proceedings we issued against Ashbourne Management Services Limited (Ashbourne) and its directors in March 2010. The Court held that a number of terms in the standard form gym membership contracts recommended to gym clubs by Ashbourne were unfair, including the use of minimum terms of more than 12 months and not allowing consumers to cancel during their minimum term. They were ordered to stop recommending, using or relying on the unfair terms and to stop a number of debt collection practices which amounted to breaches of the Consumer Protection from Unfair Trading Regulations 2008 (CPRs). We are currently investigating other major gym chains for compliance in light of this ruling.

Investigation into a group buying website

The year saw a number of enforcement actions to tackle misleading practices in online markets. For example, in March 2012 we accepted undertakings from 'daily deals' company MyCityDeal Ltd, which trades as Groupon UK, to change some of its trading practices.

We launched an investigation in July 2011 following complaints from consumers. In December 2011 the Advertising Standards Authority also referred Groupon to the OFT following its finding of multiple breaches of UK advertising codes. Groupon cooperated fully with our investigation and is making changes to its business practices to address our concerns.

Investigation into an online retailer

As part of our focus on ensuring consumers can shop with confidence online, the OFT successfully took court action against an online computer software retailer, Cardiff-based Arora Tech Limited trading through associated websites ESave2Day.com, Shop4Tek.com and PricebustersUK.com, who failed to deliver goods or provide timely refunds. We are monitoring compliance with the court order we obtained.

Action taken against online subscription operator

In another internet-based case, we took action against Adaptive Affinity Limited.¹⁸ Tens of thousands of UK consumers were signing up to Adaptive Affinity Limited's online subscription schemes each month, in some cases incurring total monthly fees of almost £60. The OFT was concerned that some of them were being misled into signing up unwittingly, only to find out too late that they could not cancel. The company cooperated fully with the investigation and provided undertakings which comprehensively address the OFT's concerns regarding both unfair commercial practices and unfair contract terms.

Action taken against heating oil companies and price comparison websites

We took a number of actions to ensure transparency in the advertising of prices. For example, our off-grid energy market study uncovered concerns that consumers were being misled when searching online for heating oil supplies (more information on the market study can be found at page 24). We therefore launched an investigation focusing on potential breaches of CPRs by WCF Fuels Limited, and Boiler Juice

¹⁸The company behind QuickCreditScore, HighCreditScore, CreditScoreMatters, High Street Max, Rewards Now and Rewards First.

Limited who voluntarily made changes to their websites and gave undertakings which prevent them from engaging in business practices that could be misleading. In addition, as a result of our investigation, Johnston Oils Ltd, owner of the website cheapheatingoil.co.uk, also voluntarily made changes to its website.

Action taken in second hand car market

Our market study into second hand car sales, published in March 2010, also led to enforcement outcomes this year. Most notably, we secured undertakings from Carcraft, which has 11 car supermarkets across England and Wales, in relation to our concerns about its business practices when selling cars, finance and after-sale guarantees.

This year we also brought criminal charges under the CPRs and the Fraud Act against an individual for suspected unlawful mileage adjustment.

In April 2011 we took enforcement action against used car buying company webuyanycar.com over concerns that its online valuations were misleading.

The OFT concluded from an analysis of data provided by webuyanycar.com that, over a period of a year, 96 per cent of customers who sold their car to webuyanycar.com received less for their vehicle than the original website valuation, sometimes by hundreds of pounds.

The company fully cooperated with the OFT's investigation. Whilst the company and its directors believe that their business practices complied with the law, they agreed to make changes in light of the OFT's investigation.

Investigation into mobility aids sector

Also linked to a market study, this year we took action against several mobility aids traders, following findings that some firms were engaged in unfair business practices. We revoked the consumer credit licences of Amarjit Gill and his business associate Ranjit Dhani. Amarjit Gill, who traded as ABM Mobility, was found to have breached consumer protection legislation, including using aggressive sales techniques, despite warnings from Derbyshire Trading Standards, and repeatedly breached interim enforcement orders. See page 23 for more information on the market study.

Separately, we carried out an investigation into Yorkshire-based Acorn Mobility Services Limited (Acorn) for potential breaches of the unfair contract terms legislation. As a result of constructive discussions, Acorn voluntarily amended the terms and conditions it uses in its customer contracts and supporting documents to address potentially unfair terms.

During the investigation the company agreed to overhaul its customer service procedures, including setting up a freephone helpline and improving training for staff. The company is continuing to work closely with TSS to improve complaints handling.

The OFT is also investigating the activities of another mobility aids trader that operates nationally. This investigation is expected to conclude shortly. Alongside the OFT's work, TSS are continuing to tackle unfair sales practices by mobility aids suppliers at local and regional levels.

Protecting UK consumers against unfair activities of firms overseas

We took action against overseas firms suspected of unlawful behaviour. For example, following complaints which indicated disregard of earlier undertakings given to the OFT we took steps which led to our counterparts in Belgium obtaining a court judgment against Agence de Marketing Appliqué (AMA) trading under names including 'Vital Beauty' and 'Swiss Home Shopping'. The judgment requires AMA to cease illegal mailings which have misled UK consumers into spending money by giving the false impression claims that they had won a major cash prize.

Enforcement orders against holiday club companies

We obtained enforcement orders in the High Court against two companies and seven individuals stopping them using sales and marketing practices that we considered to be misleading or otherwise unlawful when selling and marketing holiday club memberships and other holiday based products.

Interim enforcement orders were obtained against Personal Travel Group Limited (PTG), Geo Demographic Market Research Limited (GDMR) and two individuals who are directors of PTG and were directors of Incentive Leisure

Group Limited (ILG). Final enforcement orders were obtained against five individuals associated with PTG and GDMR, one of whom was also a former director of ILG.

The interim enforcement orders provide protection for consumers against potential harm, pending a final hearing in the case.

Other ongoing investigations

We have also opened a number of new investigations in the course of the year. For example, in July 2011 we opened investigations into a number of websites that charge people for government services that are available directly from government either at no cost or for a lower fee, such as European Health Insurance Cards and driving theory tests. Once we have completed our investigations we will consider what further action, if any, is appropriate.

Protecting consumers in the credit market

In our credit work, we have kept up the pace of enforcement to protect some of the most vulnerable consumers, concluding 106 cases during the year.

Across a range of credit and related markets we intervened to stop what we considered to be unlawful lending, sales and debt collection practices, and closed websites that in our view breached the law and were a risk to the most vulnerable consumers. In particular, we sustained our focus on the debt management and credit repair sector and we have responded to concerns about the payday loans market, launching an in-depth review of the sector.

Yes Loans' licence revoked

The OFT decided that Yes Loans Limited, one of the UK's largest brokers of unsecured credit, and Blue Sky Personal Finance Limited and Money Worries Limited, were unfit to hold a consumer credit licence. The decision to revoke the licences was taken in light of evidence that led the OFT to conclude that Yes Loans failed to comply with the Consumer Credit Act 1974 and associated regulations, and with requirements previously imposed.

Money Worries Limited appealed the decision to revoke its licence, which remains current until the appeal process is completed. The licences of the other businesses have now been terminated.

Websites shut to protect borrowers

As a result of an investigation into breaches of the Consumer Credit Act, 19 unlicensed lead generation websites have been taken down by the businesses concerned or shut down by the OFT with the cooperation of the website host. The businesses sourced information from people looking for credit and sold this on to other businesses. The sites targeted vulnerable consumers including those with disabilities and the sub-prime market of people who are generally unable to access credit elsewhere. Our investigation found they were unlicensed and therefore in breach of the Consumer Credit Act.

Debt management enforcement action

Following OFT intervention, 90 businesses have exited (or been refused entry to) the debt management market since the publication of our Debt Management Compliance Review in September 2010, with a number of investigations bearing fruit this year, including increased scrutiny of applications for new licences and renewals.

We took enforcement action where appropriate – for example, to revoke the licences of four businesses that targeted (or were associated with businesses that had targeted) consumers with what we considered misleading unsolicited mailings claiming the recipients may have been mis-sold an Individual Voluntary Arrangement.

We also imposed requirements on several businesses. For example, we required a lead generation business to cease using statements and content on its website that we considered false or misleading and to make clear that it is not a charity or public funded body but a commercial business generating leads for debt management companies.

Separately, we have taken action to stop the use of misleading trading names, particularly those which might wrongly imply that a firm was a charity or a government advisory service. More information on our guidance for debt management firms can be found at page 35.

Lending and collections practices in the secured sub-prime loans market

Following an OFT investigation, in June 2011 we placed requirements on sub-prime lender Swift, trading as Swift Advances plc and Swift Securities Limited, to secure improvements to its lending and collections practices. Our investigation found Swift had given secured loans to some customers with poor credit histories or limited access to credit without carrying out full checks. In addition, we uncovered evidence leading us to conclude that in some cases Swift failed to fully explain the charges that could be incurred if customers fell into arrears and also failed to exhaust alternative options before taking borrowers to court.

Action against aggressive sales tactics

Following an investigation into aggressive sales tactics, the OFT acted to remove the consumer credit licence of Stockport-based SAS Fire & Security Systems Limited in July 2011. We found that despite earlier detailed warnings and action taken by the courts and other regulators, SAS Fire continued to engage in unfair business practices.

Licence revoked following threatening communication

The OFT revoked the licence of the debt management company, Parkgate UK Limited, after it sent a threatening letter on behalf of one of its clients to a debt collection agency, including a threat of physical violence against the agent should they attempt to collect the client's debts. Parkgate apologised for its conduct and said that it did not intend to act on the threat, however we concluded that the letter, combined with other failings to demonstrate the skills and knowledge required to run a consumer credit business, meant Parkgate was unfit to hold a licence.

Review of the payday lending sector

In February 2012, we launched an extensive review of the payday lending sector, in part prompted by concerns that some payday lenders may be taking advantage of people in financial difficulty. The review will investigate compliance with the Consumer Credit Act and the OFT's guidance on irresponsible lending. Evidence gained during the review will be used to boost standards across the sector and to

drive out any companies that are not fit to hold consumer credit licences.

The review will involve on-site inspections of 50 major payday lenders and surveys of industry and consumer organisations. Leading up to the review we conducted a sweep of over 50 payday lending websites and wrote to the main trade bodies outlining areas where we consider advertising standards need to be improved. The review is in addition to, and supports, our previous enforcement action within the payday lending sector.

Appeals

During the year, decisions were reached in 11 appeal cases. The Tribunal struck out all 11 of these cases. In a significant judgment, the First-tier Tribunal rejected the appeals of Nine Regions Limited (NRL) and Log Book Loans Limited (together 'Log Book Loans') following an OFT decision that Log Book Loans were unfit to hold consumer credit licences. The OFT asked the Tribunal to strike out Log Book Loans' appeal because of evidence that emerged during the Appeal hearing. Log Book Loans admitted that thousands of letters had been sent to borrowers falsely threatening to take legal action on behalf of NRL. This brought to a close the long-running appeal in this case, the result of an original decision by the OFT to revoke these firms' licences in October 2009.

5 MARKET TOOLS AND ANALYSIS

We analysed markets to see if they were working well for consumers, to safeguard consumers and to promote fair competition. We examined the markets for extended warranties, aggregates, dentistry, organic waste, off-grid energy, private healthcare, private motor insurance and mobility aids.

Over the year, we dealt with three super-complaints, made three Market Investigation References to the CC (with another under consideration) and undertook seven market studies across a variety of sectors of the economy.

Market studies

We are continuing to honour our commitment to running market studies efficiently, with faster completion of studies that deliver considerable savings for consumers.

Market studies now take an average of 8.7 months to complete and publish, significantly faster than the 9.7 month average reported in last year's Annual Report.

Mobility aids

In September 2011 the OFT published its market study into mobility aids, launched following concerns raised with us that the sector may not be working well for consumers. The report found that people may be paying too much for mobility aids such as scooters and stair-lifts, and the elderly and disabled can experience high pressure and misleading sales practices when buying this equipment during visits from mobility aids sales representatives at their homes.

As described in the preceding Enforcement chapter, during the course of the market study we launched a number of consumer protection investigations into mobility aids traders, alongside similar action by TSS, a joint enforcement summit and new guidance for enforcers to support more effective action against unfair practices in the sector.

The study also led to the launch of a national consumer awareness campaign providing consumers with practical tips and informing them of their rights when buying mobility aids on the doorstep. We also secured agreement from the trade association for mobility aid retailers, the British Healthcare Trades Association, to update its Code so that all members display clear price information on their marketing materials and websites.

Furthermore, we made recommendations to public sector purchasing bodies to help them drive vigorous competition in the wheelchair sector and obtain better value for money.

Extended warranties

In February 2012 we completed a market study into extended warranties for domestic electrical goods, focusing on whether competition is sufficiently effective to ensure consumers get value for money in the £1 billion per year market.

As a result of the market study, several major UK electrical retailers offered legal undertakings to improve the way the market works by providing better consumer information and establishing a comparison website so that consumers can shop around more easily.

We have consulted interested parties on our provisional decision to accept these undertakings rather than refer the market to the CC. We will take the final decision on the undertakings later in 2012, following careful consideration of the consultation responses.

Aggregates

In January 2012 we referred the aggregates, cement and ready-mix concrete markets in Great Britain to the CC. This followed our market study, completed in August 2011. The study identified a number of features of the sector that could prevent, restrict or distort competition. Issues included high barriers to entry in aggregates and cement due to the difficulty of obtaining planning permission and the level of investment required, multiple contacts and information exchanges across the markets and an apparent squeeze between rising cement prices and stable or falling ready-mix concrete prices.

Organic waste

In September 2011 we published our market study on the treatment of organic waste in England and Wales. This followed a request from Ofwat, with whom we worked closely throughout the study. We identified a number of barriers to competition related to aspects of economic, environmental and planning regulation. The report made a range of recommendations aimed at promoting competition that will help drive efficiency and innovation in the sector.

We also proposed changes to the economic regulation of water and sewerage companies to foster efficiency and to help create a level playing field between them and other suppliers of organic waste treatment. The study also recommended greater harmonisation of the environmental regimes applicable to sewage sludge and other organic waste. After careful consideration and consultation the OFT decided not to make a reference to the CC.

Off-grid energy

In March 2011 the OFT launched a market study into off-grid energy, following a short consultation on its scope. The study covered both consumer and competition issues and considered the main energy sources available to the 3.6 million households off the main gas grid in the UK. We published our final report in October 2011. Our analysis of the market strongly suggested that competition is generally working well. Almost all (97 per cent) of off-grid households live in a postcode district served by at least four known suppliers. Barriers to entry are low, and the industry is fragmented. We found no evidence of collusion between suppliers, and a variety of evidence that rival suppliers compete on price.

As described in the preceding Enforcement chapter we did, however, find grounds for concern about compliance with consumer law. This led to follow up Enforcement action which successfully secured undertakings from a number of suppliers and price comparison websites.

Private motor insurance

In December 2011 the OFT launched a market study into private motor insurance in the UK with a specific focus on the provision of replacement vehicles and repairs to drivers involved in road traffic accidents that were not their fault. This followed the completion of a three month call for evidence on the market. The information that the OFT gathered during its call for evidence on both replacement vehicles and repairs gave us reasonable grounds for suspecting that there are features of the market for the supply of private motor insurance in the UK which are preventing, restricting or distorting competition.

In May 2012 we provisionally decided to refer the private motor insurance market to the CC. We launched a consultation on the proposed market investigation reference which will conclude in July 2012.

Private healthcare

In April 2012 we decided to refer the market for privately funded healthcare services in the UK to the CC for further investigation. This followed a market study that found a number of features that, individually or in combination, could prevent, restrict or distort competition in the £5 billion market. Such features included a lack of easily comparable information available to patients, GPs or health insurance providers on the quality and costs of private healthcare services, a limited number of providers plus barriers to new competitors entering and being able to offer private patients greater choice.

Dentistry

We launched a dentistry market study in September 2011, examining whether the private and NHS dentistry markets are working well for patients.

The UK market for dental services was worth £7.2 billion in 2010.¹⁹ Forecasts suggest this could grow to £8.2 billion by 2014 with much of the growth coming from the private market. While the OFT recognises that the UK has some

¹⁹ 'The UK Dentistry Market Development', Market and Business Development (2010). 'Dentistry UK Market Report 2011', Laing and Buisson estimated the value of the market excluding cosmetic dentistry as £5.73bn for 2009-10

of the highest standards of oral care in the world, we wanted to examine concerns raised by consumer bodies such as Which? that many patients are confused over dental treatments and prices.

The report was published in May 2012 and found that the dentistry market is not always working in the best interests of patients. It revealed that patients have insufficient information to make informed decisions about their choice of dentist and the dental treatments they receive. Alongside this, a new survey conducted as part of the study suggested that each year around 500,000 patients may be provided with inaccurate information by dentists regarding their entitlement to receive particular dental treatments on the NHS.

Our study identified a wide-ranging package of recommendations to address these concerns. The study was undertaken in close collaboration with the General Dental Council, the Department of Health and the Care Quality Commission.

Super-complaints

Super-complaints can be made to the OFT by certain designated consumer bodies if they consider that a feature, or combination of features, of a market is significantly harming the interests of consumers. This year we considered three super-complaints.

Sub-prime credit brokerage and debt management

In March 2011, Citizens Advice submitted a super-complaint to the OFT relating to marketing and charging practices carried out by consumer credit brokerage firms and certain other ancillary consumer credit businesses.

The super-complaint raised a number of concerns, but its core focus was the alleged consumer detriment caused by two practices:

- firms taking upfront fees for the services that they provide, and
- firms 'cold calling' consumers by telephone and text to promote consumer credit products and ancillary credit services

In June 2011 we announced a series of measures informed by concerns raised in the super-complaint. In addition to ongoing robust,

targeted enforcement action, including the revocation of consumer credit licences where appropriate, the OFT published two new guidance documents on the standards the OFT expects of credit brokers (published June 2011) and of those providing debt management and/or credit repair services (revised guidance published March 2012).

Our report also asked the government to consider whether new legislation is needed to address problems in the sub-prime unsecured credit brokerage market, including a possible ban on upfront fees.

Payment card surcharges

In September 2011 the OFT opened an investigation into the transparency and presentation of payment card surcharges and requested information from a number of airlines to allow it to consider whether they are complying with consumer protection legislation. This followed a super-complaint from Which? in March 2011 concerning payment card surcharges in the passenger transport sector. In its response to the super-complaint the OFT recommended that government introduced measures to prohibit retailers from imposing surcharges for payments made by debit card.

Government announced in December 2011 that it will ban excessive surcharges on all forms of payment, not just debit cards; extend the ban across most retail sectors, not just transport; and become the first European country to act by implementing forthcoming European legislation early to ban this practice before the end of 2012.

Since starting its investigation, the OFT has secured voluntary changes from a number of airlines to stop debit card surcharging and make credit card surcharging more transparent. These changes mean that the existence of payment card surcharges is now made clear on the airline's website and early in the booking process when a consumer searches for a flight. In addition, as a result of our investigation some airlines do not charge debit or credit card payment surcharges. The OFT is continuing its investigation where it has not yet secured agreement.

Travel money

In September 2011 the OFT received a super-complaint from Consumer Focus about travel

money. It raised concerns over what were described as unfair and confusing charges applied by some banks and credit card providers for purchases of foreign currency within the UK and for using credit and debit cards abroad. It also called for an investigation into the use of phrases promising '0% commission' and 'competitive exchange rates' that could mislead consumers and prevent them from shopping around.

Our analysis of the available evidence broadly supported Consumer Focus' concerns and we worked with providers and trade associations to agree initiatives that would address them.

We secured a broad range of measures that should substantially improve the transparency of charges paid by consumers in the travel money market. In addition, all of the five banks that previously charged for use of debit cards to purchase foreign currency in the UK agreed to drop the charge entirely.

Other market-related work

Audit market

After a public consultation the OFT announced in October 2011 that it would refer the audit market to the CC for further investigation. We had been concerned for some time that the market is highly concentrated, with low levels of switching and substantial barriers to entry.

In 2010, the four largest firms (PwC, KPMG, Deloitte and Ernst & Young) earned 99 per cent of audit fees paid by FTSE 100 companies. Between 2002 and 2010, the average annual switching rate among FTSE 100 companies was only 2.3 per cent.

Domestic electrical goods

In June 2011, we completed a review of the Restriction on Agreements and Conduct (Specified Domestic Electrical Goods) Order 1998 and accompanying undertakings (collectively 'the remedies'). These were put in place following a Monopolies and Mergers Commission (MMC) investigation in 1997 which had raised concerns that competition between electrical retailers was restricted.

Our review identified several significant changes of circumstances since the MMC reported, including the entry of new retailers and the increasing importance of the internet,

which meant that the MMC's concerns are unlikely to re-emerge.

As a result of this review, we advised the CC that the remedies were no longer appropriate and could be removed, thereby reducing regulatory burdens on UK business. The CC announced in February 2012 that it had accepted our advice and removed the remedies.

Review of undertakings given by Yell Group plc

The OFT has appointed GHK Consulting Limited, an external contractor, to conduct consumer and business surveys and carry out economic analysis in order to help inform a review of the Yell Group plc undertakings. Following completion of the review, the OFT will conclude whether there has been a change of circumstances relevant to the undertakings, and if so will prepare advice for the CC as to whether the undertakings remain appropriate or should be amended or released.

Remote communities

In February 2012 we launched a call for evidence to understand more about the challenges facing consumers and businesses in remote communities across the UK. Prices of many goods and services are frequently higher in remote communities.

The OFT is seeking to explore this and other issues with communities and businesses in remote areas, with the aim of improving understanding of how consumer or competition law can help tackle them.

As part of the project we have run workshops with residents in seven locations across England, Scotland, Wales and Northern Ireland. We are also looking at evidence and experience from across the entire UK and exploring how other countries address specific market issues arising in isolated communities.

Newspaper and magazine distribution

In March 2012 we announced that, following a prioritisation assessment, including a consultation with trade bodies and companies in the sector, the OFT will not be carrying out an update review of the newspaper and magazine distribution sector.

On the whole, consumers would not be likely to benefit significantly as a result of an update review and any subsequent further investigation

of the sector. Such a review would also not be justified in light of the OFT's current strategic priorities and self-regulatory developments in the sector.

Road fuel retailing

The OFT received a submission from the Retail Motor Industry Federation (RMI) in February 2012 which focused on a number of alleged concerns in relation to road fuel retailing in the UK which it believes disadvantage independent retailers.

The OFT examined the RMI's complaint and provisionally concluded on the basis of information received that the way large supermarkets and oil companies are retailing road fuels is not having an adverse effect on competition or on the end consumer. The OFT has decided that it does not consider it appropriate to launch a market study into road fuels in the UK at this time. The RMI has been invited to consider submitting further materials which it would wish the OFT to take into account in reaching its final view. We will provide an update on our website when we reach a final view.

In response to concerns about transparency surrounding fuel prices in the Scottish Islands, we undertook work in 2011–12, and subsequently published information in 2012–13, in relation to wholesale and retail prices on the islands and the differentials that exist between the islands and the mainland. This confirmed that there are differentials with the mainland but that they vary for each island and that they display a high level of volatility in the short term but a weaker upwards trend in the long term. The analysis also estimated that retail and wholesale gross margins, while also volatile in the short term, had over a longer timescale not shown any strong trend in most places.

Consumer Codes Approval Scheme

Renewable Energy Assurance Limited

In November 2011 Renewable Energy Assurance Limited (REAL) became the first trade body within the energy sector to secure OFT approval for its code of practice under the OFT's Consumer Codes Approval Scheme (CCAS).

REAL's Consumer Code covers the sale, contracting, installation and servicing of small-scale energy generating systems including solar electricity, solar water heating, small-scale wind electricity and ground and air source heat pumps.

Car Repair and Servicing Code of Practice

In November 2011 the Motor Industry Service and Repair Code also received OFT approval for its code of practice under the OFT's CCAS.

The code of practice is run by Motor Codes and has 6,500 franchised dealers and independent garages as members.

The Property Ombudsman Lettings Code

In August 2011 the Property Ombudsman (TPO) successfully completed Stage One of the OFT's approval scheme for its Lettings Code.

The Lettings Code has been developed to give consumer landlords and their tenants greater protection when dealing with letting agents and better redress if things go wrong. TPO is now carrying out comprehensive monitoring procedures – including mystery shopping exercises and customer satisfaction surveys – to ensure that the Code is working effectively. Only Codes that demonstrate this achieve Stage Two and are entitled to display the 'OFT Approved Code' logo.

6 MERGERS

The last year has seen a surge in the number of mergers reviewed. We have also seen more high-profile, complex mergers, some of which have been referred to us by the European Commission.

We examined 103 merger cases, referring nine to the CC. Our reference test was met in a further 11 cases. Of these, we accepted undertakings in lieu of a reference to the CC in three cases (plus in an additional two cases from the previous year) and cleared three cases on the basis that the relevant markets were not of sufficient importance to justify a reference (the 'de minimis' exception). Negotiations for undertakings in lieu of a reference are still ongoing in five further cases.

A selection of some of the most interesting and complex merger cases we saw across the year are set out below.²⁰

Unilever/Alberto Culver Company

The OFT accepted undertakings from Unilever in relation to its completed acquisition of hair and personal care products manufacturer, the Alberto Culver Company. We concluded that the acquisition would or may have given rise to a substantial lessening of competition in respect of bar soaps in the UK resulting from the loss of a strong competitive constraint on Unilever's Dove brand.

To address this concern, Unilever offered to divest the bar soaps business of Alberto Culver that includes the Cidal, Wright's and Simple brands. Unilever successfully secured an 'upfront' buyer, Lornamead, within the required timescales.

BATS Trading Limited/Chi-X Europe Limited

The OFT referred the anticipated acquisition by BATS Trading Limited of Chi-X Europe Limited to the CC for further investigation. Both companies operate Multilateral Trading Facilities (MTFs) which enable market participants (investment banks, brokers and dealers) to trade pan-European equities through a single platform as an alternative to trading on national exchanges such as the London Stock Exchange (LSE).

MTFs are relatively new with billions of pounds worth of equities traded on these platforms daily. After the LSE, the merger parties are the

two largest platforms for the trading of UK-listed equities. The merger reduces the number of significant suppliers of trading services for UK-listed equities from three to two. In addition the parties have very similar service offerings. Although the evidence was mixed, we could not rule out the prospect that such a structural shift in the marketplace would lead to a substantial lessening of competition.

Princes Limited/Premier Foods Group Limited

The OFT accepted undertakings offered by Princes Limited to address competition concerns arising from its completed acquisition of the canning business of Premier Foods Group Limited. The Fray Bentos brand and its manufacturing assets were sold to Baxters Food Group Limited and as a result, the merger was not referred to the CC.

GB Oils Limited/Pace Fuelcare Limited

The OFT accepted an offer by GB Oils Limited to divest oil distribution operations in the Isle of Wight to remedy competition concerns raised by its acquisition of Pace Fuelcare Limited. Both companies supply heating oils and transport fuels to domestic, commercial and agricultural customers in the UK. GB Oils has more than 100 oil depots across the UK while Pace has 20, covering the Midlands, South East, South, South West, East Anglia and the Isle of Wight.

²⁰ Detailed statistics on our merger work in 2011–12 can be found in Annexe D at: www.of.gov.uk/annualreport

Kingfisher/Focus stores

Following an inquiry that looked at potential competition issues across a wide geographical area, the OFT cleared the acquisition by Kingfisher plc, the parent company of B&Q, of 30 former Focus DIY stores. This merger was one of several transactions involving the store portfolio of Focus, which went into administration in May 2011. Kingfisher originally intended to acquire 31 stores, however, after a preliminary review it chose not to purchase the Focus store in Dorchester, as evidence suggested that there could be a rival national DIY purchaser for that store.

Our extensive experience in considering retail mergers, the parallel assessment of the competition impact and the application of the 'failing firm' defence, as well as the prompt replies received from third parties, enabled our investigation to be concluded in 19 working days.

Headland Foods Limited/Kerry Foods Limited

Following an investigation we referred the completed acquisition of the frozen ready meals business of Headland Foods Limited by Kerry Foods Limited to the CC. The merged parties' customers were concerned about the significant price rise that followed the merger and the lack of alternative manufacturers capable of supplying large volumes and wide ranges of frozen ready meals. Although increases in the cost of materials may justify part of the price rise, this did not fully allay our concerns.

Acergy/Subsea 7

The OFT accepted undertakings to address the competition concerns arising from the completed acquisition of Subsea 7 Inc by Acergy S.A. (since renamed Subsea 7 S.A.) in August 2011. As a result, the merger was not referred to the CC.

The undertakings to sell the 'Acergy Falcon' followed an OFT investigation which found that the merger raised competition concerns in the North Sea area. These related to the provision of small diameter rigid pipelay services alone, and projects which required the provision of both small diameter rigid pipelay and diving services. Our investigation found that Acergy S.A. and SubSea 7 Inc were two of three major firms that competed closely in these two areas.

Stericycle, Inc/Ecowaste Southwest Limited

Another case that was referred to the CC was the completed acquisition by Stericycle, Inc of Ecowaste Southwest Limited.

The merger, which was uncovered by our intelligence team, brought together the two main providers of waste management services in the Bristol area, potentially lessening competition and leading to higher prices or reduced services to hospitals and other public sector customers.

Alpha Flight Group Limited/LSG Lufthansa Service Holding AG

We referred the anticipated joint venture between Alpha Flight Group Limited (Alpha) and LSG Lufthansa Service Holding AG (LSG) to the CC for further investigation.

This merger would bring together two of the three national competitors for traditional full service in-flight catering, and create a very strong market position at a number of UK airports. Several airline customers were concerned about the impact that the transaction could have on their options for a supplier. This reduction in options could also lead to higher prices for passengers.

Kent Messenger Group/Northcliffe Media Limited

We referred the proposed acquisition by Kent Messenger Group of several newspapers from Northcliffe Media Limited to the CC for further investigation.

These companies published the only local weekly newspapers in seven local areas in East Kent. Our investigation concluded that the proposed acquisition could result in costlier advertising for businesses and higher cover prices for readers.

UK merger law requires the OFT to be cautious in its 'first phase' review of mergers. We require compelling evidence to dismiss concerns that the combination of such close competitors as these would not create a realistic prospect of a substantial lessening in competition for advertisers and readers, in the absence of which we were required to refer the merger to the CC for a more detailed 'second phase' review.

This was the first case in which Ofcom produced a Local Media Assessment which provided an overview of the structural and cyclical situation affecting the local newspaper sector.

Following the decision, a roundtable with the industry was held in February 2012 to discuss the relevant features of the mergers regime for newspaper transactions.

Amazon/Book Depository

The proposed acquisition by Amazon.com Inc. of The Book Depository International Limited was a very high profile case that attracted significant interest. Our investigation looked at whether the acquisition would result in a substantial lessening of competition in the UK.

We conducted a thorough investigation that showed that the acquisition would be only a small increment to Amazon's position, which did not raise competition issues. The evidence showed limited competitive constraint from The Book Depository which, in fact, has shown most growth and expansion in overseas markets rather than the UK. We concluded that the UK book market has a significant number of bestseller and deep-range suppliers both online and offline and that existing levels of competition will be preserved after the merger. The acquisition was not referred to the CC.

Rontec Investments LLP/Total Downstream UK plc

We accepted undertakings offered by Rontec Investments LLP in relation to its proposed acquisition of certain petrol forecourts, stores and other assets from Total Downstream UK plc, Total UK Limited and their affiliates.

Against a background of public unease over petrol prices, we were concerned about any adverse impact that the merger may have had on competition. After a detailed investigation, we concluded that the merger was largely pro-competitive on a national basis leading to the expansion of a smaller firm in the retail supply of petrol. We were keen to ensure that local consumers were protected and found that the merger raised competition concerns in Haverfordwest. The remedies we accepted should address these concerns in a clear, proportional and timely manner for the benefit of local consumers.

IAG/bmi

The proposed acquisition International Airline Group (IAG) of bmi from Lufthansa generated a significant level of concern in the UK especially in Scotland, the North West of England and Northern Ireland.

This deal qualified for investigation by the European Commission under EU merger rules. We worked very closely with the European Commission during the course of its inquiry to ensure that the interests of British consumers were protected. This resulted in IAG offering a remedy package which includes, among other things, the obligation to divest multiple slots at London Heathrow to be used for routes to and from Edinburgh and/or Aberdeen, and other measures to protect Scottish travellers who use London Heathrow for international flight connections.

Anglo/Lafarge

In September 2011 we referred the proposed UK construction materials joint venture between Anglo American PLC (Anglo American) and Lafarge S.A. (Lafarge) to the CC for further investigation.

Anglo American, through its UK subsidiary, Tarmac Limited, and Lafarge are both global firms that are active in the supply of construction materials in the UK. The parties propose to establish a 50:50 joint venture to which each of them would contribute the bulk of their construction materials businesses in the UK.

We received information that raised competition concerns from around 300 customers and competitors of the two parties as part of our merger investigation.

7 ADVOCACY, ADVICE, GUIDANCE AND POLICY

Alongside our enforcement, markets and mergers work, we engaged with businesses, consumer groups and government to raise awareness of the benefits of strong competition and consumer protection and to change behaviour to improve the way markets work.

Our policy and research work continued to focus on compliance and self-regulation. As part of our Economic Discussion Paper series we worked alongside academics to produce research examining when, why and how we should intervene. As well as our work in domestic markets we have continued to work via international networks to facilitate fair and competitive cross-border trade.

We also provided consumers with targeted advice and information in relation to approximately 879,000 complaints, alongside running education and awareness raising campaigns on a range of issues. This was complemented by the publication of innovative guidance to help businesses comply with competition and consumer legislation. All of this work was supported by policy analysis and research to provide new insights about consumer and firm behaviour and stimulate public debate.

Competition advocacy

We worked with a range of government departments and public bodies to build awareness of competition issues, and to ensure that competition and consumer concerns are given due weight when establishing regulatory regimes and formulating new policies, or in choosing how to implement policies which create or affect markets.

For example, in the health sector we are contributing to the work of the Department of Health, Monitor and the Competition and Cooperation Panel in bringing into effect the changes in the NHS-funded health market, arising from the Health and Social Care Act 2012.

In education, we are collaborating with Ofqual on its proposed programme of work in the Further Education sector, as announced in the Government's Growth Review statement in November 2011.

We worked closely with DECC in developing the Green Deal and related energy efficiency policies, and have recently launched a work programme on energy efficiency²¹ to help ensure these markets are working well ahead of the introduction of the Green Deal.

In addition to engaging on specific policies, we have continued to build on our previous work

on choice and competition across public service markets. In April we published a policy paper highlighting the potential for choice tools such as comparison websites to support effective choice in public services, as a companion to the Government's consumer empowerment strategy, Better Choices: Better Deals.²²

We participated in the Strategy Board for the 'Midata' project, which aims to encourage firms to release information back to consumers as a way of encouraging greater consumer empowerment, and worked with government departments including the Cabinet Office to implement the findings of our report on Commissioning and Competition in the Public Sector.

We have also carried out advocacy work in cases where public bodies, such as local authorities and government agencies, carry out economic activities. Public bodies are increasingly seeking to generate revenues by utilising assets or spare capacity in markets beyond their core public functions. These developments reinforce the need for public bodies to be aware of their existing and ongoing obligations under UK and EU competition law when carrying out their functions.

To assist such public bodies, we produced a guide – Guidance for UK public bodies on

²¹ www.offt.gov.uk/OFTwork/markets-work/othermarketwork/energy-efficiency/

²² www.cabinetoffice.gov.uk/resource-library/better-choices-better-deals

competition law²³ – that provides a high level outline of the circumstances in which their activities will be ‘economic activity’, as opposed to carrying out non-economic, wholly social functions or exercising their core public functions.

Consumer education and advice

Skilled to go

Our ‘Skilled to go’ education programme, now in its fifth year, continued to support consumers who are vulnerable as a consequence of limited numeracy and literacy. These people are often found in lower income groups which, combined with their literacy and numeracy issues, can make it even harder for them to exercise effective choice when purchasing goods and services.

The programme provides free toolkits of educational resources and training to support staff teaching literacy and numeracy skills.

Highlights for 2011–12 included:

- Re-launching the Skilled to go web pages
- Achieving 8,800 registrations, exceeding our performance target by 300
- Delivering 20 workshops to train 325 teachers
- Publishing updated adult education and Scottish secondary education toolkits
- Reaching 165,000 consumers

Know Your Consumer Rights

Know Your Consumer Rights is a rolling awareness-raising programme to help consumers better understand their rights. This year, we targeted five specific market sectors which received high levels of complaints to Consumer Direct and where consumer detriment is likely to be significant: second hand cars, electrical goods, furniture, clothing and buying online.

We produced five short animated online films²⁴ covering each of these areas and a supporting

leaflet that explained consumers’ rights under the Sale of Goods Act and the Distance Selling Regulations.

The films achieved over 300,000 views within the first month and received favourable consumer comments.

Doorstep selling

This year we ran two awareness-raising campaigns on doorstep selling: a campaign targeting older, less confident consumers who are more likely to be vulnerable to inappropriate and illegal doorstep selling techniques (particularly for home repairs and improvements), and activity to support the OFT’s market study into Mobility Aids, which identified doorstep selling as a specific issue for consumers in this market.

Both campaigns were supported by leaflets informing consumers of inappropriate selling behaviours and advising them on how they can protect themselves. The campaigns were backed by TSS, members of Parliament and other partners, including the Office of Disability Issues, and received significant coverage, especially in the local press.

30,000 general leaflets were distributed and the Minister for Disabled People, Maria Miller, commented that she welcomed ‘the OFT’s work in building an effective and competitive market in Mobility Aids’.

Consumer Direct

The Consumer Direct service, managed by the OFT and delivered in partnership with TSS, provided clear, practical and impartial advice to enable consumers to exercise their rights. It also benefited legitimate businesses by helping to maintain a level playing field, and the information collected helped the OFT, TSS and other bodies to build intelligence and focus resources.

According to our estimates, the general Consumer Direct service (excluding complaints relating to energy and post) generated

²³ www.offt.gov.uk/OFTwork/competition-act-and-cartels/guidance-public-bodies/

²⁴ The films can be viewed at www.youtube.com/OFTWebEditor

£95 million in consumer benefits during 2011–12. Given its cost base of around £8 million, this represents a benefit-to-cost ratio of 12:1.

Consumer Direct advisors answered over 1.3 million calls and emails during the year. These included around 879,000 complaint cases. They also included 120,000 calls and emails regarding energy and post. More than 80 per cent of calls were answered within 20 seconds and customer satisfaction levels remained high, at 82 per cent.

In April 2012, as part of government reforms to make the Citizens Advice service a champion for consumer information, a new consumer advice service was launched by Citizens Advice and Citizens Advice Scotland, and the OFT-run Consumer Direct service was closed.

Throughout the year we worked closely with Citizens Advice to help it develop its new service and ensure a seamless transition from Consumer Direct for consumers and other stakeholders. Through a data sharing agreement with Citizens Advice and Citizens Advice Scotland the OFT is assured of access to complaints data collected by the new service as a source of intelligence and to inform enforcement priorities.

Guidance for business

Business guidance on competition law

In June 2011 we published new guidance for businesses on competition law compliance that included specific guidance for directors, general guidance for all businesses, a quick guide to competition law compliance and a short film 'Understanding Competition Law', available online and on DVD.

These resources build on the findings of the OFT's research report into the Drivers of Compliance and Non-Compliance with Competition Law published in May 2010, which identified the need for a risk-based approach to competition law compliance.

The compliance resources aim to ensure that all business people have the information and tools they need to promote awareness and understanding of competition law within their organisations.

In light of the research findings, the specific guidance for directors focused on ensuring that this group – who are key to establishing and maintaining an effective compliance culture within their company – have the information they need to understand their responsibilities under competition law.

The tools have achieved widespread recognition and praise and in March the OFT was nominated for the Global Competition Review's 'Agency of the Year – Europe' Award for our work on competition law compliance. We subsequently received the award in recognition of our work more generally.

Guidance on selling at a distance

In August 2011 the OFT launched the Distance Selling Hub,²⁵ a new online resource to help businesses comply with the law when selling goods and services at a distance.

The Hub provides information for businesses about the rules and regulations that apply to the sale of certain goods and services over the internet and telephone, through interactive TV, by text or by mail order. It is a response to research²⁶ that showed that many businesses are not fully complying with the Distance Selling Regulations (DSRs), the main law that relates to shopping from a distance, estimating that only nine per cent of business respondents considered themselves to be very familiar with the DSRs.

We also continued to promote the Sale of Goods Act (SOGA) hub – a suite of online resources for business on how to comply with SOGA – launched in 2010–11. The SOGA hub is intended to increase businesses' compliance with consumer law and consequently to reduce consumer detriment.

²⁵ www.of.gov.uk/distanceselling/

²⁶ 2010 Drivers of Compliance report can be found here: www.of.gov.uk/shared_of/reports/comp_policy/of1227.pdf

Unique visitors, downloads and registrations for both hubs were as follows:

	DS hub (Sep-Mar)		SOGA hub (Apr-Mar)	
	Total	Monthly Avg	Total	Monthly Avg
Unique visitors	21,291	2,367	105,752	8,813
Downloads	7,819	1,117	8,663	722
Registrations	540 (target 200)	77	575 (target 300)	48

Both hubs are a free, accessible and a practical online resource for businesses which explain the law, give examples of how it applies and provide training tools for organisations.

During 2011–12 both hubs had content and functionality updates to make materials more relevant to specific sectors and to improve the user’s experience. Both hubs have been evaluated and the feedback is being used to further develop and improve their value to businesses.

Guidance on property sales and anti-money laundering

In September 2011 the OFT launched a consultation on draft guidance to estate agents and property developers aiming to help businesses handling sales of property and land in the UK comply with the law.

The new guidance focuses on two pieces of law – the Consumer Protection from Unfair Trading Regulations 2008 (CPRs) and the Business Protection from Misleading Marketing Regulations 2008 (BPRs). It follows the OFT’s Home Buying and Selling study which found that many estate agents said the industry needed more guidance. We expect to publish final guidance early in the 2012–13 financial year.

We also held a workshop for estate agents on anti-money laundering, designed to:

- Increase knowledge and understanding of the Regulations
- Explain the OFT’s role as supervisor
- Outline the duties placed upon estate agents by the Regulations
- Improve understanding of how to put compliant policies and procedures in place

Guidance for consumer credit licence-holders

The year saw a significant expansion of our suite of guidance for firms holding consumer credit licences, with existing guidance reviewed and updated to reflect evolving market conditions and industry practices, and new guidance added to ensure businesses have access to clear and comprehensive guidance on acceptable standards of behaviour.

Payment protection products

In November 2011 the OFT joined forces with the FSA to help prevent problems associated with Payment Protection Insurance recurring in a new generation of products.

Together with the FSA we consulted on proposed guidance to firms in relation to payment protection products, which can fall within either regulator’s remit. We expect to publish final guidance early in the 2012–13 financial year. Both the OFT and the FSA will continue to monitor developments in the market and take appropriate action under our respective powers where firms’ products or practices risk causing detriment to consumers.

Mental capacity guidance

In line with our strategic focus on protecting vulnerable consumers, this year we published ground-breaking guidance for businesses when they are considering granting credit to people who might not have the mental capacity to make informed borrowing decisions.

This is a sensitive area, and in producing this guidance we aim to provide clarity for creditors as to what the OFT expects of them and to afford better protection to a particularly vulnerable group of people, whilst ensuring that they are not inappropriately denied credit.

The guidance sets out steps that the OFT expects consumer credit businesses to take in identifying borrowers who might have mental capacity limitations, helping them to understand credit agreements so they can make informed borrowing decisions and reducing the risk that they will be granted unaffordable or clearly unsuitable credit.

In producing the guidance we worked with a range of experts and organisations with particular experience of the needs of consumers with mental capacity limitations. We are grateful to them for their advice and input.

Debt management

In March 2012, the OFT published revised guidance on the standards it expects from businesses offering debt advice or credit repair services to consumers. The guidance expands on previous versions, providing further examples of unfair or improper practices which, if engaged in, could render a business unfit to hold a consumer credit licence and operate in the debt management sector.

An overall theme of the guidance is for businesses to be transparent so that consumers have all the information necessary to make informed choices. The guidance builds on enforcement action taken following a compliance review of the sector in 2010, which identified widespread concerns, including problems with advertising and marketing practices and the quality of advice given.

Credit brokers

The OFT published guidance setting out the standards it expects from credit brokers and intermediaries. It sets out our view on unfair practices relating to advertising and sales, refunds of fees and complaints handling. It also outlines the responsibilities of businesses that use the services of credit brokers and intermediaries.

The guidance makes it clear that credit brokers and intermediaries need to be transparent about their status, whether independent or otherwise, the payment of fees, the consumer's right to refunds, and commission.

It also addresses a number of the issues highlighted in Citizen Advice's super-complaint last year, including cold calling by telephone or text without the consent of the borrower and taking up-front fees from a borrower's bank account without the prior informed consent of the borrower.

Policy and research

Consultation on updated penalty and leniency guidance

Between October 2011 and January 2012, we consulted on two revised guidance documents, setting out proposals to update our approach to calculating financial penalties and to awarding leniency in competition cases.

In our draft penalty guidance, we proposed a number of changes to the way we set penalties in competition cases. These are designed to ensure that the OFT sets fines that are sufficient to deter companies from engaging in anti-competitive activity, but that are also fair and proportionate.

The draft leniency guidance reflects the OFT's experience of leniency cases since the guidance was last revised in 2008. Many of the revisions in the draft leniency guidance reflect the OFT's existing policies and practices rather than representing substantive changes. The OFT hopes that by giving additional or clearer guidance it will enhance the transparency and predictability of the leniency policy for prospective applicants and their advisers, enabling informed decisions about whether to apply for leniency and facilitating the handling of leniency applications both at the outset and during any ensuing investigation.

The OFT is considering responses to the consultation and expects to be in a position to issue revised leniency guidance during the course of the next reporting year.

Review of the OFT's investigation procedures in competition cases

In March 2012 the OFT published for consultation²⁷ a revised draft of its procedural guidance for competition cases, first published in March 2011.

The consultation invites comments on the OFT's proposal to introduce a new structure for the way it makes decisions in investigations under the Competition Act 1998 (CA98).

The OFT also announced in the consultation the extension of the trial of the Procedural Adjudicator's role for a further year (until March 2013), with an expanded remit, and a number of other enhancements to its CA98 investigation processes. These include the publication of case opening notices and administrative timetables, more state of play meetings, a new ability for parties to make representations on key elements of draft penalty calculations, enhanced oral hearings and new arrangements for internal checks and balances.

The improvements set out in the consultation document are aimed at increasing the speed of CA98 investigations, enhancing the level of engagement with parties to investigations, and improving the robustness of the OFT's decision-making processes. They are part of a programme of continuous improvements in CA98 procedures over recent years to take into account lessons learnt from cases, international best practice and feedback from interested parties.

The improvements also address feedback from the public consultation issued by the Department for Business, Industry and Skills (BIS) on the reform of the competition regime.

Influencing the long term shape of competition law

Throughout the year we provided a great deal

of evidence, expertise and analysis to support BIS' review of the UK competition regime, submitting a detailed response to its consultation on proposed reforms.²⁸

Promoting business compliance with consumer protection law

In April 2011 we published 'The OFT's approach to promoting business compliance with consumer protection law'²⁹ which we are using to inform the development and prioritisation of work on consumer protection matters.

This policy statement sets out how, through our own actions and in partnership with others, we aim to promote business compliance with consumer protection law. The statement considers the findings of previous research undertaken in 2010 into the drivers of compliance with consumer protection law as well as the outcomes of discussions with partners and a workshop event held in September 2010.

Influencing the long term shape of consumer protection law

The OFT has proactively engaged at UK and EU level to influence the long term shape of consumer protection legislation and initiatives, including the recently adopted Consumer Rights Directive, the Common European Sales Law proposal, the Defamation Bill and other consultations, proposals for EU wide collective redress mechanisms and the draft directive and regulation on Alternative Dispute Resolution and Online Dispute Resolution.

In particular, we contributed evidence and analysis to BIS' consultation on reforms to the consumer protection regime, including a detailed response document. We have also worked with other enforcers in the UK and internationally to maintain and improve enforcement capability within the consumer protection regime.³⁰

²⁷ www.oft.gov.uk/OFTwork/consultations/ca98-investigation-procedures/

²⁸ www.oft.gov.uk/OFTwork/consultations/responses/bis-consultation

²⁹ www.oft.gov.uk/OFTwork/publications/publication-categories/reports/competition-policy/oft1292

³⁰ www.oft.gov.uk/OFTwork/consultations/responses/consumer-landscape

Economic Discussion Paper series

During 2011–12 we published two research documents as part of the OFT’s Economic Discussion Paper series.

In May 2011 we published ‘Consumer Behavioural Biases in Competition’,³¹ commissioned from Steffen Huck and Jidong Zhou (University College London). This report examines the implications of consumer behavioural biases for firms’ decisions and hence for competitive equilibria and competition policy.

In October 2011 we published ‘Conjectural Variations and Competition Policy: Theory and Empirical Techniques’,³² commissioned from RBB Economics. Drawing on existing literature, it examines the implications for competition and competition policy of varying assumptions on the behaviour of firms in relation to their competitors.

International policy liaison

2011–12 has been the final year of the OFT Chief Executive Officer John Fingleton’s term as Chair of the International Competition Network (ICN) Steering Group, though the OFT will continue actively to participate as a steering group member.

The ICN is a global network of competition agencies from more than 100 jurisdictions which works to build consensus and convergence towards sound competition enforcement and policy around the world.

In the past year, the steering group began three long-term projects on international enforcement cooperation, investigative process and working with courts to address potential constraints and challenges to the ICN and its members achieving their objectives.

The OFT also continued to engage in the Organisation for Economic Co-operation and Development (OECD) through our work in the Competition Committee and Committee on Consumer Policy, as well as in the Global Forum on Competition.

Discussions of interest in the Competition Committee and its working parties in 2011–12 included network neutrality, merger remedies, promoting competition compliance, competition in publicly provided services, the digital economy and improving international cooperation in cartel investigations. We also participated in the work of the Committee on Consumer Policy in areas such as mobile and online payments.

We have maintained our close working relationships with international counterparts on consumer issues, through bilateral channels as well as through the Consumer Protection Cooperation Network and the International Consumer Protection Enforcement Network. This included collaborative work on specific enforcement cases and sharing best practice and intelligence.

In April 2012 the OFT agreed a Memorandum of Understanding on merger control with the Chinese Ministry of Commerce. This builds on two previous Memoranda of Understanding agreed with other Chinese competition and consumer authorities. We are now actively working with them to share our enforcement experience and expertise. We also hosted an official from China’s National Development and Reform Commission for a four month cross-office secondment.

³¹ www.of.gov.uk/OFTwork/publications/publication-categories/reports/Economic-research/oft1324

³² www.of.gov.uk/OFTwork/research/

8 IMPROVING THE WAY WE WORK

Over the years we have focused on developing our organisational culture and improving the way we work. We remain committed to further building a culture of continuous improvement, learning from experience and refining our approach to our work in light of robust evaluation.

Transparency

Our 2010 transparency statement sets out our commitment to those involved and interested in our work, explaining how we will engage with them and what information we will provide through the life of a case or a project. This includes consistently providing parties with information at the start of enforcement action and regularly updating parties on case status and timescales.

This year, we have improved the information we routinely make available about our current casework and projects.

In December 2011 in line with government policy³³ we also published updated information about our organisation and staff which included non-consolidated performance related pay information, information on senior staff salaries, monthly workforce management information and information on junior and senior staff numbers and team structure.³⁴

We aim to publicise our work widely to ensure we maximise the deterrent effect of our interventions and help raise awareness of the law and of specific consumer protection risks. Last year, the OFT published 117 press notices, updating the media on its decisions and activities. The OFT was cited over 6,400 times in UK national papers and received over 3,000 mentions in regional titles. We published 102 studies, reports and consultation documents in the course of the year. We also issue a regular email newsletter to more than 5,000 subscribers.³⁵ We developed and launched new sections of the OFT website to improve our audiences' understanding of legislation and key functions of the organisation. This included not only the Distance Selling hub and updated

Skilled to go pages, but also sections on credit licensing, competition law compliance and anti-money laundering. In addition, we have made a number of improvements to the navigation and functionality of existing webpages based on user feedback.

In the course of the year our enquiries centre dealt with 61,811 telephone enquiries and written contacts from 17,367 businesses, organisations, Parliamentarians and members of the public.

Engagement

We recognise the fundamental importance of engaging with a wide range of external partners in the voluntary sector, academia, business and government, as well as with the general public. This is not just to ensure we share what we are doing, but also to gain valuable insight into the experiences and needs of consumers and business, to maximise opportunities for partnership working and to seek feedback that will enable us to improve the way we work.

A key platform for this is the engagement we undertake as part of public consultation on our Annual Plan. This gives us an opportunity to test and refine our objectives and priorities for the year ahead with experts and representative bodies.

This year, in addition to receiving 42 written submissions, we met face to face with more than 30 organisations including government, regulators, business and consumer groups, to gather informal views, both from UK-wide organisations and with bodies in Scotland, Wales and Northern Ireland.

³³ www.cabinetoffice.gov.uk/transparency

³⁴ www.ofc.gov.uk/about-the-ofc/ofc-structure/

³⁵ To subscribe, visit the OFT website at www.ofc.gov.uk/news-and-updates/newsletter/

We launched 12 formal public consultations over the year. And in addition to encouraging written responses, we held consultation workshops and seminars on a wide range of issues, for example dentistry, motor insurance and mobility aids.

As part of the call for evidence on remote communities we held consultation events with local communities in seven locations with the support of local partners including TSS and Citizens Advice Bureaux. These were: Highland and Shetland in Scotland, Llyn Peninsula and Bridgend County in Wales, Northumberland and Devon in England, and County Tyrone in Northern Ireland.

In light of our focus on vulnerable consumers, this year we have sought to develop new relationships with organisations representing the interests of consumers facing particular vulnerabilities, for example extending our contact with mental health charities and experts in the course of our work on mental capacity guidance.

OFT staff have also attended and participated in events organised by a wide range of partner organisations over the year, speaking to audiences as diverse as frontline debt advisors, specialist competition lawyers, TSS professionals and compliance directors of a wide range of businesses.

We also worked to ensure the Westminster Parliament, Scottish Parliament, Welsh Assembly and Northern Ireland Assembly are informed about our work. This year saw the establishment of new regular drop-in sessions for MPs and Peers to make them aware of our role and remit and the ways in which we, alongside regime partners, can help address some of the problems faced by their constituents. We held three such sessions in the course of the year, attended by more than 80 MPs, Peers and researchers.

We also gave evidence to a number of select committee and all-party grouping inquiries and investigations, most notably the BIS Select Committee and All Party Parliamentary Group

on Debt and Personal Finance investigations into debt management and payday lending, the Treasury Select Committee's inquiries into the Vickers report and the Financial Conduct Authority, the Joint Committee on the Draft Financial Services Bill and the DECC Select Committee heating oils inquiry.³⁶

Working with Trading Standards Services

Intelligence management

Throughout the year, we have continued to support and maintain the National Intelligence Database established in 2010. All but one of the TSS regional groups use the database and over half the TSS across the country now have individual licenses for the system.

Following successful negotiation with the Association of Chief Police Officers, we have now rolled out access to the Police National Computer to six regional groups of TSS. This allows them to access accurate intelligence on criminal activity.

Consumer legislation enforcement

In anticipation of the changes to the consumer landscape, specifically in relation to enforcement of consumer legislation, we have worked jointly with the newly created National Trading Standards Board (NTSB) to establish a protocol for requests for national support for consumer enforcement activities. This protocol continues to develop arrangements between the OFT, regional trading standards groups and the NTSB for prioritisation and allocation of national and cross-boundary consumer enforcement cases, together with improved collaboration and sharing of expertise.

Evaluation

Careful evaluation of our activities helps us prioritise, target, conduct and follow up our work to maximise our impact. It also helps us demonstrate whether we are delivering on our objectives and doing so cost-effectively.

³⁶ More information can be found at www.parliament.uk

Post impact estimation

Our performance target with HM Treasury commits us to publishing a set of impact indicators including calculating direct financial benefit-to-cost ratios for different OFT tools. To meet this target our positive impact estimates are being published in July 2012 and show an overall benefit-to-cost ratio for the OFT of 8:1. For individual tools the estimated average savings to consumers is £35 million from consumer protection enforcement, £151 million from competition law enforcement, £8 million from mergers and £207 million from market studies. The methodologies underlying these estimates are explained in the OFT impact estimation guide, published in 2010. Quarterly data on our progress against the full set of impact indicators agreed with HM Treasury can be found on our website.³⁷

Independent evaluations of interventions

As part of our programme of work, we undertook a number of in-depth independent evaluations in 2011–12 including:

- An evaluation of the impact of the OFT's consumer enforcement case against Foxtons in respect of commission terms in letting agreements. The evaluation found direct benefits to consumers from Foxtons amending its letting terms and actively flagging renewal commission terms, and indirect impacts of deterring similar practices by other letting agents and empowering consumer landlords to negotiate terms with agents. The case was found to have resulted in benefits to consumers of at least £4.4 million per year
- An evaluation of the OFT's 2004 market study into doorstep selling found improved consumer confidence in using this sales channel, as a result of the OFT's recommendations on improving cancellation rights and ensuring greater price transparency, had increased doorstep sales by £57 million per year. Furthermore, the extension to consumer cancellation rights arising from the OFT's recommendations was found to have reduced consumer detriment by £8.5 million per year in terms of unwanted

purchases that consumers are now able to cancel. The evaluation identified that there is still scope for consumers to shop around more and to achieve a reduction in the use of pressure sales techniques

- An evaluation of the impact of competition interventions on compliance and deterrence, which found sanctions and enforcement work in the UK appeared to have a substantial deterrence effect. The deterrence ratios indicated that for every abuse of dominance case, 12 cases are deterred and in the case of cartels and other commercial agreements, for every OFT investigation, 28 and 40 cases respectively are deterred

Developing Our People

Recruitment

In the context of our Spending Review commitments we have made substantial reductions to our 'back office' budget and staffing, and wherever possible we have moved affected staff into frontline delivery roles. As at 31 March 2012, the OFT's workforce totalled 665 compared to 638 at the same point in 2011. During the year we recruited 41 new permanent staff to replace leavers and build delivery capability, almost half of whom joined from other government departments. Agency workers and short term contracts have been used to fill skills gaps and to resource peaks of work, and we expect the hiring of such workers to increase as we transition into a new institutional landscape.

In the course of the year our recruitment processes were audited by the Civil Service Commission and given a clean bill of health.

Talent management and leadership development

Over the year we have built on work carried out in 2010 to attract, retain, develop and motivate talented staff. This year, we completed performance/potential matrices at mid-year for all staff at Grade 7 and above. Workshops were also held with more junior staff to identify their career aspirations and development

³⁷ www.offt.gov.uk/about-the-offt/accessing-information/transparency/

opportunities to support them, which resulted in specific courses being designed and implemented to meet their needs. A succession plan was drawn up for Senior Civil Service roles during the year, focusing on business critical roles and those where there was a risk of turnover.

We also now have a Head of Profession in place for all the professional communities within the OFT to support career development for their professional group.

Employee engagement and investors in people

Ninety four per cent of OFT staff responded to the Civil Service engagement survey in 2011. The OFT's overall engagement index fell slightly to 61 per cent compared to 63 per cent in 2010, but was still six points above the Civil Service average. Given the uncertainty around the OFT's future, the continuing pay freeze and reforms to pension benefits, we did well to maintain these scores. The scores also reflect the continuing high commitment staff have to the OFT's work. 89 per cent of staff (an increase of one per cent on 2010) responding to the survey said that they were interested in their work and 75 per cent (up four per cent on 2010) said their work gave them a sense of personal accomplishment.

Our follow up to the survey is focusing on the three drivers of engagement that were most important to staff – Leadership and Managing Change, My Work and My Manager.

Diversity and equality

We continue to ensure that an understanding of equality and diversity issues is embedded across the organisation through individual and organisation diversity objectives, and have provided support to teams completing Equality Impact Assessments. In the summer of 2011 we published our first annual equality review which demonstrated how we have furthered the aims of the general duty of the Equality Act 2010.

PriceWaterhouseCoopers also carried out an audit of internal diversity across the OFT. It looked at how equality and diversity is monitored and supported across the employment life cycle. The report was issued in October and portrayed a good picture of diversity across the OFT. In addition, we started an equal pay audit, which will be completed during 2012–13.

9 FOCUSING ON THE FUTURE

In 2012–13 we will focus our work on delivering against our three strategic objectives:

- **High impact enforcement** to achieve compliance with competition, credit and consumer law
- **Influencing**, changing behaviour in markets through advocacy and guidance, and taking action using non-enforcement tools
- **Building organisational delivery and capability**

We will concentrate action in markets where there are high levels of consumer detriment, where we can support economic growth or where there may be a need to help shape emerging business models in the interests of consumers. We will prioritise work that relates to the following priority cross-cutting themes:

- Vulnerable consumers and consumers challenged by the adverse economic climate
- Pricing used as a barrier to fair choice
- Improving trust in online markets
- Intellectual property and high innovation markets
- Public markets

To deliver our strategic objectives, we will work in partnership with other public bodies, businesses and their advocates, and consumer representatives.

We will also continue to build our capabilities by further streamlining our processes and making them more transparent to businesses and their advisers, by investing in talent and the skills of our people, and by improving the efficiency of our organisational support functions.

All this must take place against a context of ongoing constraints on public spending, under which the OFT's budget is reducing by a further 25 per cent in real terms over the four years to 2015. We will continue to exercise rigorous control of expenditure and seek to maximise efficiencies to ensure that our resources are focused on activities that deliver maximum benefit to consumers.

Reform of the competition, consumer protection and consumer credit regimes

Following a public consultation, the Government has set out its plans for the future

of the consumer, competition and consumer credit regimes in the UK.

The Government intends to create a new Competition and Markets Authority (CMA) which will bring together most of the functions of the OFT and the CC. Alongside this, there will be a reorganisation of responsibilities for delivering key aspects of the consumer protection and empowerment regime. The Government also intends to transfer responsibility for the regulation of consumer credit markets to the new Financial Conduct Authority (FCA).

Reform of the competition regime

The Government's aspiration is that the creation of the CMA will deliver a more efficient competition regime, building on the best of the OFT and CC to become a world-leading competition authority, advocating competition both at home and abroad and ensuring markets work well for consumers. Alongside this, the Government's reforms will provide for enhanced cooperation and information sharing between the CMA and sectoral regulators, as well as with partners across the consumer regime. Legislation to set out the functions and powers of the CMA is currently before Parliament, and it is expected that the CMA will formally launch in 2014.

The fundamental pillars of the competition regime will remain unchanged. The two-phase process for market and merger reviews will continue, and the Government has elected to retain an administrative process for CA98 enforcement cases. However, the legislation will make a number of welcome improvements to the markets, mergers and competition enforcement regimes, including new statutory time limits for markets and mergers work, stronger investigatory powers and a new power for the Secretary of State to request the CMA to investigate public interest issues alongside competition issues in markets cases.

The legislation will also make improvements to the procedures for CA98 cases to enhance the speed, robustness and fairness of decisions. The enhancements we are proposing to the OFT's CA98 procedures have been developed with these same goals in mind and are intended to lay the foundations a stronger competition enforcement regime in anticipation of the creation of the CMA.

Reform of the consumer protection regime

There will be a new division of responsibilities for consumer protection. TSS will take on greater responsibility for consumer law enforcement under the direction of the new National Trading Standards Board (NTSB), which will have responsibility for prioritising national and regional Trading Standards enforcement in England and Wales. From April 2013, the NTSB will receive additional funding from the current OFT enforcement budget and will take over coordination and database-management functions currently undertaken by the OFT.

The CMA will retain broad-ranging consumer enforcement powers which it may use where it identifies practices and market conditions that make it difficult for consumers to exercise choice in an otherwise competitive market. Linked to this, it will act as the lead authority and centre of expertise for the enforcement of unfair contract terms legislation. The CMA will also retain most of the OFT's current role on international consumer law and policy liaison.

The negative licensing regime for estate agents administered by the OFT, and the associated registration of estate agents under anti-money laundering legislation will be undertaken by Trading Standards in due course. However, this change may take place at the same time as the transfer of credit to the Financial Conduct Authority and therefore later than other changes to the OFT's consumer remit.

In addition to assuming responsibility for consumer advice from 1 April 2012, Citizens Advice will have an enhanced role, taking on the OFT's consumer-facing education functions from April 2013. Citizens Advice will also assume Consumer Focus' current responsibilities for publicly-funded consumer advocacy in the non-regulated sectors from April 2013. Responsibility for advocacy in the regulated sectors will be transferred on a

phased approach, becoming the responsibility of a new Regulated Industries Unit (RIU) from April 2013, before transferring to Citizens Advice at a later date. Most of the business-facing education activities of the OFT will be transferred to the Trading Standards Institute (TSI) from April 2013 under the guidance of the NTSB, although the CMA may issue guidance in relation to the application of unfair contract terms legislation as well as where it has conducted a market study in or has specialist knowledge of a particular sector.

The TSI will take over the consumer codes approval function from April 2013 on a self-funding basis. From that date the OFT will close the existing Consumer Codes Approval Scheme.

The Government will establish a Strategic Intelligence, Prevention and Enforcement Partnership with membership from TSS, the OFT (and eventually the CMA), the Regulated Industries Unit and Citizens Advice, where these bodies will share intelligence and agree priorities for enforcement, information and education. The partnership will provide regular reports to the Minister for Consumer Affairs to provide accountability on how the system as a whole is delivering for consumers.

Reform of the consumer credit regime

In January 2012, the Government announced that it is taking powers in the Financial Services Bill to enable the new Financial Conduct Authority (FCA) to take on responsibility for regulating consumer credit under the Financial Services and Markets Act (FSMA) – and to bring the regulation of all retail financial services under one roof, subject to designing a model of FCA regulation that reflects the particular characteristics of consumer credit, and remains proportionate for the different segments of the consumer credit market. The Government expects the transfer to take place in April 2014.

Shaping the new landscape and ensuring a smooth transition

During the course of the last year, the OFT has worked in partnership with BIS, HM Treasury, and a wide range of other partners, including the CC, the FSA, Citizens Advice, TSS and the sectoral regulators, providing evidence, advice and analysis to help inform the consultation process around reform.

In particular, we have worked closely with colleagues at BIS and the other sectoral regulators to develop proposals for more immediate enhancements to our CA98 procedures, drawing on the experience of other enforcers and responses to the BIS consultation, as well as previous rounds of engagement and consultation with affected businesses and their representatives. We expect to issue a response to the consultation and our final guidance in the autumn.

We worked closely with colleagues at Citizens Advice and Citizens Advice Scotland to ensure the smooth transfer of responsibilities for consumer advice, winding down the Consumer Direct service and facilitating a smooth transfer of systems, data and personnel in time for the launch of the new service on 1 April 2012.

In addition, we provided a great deal of evidence and information to support the National Audit Office's (NAO) review of the consumer enforcement regime and, in light of the findings of its report, have worked closely with TSS partners to put in place improved arrangements for the prioritisation and resourcing of cases at the national and regional level to improve shared accountability, share expertise and minimise any scope for enforcement gaps.

Going forward, these reforms will mean a challenging degree of change for the OFT, its staff and the organisations we work alongside. A key challenge for the coming year will be both to support a smooth transition to effective new institutional arrangements and to maintain the performance of the existing regime through a period of change.

The OFT has assigned a Director and created a project team to lead our internal work on transition as the changes become clearer, and to work closely with BIS – as well as wider delivery partners such as the CC, sector regulators, TSS, the FSA, Citizens Advice, TSI, and the Regulated Industries Unit – to support the reform process and play our part in delivering an effective competition and consumer regime both now, and for the future. In particular, we are working closely with the CC and deepening engagement between our two organisations on a number of fronts. Whilst this work is clearly vital, our aim is that it should not distract us from achieving our objectives for this year, ensuring we

continue to fulfil our mission to make markets work well for consumers and promote growth at this critical time for the economy.

Sustainability review

The OFT is committed to working in support of the Government’s Sustainable Development Strategies. Our Sustainability Strategy is currently being updated to reflect the goals set out in these.³⁸

As well as developing a roadmap for improving energy management we are improving our recycling programme and reviewing our print strategy to encourage staff to print less and use recycled products where possible.

We are constrained to a certain extent by future institutional changes but are looking at further investment on our Building Management System and Environmental Management Systems where the investment provides real benefits and helps reduce ongoing costs.

We have also implemented a sustainable procurement policy.

Performance

The OFT’s performance against the Greening Government Commitment Operation and Procurement targets has been benchmarked against 2009–10 data. However, data prior to 2009–10 has been difficult to collate due to changes in the way this information is collected and reported. The three key targets set out below are to be achieved by 2015:

- Reduction of Greenhouse Gas Emissions by 25 per cent from a 2009–10 baseline
- Reduction of waste by 25 per cent including reducing paper usage by 10 per cent from a 2009–10 baseline
- Reduction of water consumption to meet best practice targets from a 2009–10 baseline

The OFT has this year met the target of a 25 per cent reduction in carbon emissions, and is currently exceeding the target of a 10 per cent reduction in water consumption, achieving a 22 per cent reduction in year. However, this year

we fell short of achieving the target reduction of 25 per cent in office waste, achieving an 18 per cent reduction in waste volumes across the year.

OFT performance against 2009–10 baseline

Greenhouse Gas Emissions

Our greenhouse gas emissions (GHG) have dropped significantly in 2011–12.

We are unfortunately unable to report on data relating to the Fluorinated Gas (FGAS) regulations for any gas loss over the reporting period as these records were not kept by the previous supplier. FGAS registers are now in place to ensure reporting going forward.

We will continue to review our strategy over the coming year, to make further reductions wherever possible, although the installation of a new fire suppressant system and cooling system in the IT data centre for business continuity purposes will impact on next year’s figures.

Travel emissions

We are unable to report on GHG emissions related to business travel as we do not currently collect data on miles travelled. However, the OFT has tightened its policy relating to business travel to ensure only essential travel is undertaken and to encourage use of energy-efficient means wherever possible.

Waste

There has been a one off increase in the waste generated over the last 12 months. This is attributable to the refurbishment of the building to enable a move to hot-desking and to release floor space for rental as part of our 2010 Spending Review commitments. In doing this we recycled approximately 20 tonnes of general waste and 26 tonnes of construction waste which we have not included in the above figures.

³⁸ The OFT Sustainability Performance Report can be found at Annexe J at: www.of.gov.uk/annualreport

We are very keen to further strengthen our recycling rate within the next 12 months and will introduce food waste recycling with the view that this be converted to compost to further support our sustainability strategy. We will also be looking at options for using closed loop recycling to further support our sustainable initiatives.

Obsolete IT equipment is also recycled using an approved government supplier, Eol IT Services.

We installed Multi Functional Devices in early 2012 which will help us better understand our print requirements. Building on this, we are exploring software solutions with a view to reducing paper waste by 10 percent by the end of the next reporting year.

Water consumption

Although there has been a decrease since the base year, the last 12 months have seen an increase in our water usage. The increase is mainly attributable to plumbing leaks. We have responded to this with a strict regime to identify and tackle leaks more rapidly. Subject to a satisfactory business case we will also be looking to invest in smaller cistern sizes across the building.

Sustainable procurement

Sustainable sourcing

All OFT purchasing activity must continue to comply with the EU public procurement directives, and we will aim to achieve maximum value for money to minimise waste throughout the supply chain. All invitations to tender let by the OFT will include appropriate environmental requirements.

To implement this policy, the OFT aims to purchase:

- The most energy efficient electrical appliances (energy efficiency rated 'A' or above)
- Recycled paper products for use where paper free approaches are unsuitable
- Non-ozone depleting materials

Whenever possible, the OFT will avoid the purchase of:

- Products or equipment containing, using, or manufactured with ozone depleting substances such as CFCs and HCFCs

- Products or equipment containing, using, or manufactured with substances with high global warming potential such as HFCs/PFCs, methane
- Products containing toxic substances
- Products with excessive packaging unless the supplier offers packaging recovery schemes
- Products containing non-rechargeable batteries

Where value for money can be demonstrated, the OFT will use:

- Substances and/or products with proven reduced toxicity compared to the alternatives
- Products containing recycled content
- Products designed for re-use and/or recycling at end-of-life
- Energy efficient electrical appliances
- Energy and materials derived from sustainably managed renewable resources
- Other products designed to reduce the environmental impact, or with evidenced
- Improved environmental performance

11 OPERATING AND FINANCIAL REVIEW

Our activities are funded by Parliamentary Vote. For 2011–12 our final Net Resource Requirement was £73.3 million and final Net Capital Requirement was £0.8 million.

Actual resource outturn for the year was £62.0 million, an underspend of £11.3 million. Of this, £10.7 million is due to the non-take up of budgeted provisions. The remaining £0.6 million (1.0 per cent) relates to our day-to-day operations and is primarily due to improved cost control and fee collection greater than previously expected.

Our income included £11.5 million in respect of fees and charges levied on external customers in respect of licence fees charged for the administration of the Consumer Credit Act 1974 and £1.1 million in respect of fees charged for registration and supervision under the Money Laundering Regulations 2007. We also received £0.8 million from the Department for Business, Innovation and Skills as reimbursement to Consumer Direct in respect of energy and post contacts handled.

We invested £0.6 million in capital additions in the year, all of which were IT-related. This represented a small underspend against the budget of £0.8 million, due primarily to the prioritisation of non-capital projects in our Business Services department.

Auditors

Our resource accounts have been audited by the Comptroller and Auditor General, who has been appointed under statute and is responsible to Parliament. The cost of the audit (notional fee) was £81,000, which included £12,000 for the audit of the Trust Statement, which is published at chapter 13, and £4,000 for the audit of the Whole of Government Accounts return. No non-audit work was undertaken by the auditors during the reporting period, hence no payments needed to be made for such work.

The Accounting Officer has taken all the steps that he ought to have taken to make himself aware of any relevant audit information, and to establish that our auditors are aware of that information. So far as he is aware, there is no relevant audit information of which our auditors are unaware.

Our internal audit was provided independently by PriceWaterhouseCoopers, but managed by the Head of Internal Audit who is a member of our staff.

Creditor payment, policy and performance

We are committed to the prompt payment of our suppliers and seek to pay all valid invoices within 30 days of receipt. During 2011–12, 83.8 per cent (2010-11: 85.1 per cent) of invoices were paid within 30 days with 47.2 per cent (2010-11: 54.8 per cent) paid within 10 days.

Sickness absence

After allowing for normal leave entitlement, 2.8 per cent of the total available working days were lost due to staff sickness absence.

12 RESOURCE ACCOUNTS

Auditable Sections

In accordance with the requirements of Schedule 7A of the Companies Act 1985 (as amended), only certain sections of the Remuneration Report have been subject to full external audit. These comprise the sections on salary and pension entitlements.

Remuneration Policy

The remuneration of senior civil servants is set by the Prime Minister following independent advice from the Review Body on Senior Salaries.

The Review Body also advises the Prime Minister from time to time on the pay and pensions of Members of Parliament and their allowances, on Peers' allowances, and on the pay, pensions and allowances of Ministers and others whose pay is determined by the Ministerial and Other Salaries Act 1975.

In reaching its recommendations, the Review Body has regard to the following considerations:

- The need to recruit, retain and motivate suitably able and qualified people to exercise their different responsibilities
- Regional/local variations in labour markets and their effects on the recruitment and retention of staff
- Government policies for improving the public services including the requirement on departments to meet the output targets for the delivery of departmental services
- The funds available to departments as set out in the government's departmental expenditure limits
- The government's inflation target

The Review Body takes account of the evidence it receives about wider economic considerations and the affordability of its recommendations.

The Chairman's, Chief Executive Officer's and Non-Executive Board members' remuneration and other terms and conditions of service are determined by the Secretary of State for Business, Innovation and Skills.

The OFT pay committee approves the salaries paid to Senior Civil Servants within the OFT. During 2011–12 the committee comprised Philip Collins, Alan Giles and Philip Marsden.

Further information about the work of the Review Body can be found at www.ome.uk.com/.

Service Contracts

The Constitutional Reform and Governance Act 2010 requires Civil Service appointments to be made on merit on the basis of fair and open competition. The Recruitment Principles published by the Civil Service Commission specify the circumstances when appointments may be made otherwise.

Unless otherwise stated below, the officials covered by this report hold appointments which are open-ended. Early termination, other than for misconduct, would result in the individual receiving compensation as set out in the Civil Service Compensation Scheme.

Further information about the work of the Civil Service Commission can be found at www.civilservicecommission.org.uk.

Remuneration (including salary) and pension entitlements

The following sections provide details of the remuneration and pension interests of the most senior management (that is, Board members) of the OFT.

Remuneration (salary and payments in kind)

	2011-12		2010-11	
	Salary	Bonus payments	Salary	Bonus payments
Senior management	£000	£000	£000	£000
John Fingleton ¹ Chief Executive	275 – 280	–	275 – 280	–
Vivienne Dews ² Executive Director	110 – 115	–	125 – 130	5 – 10
Robert Laslett ³ Executive Director	125 – 130	–	80 – 85 (full year equivalent 125 – 130)	–
Clive Maxwell ⁴ Executive Director	120 – 125	10 – 15	70 – 75 (full year equivalent 120 – 125)	–
Jonathan May ⁵ Executive Director	–	–	55 – 60 (full year equivalent 135 – 140)	5 – 10

No Executive Board members received any benefits in kind in 2011–12 (2010–11: nil).

- 1 John Fingleton announced in February 2012 that he is to leave OFT later in the year.
- 2 Vivienne Dews is Executive Director responsible for Corporate Services and Consumer Credit Licensing, and until 31 March 2012 for Consumer Direct. Salary in 2011–12 reflects a reduction in working hours for part of the year.
- 3 Robert Laslett was appointed Executive Director from 6 August 2010 and retired on 30 April 2012. A payment of £94k is due under the contractual provisions of the Civil Service Compensation Scheme. This payment is reported as an accrual in note 9 to the accounts.
- 4 Clive Maxwell was appointed Executive Director from 1 September 2010. He is currently responsible for Cartels and Criminal Enforcement, Services, Infrastructure and Public Markets, Mergers, and Pipeline and Performance.
- 5 Jonathan May was Executive Director for Policy and Strategy, and Markets and Projects until 31 August 2010.

Reporting bodies are required to disclose the relationship between the remuneration of the highest-paid director in their organisation and the median remuneration of the organisation's workforce.

The banded remuneration of the highest-paid director in OFT in 2011–12 was £275–280k (2010–11: £275–280k). This was 6.8 times (2010–11: 7.4) the median remuneration of the workforce, which was £40,570 (2010–11, £37,432). In 2011–12, no (2010–11: nil) employees received remuneration in excess of the highest-paid director. Remuneration, excluding the highest paid director, ranged from £19.3k to £138.0k (2010–11: £19.1k – £129.8).

Total remuneration includes salary, non-consolidated performance-related pay, benefits-in-kind as well as severance payments. It does not include employer pension contributions and the cash equivalent transfer value of pensions.

	2011-12	2010-11
Band of highest paid Director's total remuneration (£000)	275 – 280	275 – 280
Median total remuneration	40,570	37,432
Ratio	6.8	7.4

The decrease in the ratio is mainly a result of a reduction in back office and middle office staff, who are generally lower paid, which is due to the Civil Service-wide efficiency drive. Although the number of Senior Civil Servants decreased significantly during the year, the recruitment of additional front-line staff on short-term contracts in order to deliver services effectively has led to an increase in the median pay figure.

Non-Executive Board Members

	2011-12	2010-11
	Salary	Salary
	£000	£000
Philip Collins (Chairman)	175 – 180	175 – 180
Alan Giles	20 – 25	35 – 40
Frédéric Jenny	20 – 25	20 – 25
Anthony Lea	20 – 25	20 – 25
Philip Marsden	20 – 25	50 – 55
William Moyes	20 – 25	20 – 25
Alan Cook	0 – 5 (full year equivalent 20 – 25)	20 – 25
James Hart	–	35 – 40

No bonuses were paid to Non-Executive Directors in 2011–12 (2010–11: nil).

Non-Executive Directors are reimbursed with the cost of travelling to and from the OFT including for attending OFT Board and other meetings. These reimbursements totalled £8,996 in 2011–12 (2010–11: £20,059) and the OFT meets the resulting tax liability on behalf of those Directors.

Non-Executive Board Members appointment details are as follows:

	Date:	
	(A) appointed (R) reappointed	Appointment expires or date of leaving
Philip Collins	(R) 1 October 2009	30 September 2013
Alan Giles	(R) 1 April 2011	31 March 2014
Frederic Jenny	(R) 1 April 2012	31 March 2014
Anthony Lea	(R) 1 April 2012	31 March 2014
Philip Marsden	(A) 1 October 2008	31 March 2013
William Moyes	(A) 1 April 2010	31 March 2013

Salary

‘Salary’ includes gross salary, overtime, reserved rights to London weighting or London allowances, recruitment and retention allowances, private office allowances and any other allowance to the extent that it is subject to UK taxation. This report is based on payments made by the OFT and thus recorded in these accounts.

Benefits in kind

The monetary value of benefits in kind covers any benefits provided by the OFT and treated by HM Revenue and Customs as a taxable emolument. No Board members received any benefits in kind during 2011–12 (2010–11: nil).

Bonuses

Bonuses are based on performance levels attained and are made as part of the appraisal process. The bonuses reported in 2011–12 relate to performance in 2010–11 and the comparative bonuses reported for 2010–11 relate to the performance in 2009–10.

Pension Benefits

	Accrued pension at pension age as at 31 March 2012 and related lump sum	Real increase in pension and related lump sum at pension age	CETV at 31 March 2012	CETV at 31 March 2011 ⁶	Real increase in CETV
	£000	£000	£000	£000	£000
John Fingleton Chief Executive	25 – 30	2.5 – 5.0	370	290	47
Vivienne Dews Executive Director	60 – 65 plus lump sum of 180 – 185	0 – 2.5 plus lump sum of 0 – 2.5	1,354	1,280	–
Robert Laslett Executive Director	25– 30	0 – 2.5	512	441	30
Clive Maxwell Executive Director	30 – 35 plus lump sum of 90 – 95	2.5 – 5.0 plus lump sum of 10.0 – 12.5	392	321	43

⁶ The actuarial factors used to calculate CETVs were changed in 2011–12. The CETVs at 31 March 2011 and 31 March 2012 have both been calculated using the new factors, for consistency. The CETVs at 31 March 2011 therefore differ from the corresponding figures in the Remuneration Report for 2010–11 which were calculated using the previous factors.

Neither the Chairman nor the other Non-Executive Board members are members of PCSPS. They have no pension entitlements with OFT.

Civil Service Pensions

Pension benefits are provided through the Civil Service pension arrangements. From 30 July 2007, civil servants may be in one of four defined benefit schemes, either a ‘final salary’ scheme (classic, premium or classic plus), or a ‘whole career’ scheme (nuvos). These statutory arrangements are unfunded with the cost of benefits met by monies voted by Parliament each year. Pensions payable under classic, premium, classic plus and nuvos are increased annually in line with Pensions Increase legislation. Members joining from October 2002 may opt for either the appropriate defined benefit arrangement or a ‘money purchase’ stakeholder pension with an employer contribution (partnership pension account).

Employee contributions are set at the rate of 1.5 per cent of pensionable earnings for classic and 3.5 per cent for premium, classic plus and nuvos. Increases to employee contributions will apply from 1 April 2012. Benefits in classic accrue at the rate of 1/80th of final pensionable earnings for each year of service. In addition, a lump sum equivalent to three years initial pension is payable on retirement. For premium, benefits accrue at the rate of 1/60th of final pensionable earnings for each year of service. Unlike classic, there is no automatic lump sum. Classic plus is essentially a hybrid with benefits for service before 1 October 2002 calculated broadly as per classic and benefits for service from 1 October 2002 worked out as in premium. In nuvos a member builds up a pension based on their pensionable earnings during their period of scheme membership. At the end of the scheme year (31 March) the member’s earned pension account is credited with 2.3 per cent of their pensionable earnings in that scheme year and the accrued pension is updated in line with Pensions Increase legislation. In all cases members may opt to give up (commute) pension for a lump sum up to the limits set by the Finance Act 2004.

The partnership pension account is a stakeholder pension arrangement. The employer makes a basic contribution of between 3 per cent and 12.5 per cent (depending on the age of the member) into a stakeholder pension product chosen by the employee from a panel of three providers. The employee does not have to contribute but where they do make contributions, the employer will match these up to a limit of 3 per cent of pensionable salary (in addition to the employer’s basic contribution). Employers also contribute a further 0.8 per cent of pensionable salary to cover the cost of centrally provided risk benefit cover (death in service and ill health retirement).

The accrued pension quoted is the pension the member is entitled to receive when they reach pension age, or immediately on ceasing to be an active member of the scheme if they are already at or over pension age. Pension age is 60 for members of classic, premium and classic plus and 65 for members of nuvos.

Further details about the Civil Service pension arrangements can be found at the website:
<http://www.civilservice.gov.uk/pensions>

Cash Equivalent Transfer Values

A Cash Equivalent Transfer Value (CETV) is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any contingent spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which disclosure applies.

The figures include the value of any pension benefit in another scheme or arrangement which the member has transferred to the Civil Service pension arrangements. They also include any additional pension benefit accrued to the member as a result of their buying additional pension benefits at their own cost. CETVs are worked out The Occupational Pension Schemes (Transfer Values) (Amendment) Regulations 2008 and do not take account of any actual or potential reduction to benefits resulting from Lifetime Allowance Tax which may be due when pension benefits are taken.

Real increase in CETV

This reflects the increase in CETV that is funded by the employer. It does not include the increase in accrued pension due to inflation, contributions paid by the employee (including the value of any benefits transferred from another pension scheme or arrangement) and uses common market valuation factors for the start and end of the period.

Compensation for loss of office

No payments were made as compensation for loss of office to any Board Member during 2011–12.



John Fingleton

Chief Executive and Accounting Officer

21 June 2012

Statement of Accounting Officer's Responsibilities

Under Section 5 of the *Government Resources and Accounts Act 2000*, HM Treasury has directed OFT to prepare, for each financial year, accounts detailing the resources acquired, held or disposed of during the year and the use of resources by the department during the year. The accounts are prepared on an accruals basis and must give a true and fair view of the state of affairs of OFT and of its net resource outturn, resources applied to objectives, changes in taxpayers' equity and cash flows for the financial year.

In preparing the accounts, the Accounting Officer is required to comply with the requirements of the *Government Financial Reporting Manual* and in particular to:

- observe the Accounts Direction issued by HM Treasury, including the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis
- make judgements and estimates on a reasonable basis
- state whether applicable accounting standards as set out in the *Government Financial Reporting Manual* have been followed, and disclose and explain any material departures in the accounts
- prepare the accounts on a going concern basis

HM Treasury has appointed the Chief Executive Officer as Accounting Officer of the OFT. The responsibilities of an Accounting Officer, including responsibility for the propriety and regularity of the public finances for which the Accounting Officer is answerable, for keeping proper records and for safeguarding the OFT's assets, are set out in *Managing Public Money* published by the HM Treasury.

OFT Governance Statement 2011–12

This Statement comprises:

- Part A** **Governance Framework: Explanation of the OFT's governance and accountability structure**
- Part B** **Governance in 2011–12: An account of key issues and performance**
- Annexes** **Supporting information on relevant statutes and committees**

Part A

Governance framework

The Office of Fair Trading is an independent non-ministerial government department responsible for competition and consumer protection. It has a range of statutory functions, powers and duties enabling it to work with the overall aim of making markets work well for consumers. The Enterprise Act 2002 established the OFT as a statutory corporation on 1 April 2003, led by a Board.

Key ways in which the OFT fulfils its aim are by:

- enforcing competition law including under the Competition Act 1998
- enforcing consumer protection legislation in matters that affect consumers in general
- monitoring consumer credit through a licensing system under the Consumer Credit Act 1974

Under the Enterprise Act 2002, the OFT has a number of general functions that support the exercise of its more specific consumer protection and competition law powers duties and functions. The general functions comprise:

- acquiring information in relation to any of its functions
- providing information to the public about matters relating to any of its functions
- providing information and advice to ministers and other public authorities
- promoting good consumer practice in activities that affect consumers' economic interests

The legislation governing the OFT's main powers, duties and functions is shown at Annexe A.

The OFT works with its international counterparts to promote convergence and a consistent approach to tackling anti-competitive practices and protecting consumers' interests. The OFT is a member of the European Competition Network and of the International Consumer Protection & Enforcement Network.

OFT Board

The Chairman and Members of the OFT Board (which must consist of the Chairman and no fewer than four other members) are appointed by the Secretary of State under paragraph 1, Schedule 1 of the Enterprise Act 2002, as is the Chief Executive Officer. The Members of the OFT constitute its Board, which currently comprises the Non-Executive Chairman, the Chief Executive Officer, two Executive and five Non-Executive Directors. The Board operates according to the Rules of Procedure that it has adopted,³⁹ which are published on the OFT website and which are reviewed periodically. These rules, where applicable, are to be read and interpreted together with the OFT's statutory powers and functions.

The Rules list various matters (set out in Annexe B) that are reserved for the involvement of the Board. This list of matters does not preclude other matters or decisions that have been delegated by the Board being referred to the Board. The Board reviews and, if satisfied, approves the Annual Plan made under section 3 of the Enterprise Act 2002, the Annual Report made under section 4 of the Enterprise Act 2002, and the Annual Accounts.

The Board establishes the overall strategic direction of the OFT within the policy framework laid down under the Act and the resources allocated to the OFT by HM Treasury. It ensures that relevant guidance on the governance of public bodies and the principles of good corporate governance are duly regarded and that the OFT as a statutory body fulfils its statutory functions and its obligations in relation to the use of public funds in accordance with all statutory provisions applicable to the OFT.

The Board holds the organisation to account, receiving formal monthly and quarterly performance reports. At its quarterly performance review meetings, the Board assesses performance and considers current threats to delivery of the OFT's objectives through a review of the corporate risk register.

The Board has established one committee, the Executive Committee, and two sub-committees, the Audit and Risk Assurance Committee and the Pay Committee, as illustrated at Annexe C. The terms of reference of the Executive Committee and the two sub-committees are set out in annexes to the Rules of Procedure and are summarised below. The Executive Committee has established one sub-Committee, the Finance and Risk Committee.

The Executive Committee advises the Board and has overall responsibility *inter alia* for the day-to-day leadership and management of the organisation and its work. The Committee's work includes: developing annual and other performance objectives for the whole of the OFT for Board approval; ensuring delivery of the Annual Plan and other agreed objectives; and ensuring best practice in risk management, decision-making, and quality control systems. The Chief Executive Officer chairs the Committee, which in 2011–12 comprised: Executive Director of Services, Infrastructure and Public Markets and Mergers Group; Executive Director of Goods, Consumer, Cartels and Criminal Enforcement Group; Executive Director of Corporate Services; General Counsel; and Chief Economist. The Director, Communications, and Director, Executive Office also attend.

The Finance and Risk Committee (FRC) is chaired by the Executive Director, Corporate Services and attended by the Executive Directors and other senior managers. This Committee has responsibility for reviewing the risk management strategy and processes, as well as exercising corporate oversight of the risk and control framework. The Committee also oversees OFT's financial management. It ensures that appropriate information relating to financial matters and risk are reported to ExCo and the Audit and Risk Assurance Committee.

³⁹ The statutory power to make these rules is at paragraph 8, Schedule 1, Enterprise Act 2002.

Statutory Authorisations

The OFT Chairman, through the Statutory Authorisations, authorises the Chief Executive Officer and other OFT employees to make decisions and carry out tasks authorised and required to be done by the OFT under various enactments, including those conferring its competition and consumer functions. The Statutory Authorisations are designed to demonstrate compliance with the requirement, arising from the fact that the OFT is a statutory body, that its employees act on its behalf only in so far as specifically authorised to do so.

The level of authorisation will depend on the particular role each staff member performs, and covers specific posts (including, but not restricted to: the Chief Executive Officer; Executive Directors; General Counsel; Director of Litigation; and Senior Directors and Directors in various nominated posts), as well as authorisations in respect of other Senior Civil Servants and OFT staff generally. The Statutory Authorisations include the enactments listed at Annexe D. The Statutory Authorisations were formally reviewed in March 2009 and are being updated in 2012.

Board performance

Under its Rules of Procedure, the Board annually reviews its overall performance. In addition, at the end of each Board meeting, members are asked to review deliberations, interactions and decisions at that meeting. The individual performance of individual Board members (including the CEO, but excluding Senior Civil Service members), is evaluated by the Chairman and any issues arising are raised with the individual. The Chairman advises the Department for Business, Innovation and Skills of any serious issues arising, notably in relation to re-appointment. The Non-Executive Directors as a group assess the performance of the Chairman, and the senior Non-Executive Director provides feedback to the Chairman, and to the Department for Business, Innovation and Skills.

Corporate Governance Code

The OFT aims to comply with the *Corporate Governance Code*⁴⁰ where applicable. However, as the OFT is a non-ministerial department created by statute with members appointed by the Secretary of State, some sections of the Code (eg those pertaining to the involvement of Ministers and Permanent Secretaries on the Board) are not relevant to the OFT. For instance the Chairman, being an independent non-executive, performs the role of lead non-executive Board Member set out in the Code. The Chairman also invites one non-executive to act as senior Non-Executive Director.

The OFT is subject to the general policy requirements set by the Government for all government departments, including those on diversity and equality, freedom of Information, information technology (including data security), human resources (including recruitment and remuneration), finance (including procurement), and transparency.

The OFT operates a cascade system of objectives and authority to incur expenditure. Authority to incur expenditure is formally recorded in a set of delegated authorities emanating from the Accounting Officer to budget holders, all of whom are members of Executive Committee. In turn, financial authority may be sub-delegated in writing to subordinate staff. A similar approach applies to the setting of personal objectives.

Risk management

The OFT's risks are identified at corporate, group, and project level. Group and project risks are held on risk registers at the appropriate level and are the responsibility of the relevant group or project leaders, who are required to identify, manage, review and escalate them as required. These risks are brought together at Executive Committee level on the corporate risk register, with owners all being Executive Committee attendees.

⁴⁰ *Corporate governance in central government departments: Code of good practice 2011*, HM Treasury

Each Executive Committee attendee is required to review and maintain oversight over the arrangements for identifying and managing risk in the areas for which they are responsible and to report as appropriate to the Executive Committee and the Board, in addition to providing the Accounting Officer with a report on how arrangements have been managed.

The Finance and Risk Committee has a rolling programme of review of the corporate risk register. At each meeting, it reviews a specific corporate risk, investigating the continued relevance of the risk to the business, testing the mitigations in place and reviewing whether the plans in place are sufficient or should be adapted to take into account changes in circumstances. The Board monitors working-level risks through a monthly report from the Executive Committee on key developments, and the complete corporate risk register is reviewed quarterly by the Board as part of the Executive Committee's performance report. The OFT's overall risk profile is informed monthly through an analysis of ongoing projects, with a summary of the rating of each project, which is reviewed by the Executive Committee and the Board.

The OFT applies risk management disciplines to its work. It incorporates post-project evaluation in the form of lessons learned studies where appropriate, and it also undertakes formal evaluation of selected projects. The method by which it assesses the consumer benefit attributable to its work has been independently reviewed. Work is conducted where appropriate under a formally prescribed project management approach, codified in the OFT's Effective Project Delivery guidance.

Internal Audit

The OFT has its own Internal Audit unit. The Head of Internal Audit is an OFT employee, and the audit service itself is outsourced. The Audit and Risk Assurance Committee approves the annual programme of work undertaken by internal audit, and monitors progress throughout the year.

Part B Governance in 2011–12

Board attendance

During 2011–12, the Board had 11 ordinary meetings and one full day strategy, planning and review meeting was held. Ordinary meetings generally ran for six to seven hours and all meetings were held at the OFT's offices. In addition, the Board is also updated on topical issues by occasional conference calls and emails. Attendance of Board members at ordinary Board and Committee meetings was as shown in the following table:

Board Members	Board*	Audit Committee**	Pay Committee
Philip Collins	11/11	–	2/2
John Fingleton	10/11	5/6	–
Vivienne Dews	11/11	–	–
Robert Laslett	11/11	–	–
Clive Maxwell	10/11	–	–
Alan Giles	11/11	6/6	2/2
Frédéric Jenny	8/11	–	–
Anthony Lea	10/11	6/6	–
Dr Philip Marsden	11/11	6/6	2/2
Dr William Moyes	11/11	–	–
Alan Cook	1/1	–	–

This table sets out Board member attendance for Board meetings in the financial year 2011–12 (1 April 2011 – 31 March 2012)

- * Does not include a number of conference calls held throughout the year as needed to update the Board between meetings.
- ** Includes two extraordinary meetings.

Board and senior changes

In April 2011, Alan Cook stepped down from the Board. Robert Laslett left the OFT at the end of April 2012. In February 2012, the Chief Executive Officer John Fingleton announced his intention to leave the OFT during 2012–13. Clive Maxwell has been appointed as the Chief Executive Officer following an internal Civil Service competition.

Decisions Committee

On 28 March 2012, the OFT launched a consultation on Competition Act procedures guidance. The consultation included proposals to strengthen the OFT's Competition Act 1998 decision-making processes, through introducing a new system of decision-makers who are separate from investigation teams. The consultation closes in mid-June following which decisions will be taken in the light of the responses.

The proposed collective decision-making model involves the establishment by the OFT Board of a Decisions Committee. This will include the OFT's senior staff, comprising the Chief Executive Officer, other executive members of the OFT Board, Chief Economist, General Counsel and Head of Policy, which would be consulted on all competition cases following the Statement of Objections phase. The Committee would appoint a group of three decision makers to take the final decision, which would not include any member of the initial investigation team.

Procedural Adjudicator

Following the consultation on the OFT's draft Competition Act 1998 investigation procedural guidance in August 2010, the OFT decided to trial a Procedural Adjudicator role for competition cases for a one-year period starting from 21 March 2011. The Procedural Adjudicator during the one-year trial period has been the Director of Competition Policy. The OFT has decided to extend the Procedural Adjudicator Trial until 21 March 2013.

The Procedural Adjudicator's role is to resolve disputes in relation to case team decisions on certain procedural issues in a swift, efficient and cost-effective manner. The Procedural Adjudicator does not have any current involvement in the OFT's competition cases to ensure independence from the case team. The Procedural Adjudicator reports directly to the Chief Executive Officer of the OFT (or the Chairman if the Chief Executive Officer is the decision maker on the case).

Audit and Risk Assurance Committee

The Audit and Risk Assurance Committee⁴¹ held six meetings in 2011–12, two of which were extraordinary meetings to consider IT issues. These issues are discussed in more detail below.

Pay Committee

The Pay Committee met twice in 2011. It reviewed the operation of the annual Senior Civil Service performance review and moderation process, and decided on the final distribution of performance payments. The Committee also approved the redrafting of the OFT's Senior Civil Service performance management and pay policy.

Organisational change

The government has made a series of announcements on the future arrangements for the consumer credit, competition and consumer regimes.

Consumer Credit

On 27 January 2012 the Government published the Financial Services Bill, which announced a decision in principle to transfer the regulation of consumer credit to the Financial Conduct Authority (FCA). The precise timings of the transfer are to be finalised, but a transfer is unlikely to take place until 2013–14 at the earliest.

Competition

In March 2012, the Government set out its plans for changes to the competition regime. This will include reforming competition law, strengthening enforcement processes, and creating a new Competition and Markets Authority that brings together most of the competition and consumer functions of the OFT with those of the Competition Commission. On 20 April 2012 recruitment commenced for the appointment of the Chair of the proposed authority, which is currently not anticipated to be fully operational until April 2014.

Consumer

On 11 April 2012 the Department for Business, Innovation and Skills (BIS) announced new proposals to make the Citizens Advice service a champion for consumer information across a range of sectors, and create a new National Trading Standards Board. Citizens Advice and Citizens Advice Scotland will take on responsibilities and resources from the OFT and Consumer Focus. The process has already started, and a new advice line succeeding Consumer Direct was launched by the Citizens Advice service on 2 April 2012.

Risk management

The OFT has further strengthened its risk and control framework. A significant development in 2011–12 was the Board's approval of a statement of risk appetite. This statement delineated OFT's work into different categories, for each of which the Board mandated its preferred risk approach. The risk appetite

⁴¹ The Audit Committee changed its title to the Audit and Risk Assurance Committee in March 2012.

statement was presented to OFT Directors in September 2011 as part of a broader communications effort to inculcate the Board's approach to risk across the organisation. During the year, the OFT's risk management policy was updated to reflect organisational changes.

In March 2012, Internal Audit conducted an audit of the OFT's risk management process and assurances framework operating at Group/Area level. The audit concluded that there was substantial assurance over the controls in operation.

Major risks and issues

The OFT encountered a series of IT outages in 2011. A programme of remedial work was devised and implemented under the management of the Director, Business Services. The Audit and Risk Assurance Committee maintained oversight of the issue, and organised two extraordinary meetings to satisfy themselves that the risks to the OFT were being adequately managed.

During 2011, the OFT embarked on an accommodation project to introduce more modern working practices, introduce some new IT equipment, and free up space for sub-letting. The physical moves associated with the project started in December 2011 and were successfully completed in April 2012.

A significant financial risk emerged at the start of the year, relating to adverse costs in the Construction and Construction Recruitment Forum cases. By careful management, these costs were met from within the OFT's existing budget, without recourse to additional support from HM Treasury.

A subsequent major financial risk emerged in December 2011 when the Competition Appeal Tribunal upheld appeals by six of the 12 parties to the OFT's Tobacco case, following two months of hearings and the consideration of some complex procedural issues. Consequently, it quashed the OFT's Decision in relation to those parties which had appealed.

The impending regime changes have created some uncertainty and associated staff concerns. There is an ongoing risk that staff turnover will increase, and recruitment difficulties will arise. Both these aspects are being carefully managed. A dedicated team has been established to help manage the transition arrangements.

Data security

The OFT's Director of Business Services is the Senior Information Risk Owner, supported by a Departmental Security Officer and a Deputy. An IT Security Officer, reporting to the Deputy Departmental Security Officer, also strengthens control in this area.

The number of reported security breaches fell from 33 in 2010–11 to 10 in 2011–12. All breaches were investigated; none was classified as reportable to the Information Commissioner's Office or Cabinet Office. The OFT is using the Government's Information Assurance Maturity Model to further improve its approach to information security.

The OFT has undertaken substantial work to improve IT resilience, including on data storage and the physical operating environment. All staff received new IT desktop devices, with a programme of work to ensure the most up-to-date software settings are applied. Further work is in progress on IT disaster recovery options.

A Communications-Electronic Security Group (CESG) accredited specialist company undertook an IT Health Check of the OFT's network, highlighting some vulnerabilities which are being addressed as a priority. CESG has been briefed on the health check results and the OFT's remedial plan. The network will be checked again in July, and CESG will inspect the OFT's systems to validate the remedial action taken.

Managing risk of financial loss

As part of work to review internal controls, the OFT has considered its management of the risk of financial loss, as recommended by the Treasury. Two Treasury-mandated tools have been applied: a model to assess the OFT's organisational capabilities specific to managing the risk of financial loss; and a Financial Process Assessment tool, which entails a more detailed review of financial management controls. Work on both the review tools is in progress.

Diversity

The OFT aims to have a diverse workforce; there is currently one female board member. On average during 2011–12, 37.5 per cent of Senior Civil Service members were female; 9 per cent were from ethnic minorities.

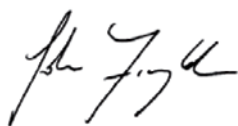
Internal audit review

Internal Audit carried out a programme of 12 audits and reviews in 2011–12. Throughout the year the Head of Internal Audit met regularly with the Executive to ensure the work of internal audit was targeted, timely and appropriate; that areas of concern were highlighted and the progress of the plan was monitored. Overall the Head of Internal Audit has concluded that moderate assurance has been achieved that there is basically a sound system of internal control, designed to meet the OFT's objectives and that controls are being applied consistently. However, internal audit identified weaknesses in the design and operation of some controls related to specific activities which could put the achievement of some of the OFT's objectives at risk.

Six reviews achieved a high level of assurance, and three reviews achieved moderate assurance. The last review was a combination of work throughout the year to support and input to the work on improvements made to IT resilience, Comms Room and data storage systems.

The Head of Internal Audit had several concerns about the security of the OFT's IT network following the findings of both an external consultants' penetration test and report, and an internal audit review of security vulnerabilities and network access controls in March 2012. A programme of improvement work has begun with completion expected before this Statement is published.

Another review resulted in the assurance being limited by instances of weakness in IT general, administrative and financial controls which could put the OFT's objectives at risk. These instances were isolated to the specific activities of the OFT's forensic internet laboratory, and were not systemic in nature.



John Fingleton

Chief Executive and Accounting Officer

21 June 2012

Annexe A

Legislation covering the OFT's main powers, duties and functions

- Competition Act 1998
- Consumer Credit Act 1974
- Consumer Protection from Unfair Trading Regulations 2008
- Distance Selling Regulations (Consumer Protections (Distance Selling) Regulations 2000)
- Enterprise Act 2002
- Estate Agents Act 1979
- Financial Services and Markets Act 2000
- Legal Services Act 2007 and Legal Services (Scotland) Act 2010
- Money Laundering Regulations 2007
- Payment Services Regulations 2009
- Transport Act 2000 and Transport (Scotland) Act 2001
- Unfair Terms in Consumer Contracts Regulations 1999

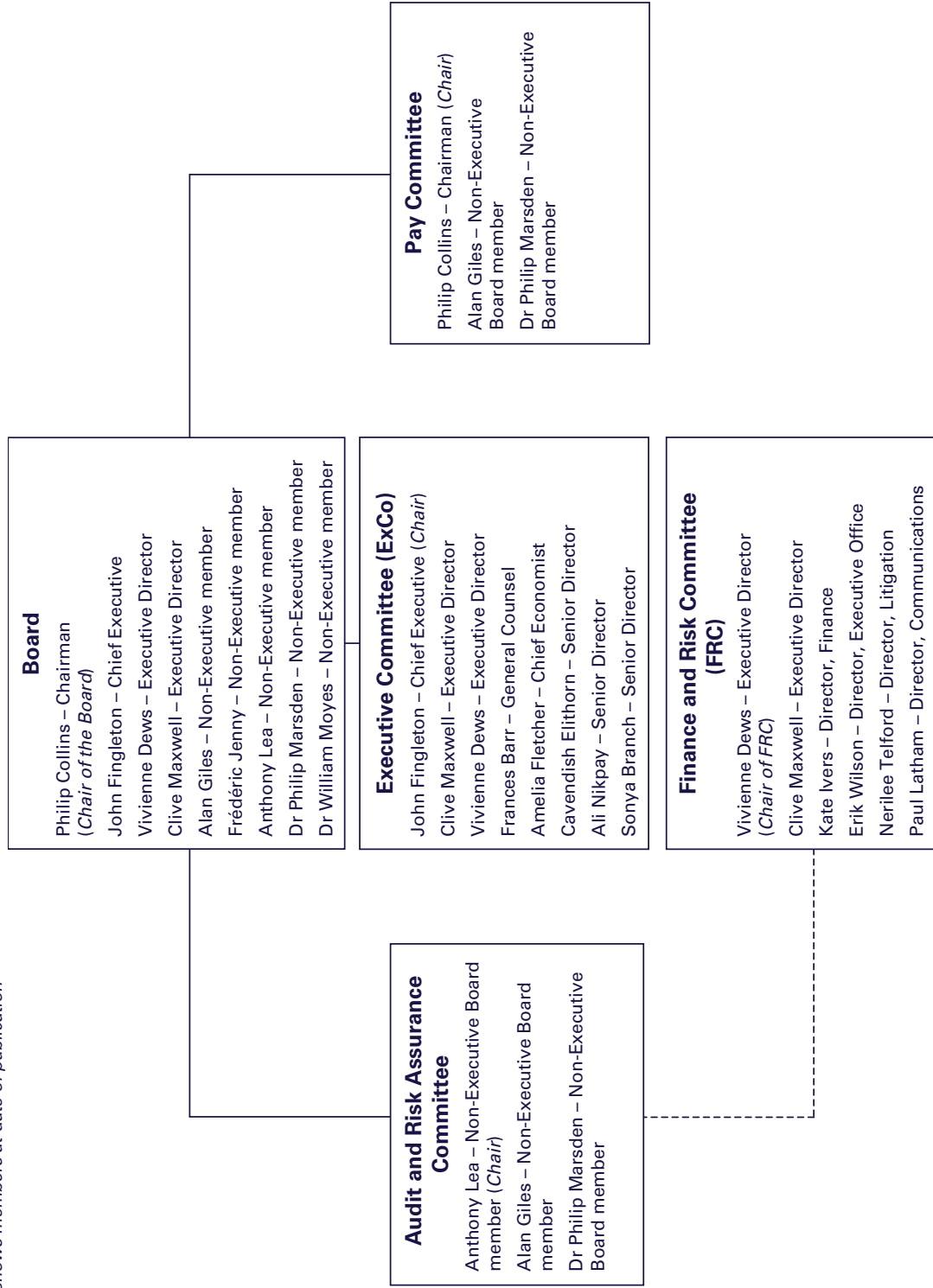
Annexe B

Matters reserved for Board involvement

- A.1. Approval of settlement of long-term funding arrangements with HMG.
- A.2. Approval of the Annual Plan and the Budget and monitoring performance in delivery of the plan and performance objectives.
- A.3. Approval of Resource Accounts and Annual Report.
- A.4. Approval of changes in office location and lease terms.
- A.5. Approval of Market Investigation References to the Competition Commission.
- A.6. Approval of Market Studies.
- A.7. Review of strategy and systems for identifying and developing leadership, for succession planning, for governance and for business continuity within the organisation.
- A.8. Review of the risk appetite for the organisation and the framework for assessing, managing and taking risks, to ensure that risks can be assessed, managed and taken prudently and that there is clear accountability for managing risks.
- A.9. Review of strategy for the recruitment, retention and development of staff to ensure that officials are equipped with the relevant skills and guidance to perform their assigned roles effectively and efficiently.
- A.10. Review of significant changes to organisational structure, governance and OFT's position within the competition and consumer regimes.
- A.11. Review of matters which may significantly affect:
 - a. the reputation of the OFT or its relations with Ministers and other Government departments, courts, enforcement partners, the European Commission and national competition or consumer agencies
 - b. the evolution or development of the competition or consumer law regimes or which raise significant general issues of policy, principle or strategy for the present or future work of the OFTsuch matters (including the commencement or defence of major litigation) are to be identified through close communication between the Chairman and the Chief Executive Officer.
- A.12. Approval of the application of the section 36 exemption (effective conduct of public affairs) under the Freedom of Information Act 2000.

Annexe C OFT Committee Structure

NB: diagram shows members at date of publication



Annexe D

Statutory Authorisations – relevant statutes

Competition functions

- i. Fair Trading Act 1973
- ii. Solicitors (Scotland) Act 1980
- iii. Gas Act 1986
- iv. Electricity Act 1989
- v. Broadcasting Act 1990
- vi. Courts and Legal Services Act 1990
- vii. EEC Merger Control (Distinct Market) Regulations 1990
- viii. Law Reform (Miscellaneous Provisions) (Scotland) Act 1990
- ix. Water Industry Act 1991
- x. Competition Act 1998
- xi. EC Competition Law (Articles 84 and 85) Enforcement Regulations 2001
- xii. Financial Services and Markets Act 2000
- xiii. Transport Act 2000 (as amended by the Local Transport Act 2008)
- xiv. Transport (Scotland) Act 2001
- xv. Enterprise Act 2002
- xvi. Relevant Council Regulations
- xvii. (Council Regulation No.1 of 2003 and Council Regulation No.139 of 2004)
- xviii. Payment Services Regulations 2009

Consumer functions

- i. Consumer Credit Act 1974 (as amended by the Consumer Credit Act 2006)
- ii. Estate Agents Act 1979
- iii. Unfair Terms in Consumer Contracts Regulations 1999
- iv. Consumer Protection (Distance Selling) Regulations 2000
- v. Section 8, Part 8 and 9, Enterprise Act 2002
- vi. Sale and Supply of Goods to Consumers Regulations 2002
- vii. Financial Services (Distance Marketing) Regulations 2004
- viii. Business Protection from Misleading Marketing Regulations 2008
- ix. Consumer Protection from Unfair Trading Regulations 2008

The Certificate and Report of the Comptroller and Auditor General to the House of Commons

I certify that I have audited the financial statements of the Office of Fair Trading for the year ended 31 March 2012 under the Government Resources and Accounts Act 2000. The financial statements comprise: the Statements of Comprehensive Net Expenditure, Financial Position, Cash Flows, Changes in Taxpayers' Equity; and the related notes. I have also audited the Statement of Parliamentary Supply and the related notes. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Remuneration Report that is described in that report as having been audited.

Respective responsibilities of the Accounting Officer and auditor

As explained more fully in the Statement of Accounting Officer Responsibilities, the Accounting Officer is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. My responsibility is to audit, certify and report on the financial statements in accordance with the Government Resources and Accounts Act 2000. I conducted my audit in accordance with International Standards on Auditing (UK and Ireland). Those standards require me and my staff to comply with the Auditing Practices Board's Ethical Standards for Auditors.

Scope of the Audit of the Financial Statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the Department's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Accounting Officer; and the overall presentation of the financial statements. In addition, I read all the financial and non-financial information in the Annual Report to identify material inconsistencies with the audited financial statements. If I become aware of any apparent material misstatements or inconsistencies I consider the implications for my certificate.

I am required to obtain evidence sufficient to give reasonable assurance that the Statement of Parliamentary Supply properly presents the outturn against voted Parliamentary control totals and that those totals have not been exceeded. The voted Parliamentary control totals are Departmental Expenditure Limits (Resource and Capital), Annually Managed Expenditure (Resource and Capital), Non-Budget (Resource) and Net Cash Requirement. I am also required to obtain evidence sufficient to give reasonable assurance that the expenditure and income recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

Opinion on Regularity

In my opinion, in all material respects:

- the Statement of Parliamentary Supply properly presents the outturn against voted Parliamentary control totals for the year ended 31 March 2012 and shows that those totals have not been exceeded; and
- the expenditure and income recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

Opinion on financial statements

In my opinion:

- the financial statements give a true and fair view of the state of the Department's affairs as at 31 March 2012 and of its net operating cost for the year then ended; and
- the financial statements have been properly prepared in accordance with the Government Resources and Accounts Act 2000 and HM Treasury directions issued thereunder.

Opinion on other matters

In my opinion:

- the part of the Remuneration Report to be audited has been properly prepared in accordance with HM Treasury directions made under the Government Resources and Accounts Act 2000; and
- the information given in the sections entitled “The Board” and “Operating and Financial Review” for the financial year for which the financial statements are prepared is consistent with the financial statements.

Matters on which I report by exception

I have nothing to report in respect of the following matters which I report to you if, in my opinion:

- adequate accounting records have not been kept or returns adequate for my audit have not been received from branches not visited by my staff; or
- the financial statements and the part of the Remuneration Report to be audited are not in agreement with the accounting records or returns; or
- I have not received all of the information and explanations I require for my audit; or
- the Governance Statement does not reflect compliance with HMTreasury’s guidance.

Report

I have no observations to make on these financial statements.

Amyas C E Morse

Comptroller and Auditor General
National Audit Office
157–197 Buckingham Palace Road
Victoria
London
SW1W 9SP

22 June 2012

Statement of Parliamentary Supply

Summary of Resource Outturn 2011–12 as at 31 March 2012

Estimate				Outturn			2011-12	2010-11	
Note	Voted	Non-voted	Total	Voted	Non-voted	Total	Voted Outturn compared with Estimate: saving/ (excess)	(re-stated) Outturn	
	£000	£000	£000	£000	£000	£000	£000	£000	
Departmental Expenditure Limit									
– Resource	2.1	57,756	–	57,756	57,219	–	57,219	537	58,789
– Capital	2.2	762	–	762	590	–	590	172	585
Annually Managed Expenditure									
– Resource	2.1	15,500	–	15,500	4,770	–	4,770	10,730	(249)
– Capital		–	–	–	–	–	–	–	–
Total Budget		74,018	–	74,018	62,579	–	62,579	11,439	59,125
Non-Budget									
– Resource		–	–	–	–	–	–	–	–
Total		74,018	–	74,018	62,579	–	62,579	11,439	59,125
Total Resource									
		73,256	–	73,256	61,989	–	61,989	11,267	58,540
Total Capital									
		762	–	762	590	–	590	172	585
Total									
		74,018	–	74,018	62,579	–	62,579	11,439	59,125

Net Cash Requirement 2011–12 as at 31 March 2012

Note	2011-12		2011-12	2010-11
	Estimate	Outturn	Outturn compared with Estimate: saving/ (excess)	Outturn
	£000	£000	£000	£000
4	56,113	51,321	4,792	59,103

Administration Costs 2011–12 as at 31 March 2012

	2011-12	2011-12	2010-11
	Estimate	Outturn	Outturn
	£000	£000	£000
3	16,794	13,934	14,983

Figures in the areas outlined in bold are voted totals or other totals subject to Parliamentary or other control. Explanations of variances between Estimate and Outturn are given in Note 3 and the Management commentary.

The notes on pages 72 to 90 form part of these accounts.

Statement of Comprehensive Net Expenditure

for the period ended 31 March 2012

		2011-12	2010-11
			Re-stated
	Note	£000	£000
Administration Costs:			
Staff Costs	7	8,116	8,048
Other Costs	8	11,219	11,364
Income	10	(5,401)	(4,349)
Programme Expenditure:			
Staff Costs	7	28,309	31,164
Other Costs	9	27,785	19,488
Income	10	(8,039)	(7,276)
Net Operating Costs		61,989	58,439
Total expenditure		75,429	70,064
Total income		(13,440)	(11,625)
Net Operating Costs		61,989	58,439
Other Comprehensive Expenditure			
Net loss/(gain) on actuarial review of by-analogy pension scheme		69	(66)
Total Comprehensive Expenditure		62,058	58,373

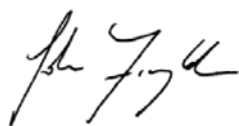
On 31 March 2012 responsibility for the provision of consumer advice was transferred to Citizens Advice and they have established their own service for handling telephone and on-line contacts. These accounts include the costs for Consumer Direct for the final time. All other income and expenditure are derived from continuing operations.

The notes on pages 72 to 90 form part of these accounts.

Statement of Financial Position

as at 31 March 2012

		31 March 2012	31 March 2011 re-stated	31 March 2011
	Note	£000	£000	£000
Non-current assets:				
Property, plant and equipment	11	3,262	4,469	4,469
Intangible assets	12	148	236	236
Total non-current assets		3,410	4,705	4,705
Current assets:				
Trade and other receivables	17	3,016	4,135	4,135
Cash and cash equivalents	18	3,609	–	–
Total current assets		6,625	4,135	4,135
Total assets		10,035	8,840	8,840
Current liabilities:				
Cash and cash equivalents	18	–	(1,086)	(1,086)
Trade and other payables	19	(16,070)	(7,792)	(8,115)
Total current liabilities		(16,070)	(8,878)	(9,201)
Total assets less current liabilities		(6,035)	(38)	(361)
Non-current liabilities				
Provisions	20	(7,738)	(2,899)	(2,899)
Total non-current liabilities		(7,738)	(2,899)	(2,899)
Assets less liabilities		(13,773)	(2,937)	(3,260)
Taxpayers' Equity:				
General Fund		(13,891)	(3,139)	(3,462)
Revaluation reserve		4	31	31
Donated asset reserve		114	171	171
Total taxpayers' equity		(13,773)	(2,937)	(3,260)



John Fingleton

Chief Executive and Accounting Officer

21 June 2012

The notes on pages 72 to 90 form part of these accounts.

Statement of Cash Flows for the period ended 31 March 2012

		2011-12	2010-11 re-stated
	Note	£000	£000
Cash flows from operating activities:			
Net operating cost		(61,989)	(58,439)
Adjustment for non-cash transactions	8,9	7,139	3,680
Decrease/(increase) in trade and other receivables	17	1,119	(612)
Less movements in receivables relating to items not passing through the SOCNE		(1,086)	(201)
Increase/(decrease) in trade and other payables	19	8,278	(1,935)
Less movements in payables relating to items not passing through the SOCNE		(3,609)	–
Use of provisions	20	(460)	(910)
Net outflow from operating activities		(50,608)	(58,417)
Cash flows from investing activities			
Purchase of property, plant and equipment	11	(590)	(585)
Net cash outflow from investing activities		(590)	(585)
Cash flows from financing activities			
From the Consolidated Fund – current year		54,930	58,017
From the Consolidated Fund – prior year		1,086	1,287
Net financing		56,016	59,304
Net increase in cash and cash equivalents in the period before adjustment for receipts and payments to the Consolidated Fund		4,818	302
Payments of amounts due to the Consolidated Fund		(123)	(101)
Net increase in cash and cash equivalents in the period after adjustment for receipts and payments to the Consolidated Fund		4,695	201
Cash and cash equivalents at the beginning of the period	18	(1,086)	(1,287)
Cash and cash equivalents at the end of the period	18	3,609	(1,086)

The notes on pages 72 to 90 form part of these accounts.

Statement of Changes in Taxpayers' Equity

for the period ended 31 March 2012

	Note	General Fund £000	Revaluation Reserve £000	Donated Asset Reserve £000	Total Reserves £000
Balance at 31 March 2010		(3,895)	76	–	(3,819)
Net Parliamentary Funding – drawn down		58,017	–	–	58,017
Supply receivable adjustment		1,086	–	–	1,086
CFERs payable to the Consolidated Fund		(101)	–	–	(101)
Net operating cost		(58,439)	–	–	(58,439)
Non-cash adjustments:					
Auditor's remuneration	8	82	–	–	82
Actuarial gain		66	–	–	66
Movement in Reserves:					
Transfer between reserves		45	(45)	–	–
Donated assets addition		–	–	171	171
Balance at 31 March 2011		(3,139)	31	171	(2,937)
Net Parliamentary Funding – drawn down		54,930	–	–	54,930
Supply payable adjustment		(3,609)	–	–	(3,609)
CFERs payable to the Consolidated Fund		(123)	–	–	(123)
Net operating cost		(61,989)	–	–	(61,989)
Non-cash adjustments:					
Auditor's remuneration	8	81	–	–	81
Actuarial loss	20.2	(69)	–	–	(69)
Movement in Reserves:					
Recognised in Statement of Comprehensive Net Expenditure	8,9	–	–	(57)	(57)
Transfer between reserves		27	(27)	–	–
Balance at 31 March 2012		(13,891)	4	114	(13,773)

The notes on pages 72 to 90 form part of these accounts.

Notes to the Resource Accounts

1 Statement of accounting policies

The financial statements have been prepared in accordance with the 2011–12 *Government Financial Reporting Manual (FReM)* issued by HM Treasury. The accounting policies contained in the FReM apply International Financial Reporting Standards (IFRS) as adapted or interpreted for the public sector context. Where the FReM permits a choice of accounting policy, the accounting policy which is judged to be most appropriate to the particular circumstances of the OFT for the purpose of giving a true and fair view has been selected. The particular policies adopted by the OFT are described below. They have been applied consistently in dealing with items that are considered material to the accounts.

In addition to the primary statements prepared under IFRS, the FReM also requires the OFT to prepare an additional primary statement. The Statement of Parliamentary Supply and supporting notes show outturn against Estimate in terms of the net resource requirement and the net cash requirement.

1.1 Accounting convention

The accounts have been prepared under the historic cost convention modified to account for the revaluation of property, plant and equipment, and intangible assets.

1.2 Property, plant and equipment

Expenditure on property, plant and equipment, including leasehold improvements, which satisfy the OFT's capitalisation criteria, including the threshold of £5,000, is capitalised at cost in the month of purchase. Grouping of assets which would otherwise fall below the OFT's capitalisation threshold, is only permitted where omission would have a significant impact on the true and fair status of the accounts. All property, plant and equipment is reviewed annually for impairment and is carried at fair value. All non-property operational assets are deemed to be short-life or low-value assets and are, therefore, valued on the basis of depreciated replacement cost as an approximation of fair value.

1.3 Donated assets

Donated tangible assets are capitalised at their current value on receipt and this value is credited to the Donated Asset Reserve. Each year, an amount equal to the depreciation charge on the asset is released from the Donated Asset Reserve to the operating cost statement.

1.4 Intangible non-current assets

Purchased software licences are capitalised as intangible non-current assets where expenditure of £5,000 or more is incurred. Software licences are amortised over the shorter of the term of the licence and the useful economic life.

1.5 Depreciation

Property, plant and equipment are depreciated at rates calculated to write them down to estimated residual value on a straight-line basis over their estimated useful lives. Asset lives are normally in the following ranges:

Furniture, fixtures and fittings	– 7 to 10 years
IT Hardware	– 3 to 5 years
Software	– 5 to 12 years
Software licenses	– 4 to 10 years
Leasehold improvements	– amortised over the term of the lease

1.6 Research and development

Expenditure on research is charged to the Statement of Comprehensive Net Expenditure as incurred. Expenditure on development in connection with a product or service which is to be supplied on a full cost recovery basis is capitalised if it meets the criteria specified in IAS 38. Other development expenditure is capitalised if it meets the criteria specified in the FReM which are adapted from IAS 38 to take account of the not-for-profit context. Expenditure which does not meet the criteria for capitalisation is charged to the Statement of Comprehensive Net Expenditure as it is incurred.

1.7 Operating income

Operating income is income which relates directly to the operating activities of the OFT. It principally comprises fees and charges to external customers under the Consumer Credit Act 1974 and Money Laundering Regulations 2007. It includes both income appropriated in aid of the Estimate and due to the Consolidated Fund, known as Consolidated Fund Extra Receipts, which in accordance with the FReM is treated as operating income.

Income is analysed in the notes between that which, under the administration cost-control regime, is allowed to be offset against gross administration costs in determining the outturn against the administration cost limit, and that which is not.

Income received which relates to services not carried out by the end of the financial year, is moved to the Statement of Financial Position as deferred income and released when the service is subsequently provided.

1.8 Foreign exchange

Transactions that are denominated in a foreign currency are translated into sterling at the exchange rates ruling at the dates of the transactions.

1.9 Financing

The OFT is primarily resourced by funds approved by Parliament through the annual Appropriation Act. Resources are drawn down each month to meet expenditure requirements and are credited to the General Fund. Some of the OFT's resource requirement is met by charging fees for certain activities, such as the issuing of Credit Licences and Anti-Money Laundering registrations. The level of income that can be used in support of the OFT's activities (Appropriations in Aid) is approved by Parliament in the Appropriation Act. Income earned in excess of the approved level cannot be used in support of the OFT's activities and has to be paid over to the Consolidated Fund as excess Appropriations in Aid in accordance with *Managing Public Money*.

1.10 Trade receivables

Trade receivables are recognised initially at fair value less provision for impairment. A provision for impairment of trade receivables is established when there is objective evidence that the OFT will not be able to collect all amounts due according to the original terms of the receivables.

1.11 Staff costs

Under IAS19 Employee Benefits legislation, all staff costs must be recorded as an expense as soon as the organisation has an obligation to pay them. This includes the cost of any untaken leave as at the year end. The cost of untaken leave has been determined using data sampling across the organisation.

1.12 Pensions

Most past and present employees are covered by the provisions of the Principal Civil Service Pension Schemes (PCSPS) which are described at Note 9. The defined benefit schemes are unfunded and non-contributory except in respect of dependants' benefits. The OFT recognises the expected cost of these elements on a systematic and rational basis over the period during which it benefits from employees' services by payment to the PCSPS of amounts calculated on an accruing basis. Liability for payment of future benefits is a charge on the PCSPS. In respect of the defined contribution schemes, the OFT recognises the contributions payable for the year.

The OFT has a separate scheme for the previous Chairman and Director Generals, which is 'by analogy', or similar to, the PCSPS. Provision has been made for the future cost of benefits under this scheme. The current Chairman and the other non-executive Board members are not members of the PCSPS and do not receive pension benefits from the OFT.

1.13 Early departure costs

The OFT is required to meet the additional cost of benefits beyond the normal PCSPS benefits in respect of employees who retire early, unless the retirement is on approved medical grounds. The OFT provides in full for the costs when early retirement for an individual is agreed and takes effect.

1.14 Provisions

The OFT provides for legal or constructive obligations which are of uncertain timing or amount at the balance sheet date on the basis of the best estimate of the expenditure required to settle the obligation. Where the effect of the time value of money is significant, the estimated risk-adjusted cash flows are discounted using the real rate set by HM Treasury; where it is not significant estimated cash flows are not discounted.

Financing charges in the Statement of Comprehensive Net Expenditure in respect of end of lease provisions will include adjustments to amortise one year's discount rate and restate liabilities to current price levels.

1.15 Contingent Liabilities

In addition to contingent liabilities disclosed in accordance with IAS 37, the OFT discloses for parliamentary reporting and accountability purposes certain statutory and non-statutory contingent liabilities where the likelihood of a transfer of economic benefit is remote, but which have been reported to Parliament in accordance with the requirements of *Managing Public Money*.

Where the time value of money is material, contingent liabilities required to be disclosed under IAS 37 are stated at discounted amounts and the amount reported to Parliament separately noted. Contingent liabilities that are not required to be disclosed by IAS 37 are stated at the amounts reported to Parliament.

1.16 Value Added Tax (VAT)

Most of the OFT's activities are outside the scope of VAT and, in general, output tax does not apply and input tax on purchases is not recoverable. Irrecoverable VAT is charged to the relevant expenditure category or included in the capitalised purchase costs of non-current assets. Where output tax is charged or input tax is recoverable, the amounts are stated net of VAT.

1.17 Operating leases

Operating lease rentals are charged to the Statement of Comprehensive Net Expenditure in equal amounts over the lease term.

1.18 Financial Instruments

OFT does not hold any complex financial instruments. The only financial instruments included in the accounts are receivables and payables (Notes 17 and 19). Trade receivables are recognised initially at fair value less provision for impairment. A provision for impairment is made when there is evidence that the OFT will be unable to collect an amounts due in accordance with agreed terms.

1.19 Impending application of newly issued accounting standards not yet effective

OFT provides disclosure that it has not yet applied a new accounting standard, and known or reasonably estimable information relevant to assessing the possible impact that initial application of the new standard will have on its financial statements.

1.20 Administration and Programme costs

The Statement of Comprehensive Net Expenditure is analysed between administration and programme income and expenditure. Programme costs reflect the cost of delivering OFT's core activities, or 'front line' services and programme income reflects fees and other income generated through those core services. Administration costs reflect the costs of running the department, including statutory reporting and those associated with supporting front line activities, such as legal advice and communications. Administration income reflects a transfer of income from programme to cover middle office and back office costs directly attributable to front line services.

1.21 Discontinued operations

On 31 March 2012 responsibility for the functions of Consumer Direct (CD) was transferred to Citizens Advice. These accounts include the costs for CD for the final time. The FReM states that machinery of government changes should be accounted for using merger accounting, therefore, the accounts for 2012–13 will need a re-statement of the comparative figures to reflect the removal of CD costs and income.

1.22 Going concern

The statement of financial position at 31 March 2012 shows a negative Taxpayers' Equity of £13.8 million. This reflects the inclusion of liabilities falling due in 2011-12, including the repayment of excess cash to the Treasury's Consolidated Fund. Any liabilities in excess of cash receivable in year are financed mainly by drawings from the UK Contingencies Fund. Drawings from the Consolidated Fund are from grants of Supply approved annually by Parliament, to meet the OFT's Net Cash Requirement. Under the Government Resources and Accounts Act 2000, no money may be drawn from the Fund other than required for the service of the specified year or retained in excess of that needed. All unspent cash, including those derived from the OFT's income are surrenderable to the Fund.

In common with other government departments, the future financing of the OFT's liabilities is accordingly to be met by future grants of Supply and the application of future income, both to be approved annually by Parliament. Such approval for amounts required for 2012-13 has already been given. It has accordingly been considered appropriate to adopt a going concern basis for the preparation of these accounts.

2 Net outturn

2.1 Analysis of net resource outturn by section

							2011-12	2010-11		
						Outturn	Estimate	Outturn		
Administration			Programme			Total				
							Net total compared to			
Gross	Income	Net	Gross	Income	Net		Net total	estimate	Total	
£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	
Spending in Departmental Expenditure Limit										
Voted:										
A	19,335	(5,401)	13,934	51,324	(8,039)	43,285	57,219	57,756	537	58,789
Annually Managed Expenditure Voted:										
B	-	-	-	4,770	-	4,770	4,770	15,500	10,730	(249)
Total	19,335	(5,401)	13,934	56,094	(8,039)	48,055	61,989	73,256	11,267	58,540

2.2 Analysis of net capital outturn by section

						2011-12	2010-11	
					Outturn	Estimate	Outturn	
						Net total compared to		
Gross	Income	Net	Net total		Net total	Estimate	Net	
£000	£000	£000	£000		£000	£000	£000	
Spending in Departmental Expenditure Limit								
Voted:								
A	590	-	590	762	172	585		
Annually Managed Expenditure Voted:								
B	-	-	-	-	-	-		
Total	590	-	590	762	172	585		

3 Reconciliation of outturn to net operating cost and against Administration Budget

3.1 Reconciliation of net resource outturn to net operating cost

		2011-12	2010-11
	Note	£000	re-stated £000
Total resource outturn in Statement of Parliamentary Supply	2	61,989	58,863
Less:			
Effect of accounting policy change		–	(323)
Re-stated balance		61,989	58,540
Less:			
Income payable to the Consolidated Fund		–	(101)
Net operating costs in statement of Comprehensive Net Expenditure		61,989	58,439

The adjustment to the 2010–11 outturn figure is due to the implementation of HM Treasury's Clear Line of Sight (CLOs) initiative. For OFT, the effect of moving to CLOs is that some income that was previously treated as excess Appropriations-in-Aid and therefore surrenderable to the Consolidated Fund is no longer considered as an excess. This income therefore has to be added back into the resource outturn total.

3.2 Outturn against final Administration Budget and Administration net operating cost

	2011-12	2010-11
	Outturn £000	Outturn re-stated £000
Estimate – administration costs limit	16,794	59,585
Outturn – gross administration costs	19,335	19,332
Outturn – gross income relating to administration costs	(5,401)	(4,349)
Outturn – net administration costs	13,934	14,983
Reconciliation to operating costs:		
Less: provisions utilised (transfer from Programme)	–	–
Administration Net Operating Costs	13,934	14,983

It is not possible to re-state the 2010–11 estimate for administration costs but all other figures in the 2010–11 column of the table have been re-stated (see also note 1.20).

4 Reconciliation of Net Cash Requirement to increase/(decrease) in cash

	2011-12	2010-11
	£000	£000
Net cash requirement	(51,321)	(59,103)
From the Consolidated Fund (Supply) – current year	54,930	58,017
From the Consolidated fund (Supply) – prior year	1,086	1,287
Increase in cash held	4,695	201

5 Income payable to the Consolidated Fund

5.1 Analysis of income payable to the Consolidated Fund

In addition to appropriations in aid, the following income relates to the OFT and is payable to the Consolidated Fund (cash receipts being shown in italics):

	Outturn 2011-12		Outturn 2010-11	
	Income £000	Receipts £000	Income £000	Receipts £000
Operating income outside the ambit of the Estimate	–	–	101	<i>101</i>
Total income payable to the Consolidated Fund	–	–	101	<i>101</i>

5.2 Consolidated Fund income

Consolidated Fund income in note 5.1 above does not include any amounts collected by OFT where it is acting as agent of the Consolidated Fund rather than as principal. Full details of income collected as agent of the Consolidated Fund are in the OFT's Trust Statement, published separately as an annexe to these financial statements.

6 Statement of Operating Costs by Operating Segment

OFT recognises four reportable segments within the accounts:

Consumer Credit Group and Anti-Money Laundering (CCG/AML) are self-funding activities. Their financial objective is to recover 100 per cent of their costs, including attributed central overheads, through the levying of fees. CCG is responsible for administering the Consumer Credit Act 1974. This includes all aspects of the credit licensing regime, casework and other initiatives to achieve compliance with the Act and to ensure consumers are not harmed. AML supervises estate agents and non-FSA authorised consumer credit lenders under the Money Laundering Regulations 2007.

Consumer Direct (CD), which ceased to exist on 1 April 2012, was a publicly funded national telephone and on-line advice service for consumers, managed by OFT and delivered in partnership with Local Authority Trading Standards Services. The Department for Business, Innovation and Skills made a financial contribution towards the cost of running the Northampton Call Centre via a levy on the energy and post industries. Funding for this segment was an allocation of OFT's budget based on the need to provide an efficient service to consumers.

During 2011–12 OFT's other non-fee earning frontline services were split into two market-oriented groups each headed by an Executive Director: Services, Infrastructure and Public Markets, and Mergers (SIPM) and Goods and Consumer and Cartels and Criminal Enforcement (GC&CCE). Funding for these two segments was an allocation of OFT's budget according to their relevant needs.

These four segments were reported to the Chief Operating Decision Maker (CODM) on a monthly basis, together with non-frontline operations. Only operating costs and income were reported to the CODM, therefore no assets are included within the following table.

The method for allocating non-frontline costs to the four reportable segments was consistent year-on-year.

	2011-12			2010-11 re-stated		
	Expenditure £000	Income £000	Net £000	Expenditure £000	Income £000	Net £000
CCG/AML	12,148	(12,572)	(424)	10,666	(10,386)	280
CD	9,312	(799)	8,513	14,454	(1,016)	13,438
SIPM	21,440	–	21,440	17,062	–	17,062
GC&CCE	32,529	(69)	32,460	27,882	–	27,882
Unallocated				–	(223)	(223)
Totals	75,429	(13,440)	61,989	70,064	(11,625)	58,439

6.1 Reconciliation between Operating Segments and Statement of Comprehensive Net Expenditure

There are no adjusting items to report. All transactions supporting the Statement of Comprehensive Net Expenditure have been attributed to one or more operating segment.

6.2 Reconciliation between Operating Segments and Note 2

There are no adjusting items to report. All transactions supporting the Note 2 have been attributed to one or more operating segment.

7 Staff numbers and related costs

7.1 Staff costs

Staff costs comprise:

	2011-12			2010-11
	Total £000	Permanently employed staff £000	Others £000	Total £000
Wages and salaries	28,848	25,000	3,848	29,991
Social security costs	2,320	2,320	–	2,441
Pension costs	4,960	4,960	–	5,346
Sub-total	36,128	32,280	3,848	37,778
Other staff costs	649	649	–	1,888
Less recoveries in respect of outward secondments	(352)	(352)	–	(454)
Total net costs*	36,425	32,577	3,848	39,212
Of which:				
Charged to administrative costs	8,116	6,333	1,783	8,048
Charged to programme expenditure	28,309	26,244	2,065	31,164
Total	36,425	32,577	3,848	39,212

* Of the total, nil has been charged to capital.

The Principal Civil Service Pension Scheme (PCSPS) is an unfunded multi-employer defined benefit scheme but OFT is unable to identify its share of the underlying assets and liabilities. The Scheme Actuary valued the scheme as at 31 March 2007 and details can be found in the accounts of the Cabinet Office: Civil superannuation (www.civilservice.gov.uk/my-civil-service/pensions).

For 2011–12, employer contributions of £4,867,547 were payable to the PCSPS (2010-11: £5,212,788) at one of four rates in the range 16.7 per cent to 24.3 per cent of pensionable pay, based on salary bands. The Scheme Actuary reviews employer contributions usually every four years following a full scheme valuation. The contribution rates are set to meet the cost of the benefits accruing during 2011–12 to be paid when the member retires and not the benefits paid during this period to existing pensioners.

Employees can opt to open a partnership pension account, a stakeholder pension with an employer contribution. Employer's contributions of £86,459 (2010–11: £123,824) were paid to one or more of the panel of three appointed stakeholder pension providers. Employer contributions are age-related and range from 3 to 12.5 per cent of pensionable pay. Employers also match employee contributions up to 3 per cent of pensionable pay. In addition, employer contributions of £6,377, 0.8 per cent (2010-11: £9,690, 0.8 per cent) of pensionable pay were payable to the PCSPS to cover the cost of the future provision of lump sum benefits on death in service or ill health retirement of these employees. Contributions due to the partnership pension providers at the balance sheet date were nil (2010–11: nil). Employer contributions prepaid at that date were nil (2010–11: nil).

7.2 Number of persons employed

The average number of whole-time equivalent persons employed during the year was as follows:

	2011-12		2010-11	
	Total	Permanent staff	Others	Total
Goods and Consumer, and Cartels and Criminal Enforcement Protection	165	142	23	151
Credit Licensing and Anti-Money Laundering	126	104	22	126
Consumer Direct	10	9	1	25
Services, Infrastructure and Public Markets, and Mergers	108	104	4	101
Professional Support *	107	99	8	129
Back Office **	119	104	15	123
Total	635	562	73	655

* Professional Support includes: legal services, economists, communications and policy.

** Back Office includes: finance, enquiries and reporting centre, human resources, procurement, IT and facilities management.

7.3 Reporting of Civil Service exit packages

Exit package cost band (2010-11 figures in brackets)	Number of compulsory redundancies	Number of other agreed departures	Total number of exit packages by cost band
<£10,000	0 (0)	0 (4)	0 (4)
£10,000 – £25,000	2 (0)	1 (9)	3 (9)
£25,000 – £50,000	0 (0)	0 (13)	0 (13)
£50,000 – £100,000	0 (0)	0 (9)	1 (9)
£100,000 – £150,000	0 (0)	0 (4)	0 (4)
£150,000 – £200,000	0 (0)	0 (2)	0 (2)
Total number of exit packages	2 (0)	1 (41)	4 (41)
Total exit cost (£000)	31 (0)	13 (2,262)	44 (2,262)

Redundancy and other departure costs have been paid in accordance with the provisions of the Civil Service Compensation Scheme, a statutory scheme made under the Superannuation Act 1972. Exit costs are accounted for in full in the year of departure. Where the OFT has agreed early retirements, the additional costs are met by the OFT and not by the Civil Service pension scheme. Ill-health retirement costs are met by the pension scheme and would not be included in the table if they occurred. There were no retirements on the grounds of ill-health in 2011–12 (2010–11: nil).

8 Other Administration Costs

	2011-12		2010-11 re-stated	
	£000	£000	£000	£000
Rentals under operating leases:				
Hire of plant and machinery	54		64	
Other operating leases	3,610		3,774	
		3,664		3,838
Research expenditure		46		998
Other expenditure:				
Rates	968		1,062	
Utilities	239		293	
Other premises costs	391		572	
Professional services	251		202	
Training	417		714	
Publicity and campaigns	36		50	
Maintenance	2,213		332	
Travel and subsistence	27		69	
Recruitment	142		27	
Telecoms	391		505	
IT (including maintenance)	1,745		2,024	
Printing, copying and mailing	207		203	
Other expenditure	220		103	
Total other expenditure		7,247		6,156
Non-cash items:				
Depreciation – property, plant and equipment (note 11)	178		200	
Depreciation – Intangible assets (note 12)	9		13	
Released from the donated asset reserve	(6)		-	
Impairment of non-current assets	-		77	
Auditor's remuneration and expenses	81		82	
Total non-cash costs		262		372
		11,219		11,364

The auditor's remuneration and expenses reflects the notional fee for the NAO statutory audit, which comprises three elements: the accounts audit fee of £65,000 (2010–11: £68,000), the audit of the Whole of Government Accounts return £4,000 (2010–11: £4,000) and the audit fee for the audit of the Trust Statement (published as an annexe to this document) of £12,000 (2010–11: £10,000). The OFT did not purchase any non-audit services.

9 Programme Costs

	2011-12		2010-11 re-stated	
	£000	£000	£000	£000
Other expenditure:				
Litigation costs	10,255		2,283	
Consumer Direct Contact Centres	7,288		10,571	
Professional services	1,185		785	
Publicity and campaigns	473		678	
Travel and subsistence	227		272	
IT (including maintenance)	739		945	
Publications	283		292	
Other expenditure	458		354	
Total other expenditure		20,908		16,180
Non-cash items:				
Depreciation – property, plant and equipment (note 11)	1,620		1,819	–
Depreciation – Intangible assets (note 12)	79		121	
Released from the donated asset reserve	(51)		–	
Impairment of non-current assets	–		707	
Provisions – amounts provided for in year	5,483		814	
Provisions – amounts not required written back	(254)		(153)	
Total non-cash costs		6,877		3,308
		27,785		19,488

10 Income

10.1 Analysis of income

	2011-12	2010-11 re-stated
	£000	£000
Fees for the administration of the Consumer Credit Act 1974	11,502	9,232
Fees for the administration of Money Laundering Regulations 2007	1,071	1,154
Proceeds of Crime Act income	–	64
Appeal costs reimbursed	67	36
Consumer Direct costs reimbursed	799	1,016
Other income	1	123
Total income	13,440	11,625
Payable to the Consolidated Fund:		
Other income	–	(101)
Total Appropriations-in-Aid	13,440	11,524
Of total income:		
Administration income	5,401	4,349
Programme income	8,039	7,276
	13,440	11,625

In addition to the income shown above, OFT collects fees on behalf of, and pays them over to, the Financial Ombudsman Service (FOS). The amount collected in 2011–12 was £1,548,610 (2010–11: £1,603,650). OFT is able to retain a small administration charge for each fee collected and this is included in other income in the table above. The amount retained in 2011–12 was £53,500 (2010–11: £53,555).

10.2 Fees and charges

The OFT is required, in accordance with HM Treasury's Managing Public Money, to disclose results for the areas of its activities where fees and charges were made. The following analysis is not intended to meet the requirements of IFRS 8 – Operating Segments.

	2011-12				
	Gross cost	Income	(Surplus)/ shortfall	Actual recovery	Target recovery
	£000	£000	£000	%	%
Consumer Credit Licensing	10,967	(11,502)	(535)	104.9	100.0
Anti-Money Laundering	1,181	(1,070)	111	90.6	100.0

	2010-11				
	Gross cost	Income	(Surplus)/ shortfall	Actual recovery	Target recovery
	£000	£000	£000	%	%
Consumer Credit Licensing	9,523	(9,232)	291	96.9	100.0
Anti-Money Laundering	1,143	(1,154)	(11)	101.0	100.0

Fee levels for Consumer Credit Licensing and Anti-Money Laundering are set to fully recover the cost of the service provided. Minor fluctuations may occur between the target recovery and actual recovery achieved, normally due to timing differences caused by workload scheduling.

11 Property, plant and equipment

Current year:

	Leasehold Improvements £000	Information Technology £000	Furniture and Fittings £000	Assets under construction £000	Total £000
Cost or valuation:					
At 1 April 2011	3,215	13,613	617	–	17,445
Additions	281	309	–	–	590
Disposals	(3,215)	(2,587)	(11)	–	(5,813)
At 31 March 2012	281	11,335	606	–	12,222
Depreciation:					
At 1 April 2011	3,215	9,162	599	–	12,976
Charged in year	23	1,768	7	–	1,798
Disposals	(3,215)	(2,588)	(11)	–	(5,814)
At 31 March 2012	23	8,342	595	–	8,960
Carrying amount at 31 March 2012	258	2,993	11	–	3,262
Carrying amount at 31 March 2011	–	4,451	18	–	4,469

Prior year:

	Leasehold Improvements £000	Information Technology £000	Furniture and Fittings £000	Assets under construction £000	Total £000
Cost or valuation:					
At 1 April 2010	3,215	13,432	677	1,974	19,298
Additions	–	463	–	293	756
Disposals	–	(2,643)	(60)	–	(2,703)
Reclassification	–	2,361	–	(2,267)	94
At 31 March 2011	3,215	13,613	617	–	17,445
Depreciation:					
At 1 April 2010	3,215	9,078	627	–	12,920
Charged in year	–	2,001	18	–	2,019
Disposals	–	(1,917)	(46)	–	(1,963)
At 31 March 2011	3,215	9,162	599	–	12,976
Carrying amount at 31 March 2011	–	4,451	18	–	4,469
Carrying amount at 31 March 2010	–	4,354	50	1,974	6,378

Asset financing

All assets are owned by OFT. The leasehold improvements relate to costs incurred in making alterations to Fleetbank House, which is occupied via an operating lease. A new lease came into force on 29 September 2009 and the cost and depreciation included in the 2011–12 table above relate solely to work carried out as a result of the new lease arrangements.

12 Intangible Assets

Current year:

	Software Licences £000
Cost or valuation:	
At 1 April 2011	994
Additions	–
Disposals	(503)
At 31 March 2012	491
Amortisation:	
At 1 April 2011	758
Charged in year	88
Disposals	(503)
At 31 March 2012	343
Carrying amount at 31 March 2012	148
Carrying amount at 31 March 2011	236

Prior year:

	Software Licences £000
Cost or valuation:	
At 1 April 2010	1,310
Additions	–
Disposals	(222)
Reclassification	(94)
At 31 March 2011	994
Amortisation:	
At 1 April 2010	802
Charged in year	134
Disposals	(178)
At 31 March 2011	758
Carrying amount at 31 March 2011	236
Carrying amount at 31 March 2010	508

13 Financial Instruments

As the cash requirements of the OFT are met through the Estimate process, financial instruments play a more limited role in creating and managing risk than would apply to a non-public sector body of a similar size. The majority of financial instruments relate to contracts for non-financial items in line with the OFT's expected purchase and usage requirements and the OFT is, therefore, exposed to little credit, liquidity or market risk.

14 Investments in other public sector bodies

OFT does not hold any investments in other public sector bodies.

15 Impairments

There has been no write-off of impaired property, plant and equipment during 2011–12 and no impairment review, as a full review was carried out towards the end of 2010–11. A review will be carried out in 2012–13 following completion of the roll-out of new IT equipment as part of the Fleetbank House re-stack project.

16 Inventories

OFT does not hold any inventories where values are recorded in the financial statements.

17 Trade receivables and other current assets

17.1 Analysis by type

	2011-12	2010-11
	£000	£000
Amounts falling due within one year:		
Trade receivables	231	146
Deposits and advances	175	128
Other receivables	1	7
VAT	992	978
Amounts due from the Consolidated Fund in respect of Supply	–	1,086
Prepayments and accrued income	1,617	1,790
Total	3,016	4,135

17.2 Intra-Government balances

	Amounts falling due within one year	
	2011-12	2010-11
	£000	£000
Balances with other central government bodies	1,208	2,152
Balances with local authorities	25	7
Balances with public corporations and trading funds	–	–
Sub-total intra-government balances	1,233	2,159
Balances with bodies external to government	1,783	1,976
Total	3,016	4,135

18 Cash and cash equivalents

	2011-12	2010-11
	£000	£000
Balance at 1 April	(1,086)	(1,287)
Net change in cash balances	4,695	201
Balance at 31 March	3,609	(1,086)
The following balances at 31 March were held at:		
Commercial banks	3,461	(1,125)
Cash in hand and locally banked receipts	148	39
Balance at 31 March	3,609	(1,086)

The bank balance is shown net of outstanding liabilities for instruments of payment due to be encashed against the OFT's bank account.

19 Trade payables and other current liabilities

19.1 Analysis by type

	2011-12	2010-11
	£000	£000
Amounts falling due within one year		
Taxation and social security	723	841
Trade payables	1,139	873
Other payables	1,970	580
Accruals and deferred income	8,629	5,498
Amounts issued from the Consolidated Fund for Supply but not spent at 31 March 2012	3,609	–
Total	16,070	7,792

19.2 Intra-Government balances

	Amounts falling due within one year	
	2011-12	2010-11
	£000	£000
Balances with other central government bodies	4,490	1,148
Balances with local authorities	–	6
Balances with public corporations and trading funds	–	–
Sub-total intra-government balances	4,490	1,154
Balances with bodies external to government	11,580	6,638
Total	16,070	7,792

19.3 Deferred income

Monies received for which the work had yet to be undertaken at the year end are shown below:

	2011-12	2010-11
	£000	£000
Fees for administration of the Consumer Credit Act 1974	264	249
Total deferred income	264	249

These amounts will be recognised as income in the following year when the corresponding work has been carried out.

20 Provisions for liabilities and charges

	Early Departure Provision £000	Pension Provision £000	Other Provision £000	Total £000
Balance at 1 April 2011	1,378	1,521	0	2,899
Provided in year	–	83	5,400	5,483
Provisions not required written back	(253)	69	–	(184)
Provisions utilised in year	(370)	(90)	–	(460)
Balance at 31 March 2012	755	1,583	5,400	7,738

Analysis of expected timing of cash flows

	Early Departure Provision £000	Pension Provision £000	Other Provision £000	Total £000
Not later than one year	271	92	5,400	5,763
Later than one year and not later than five years	449	370	–	821
Later than five years	35	1,121	–	1,153
Balance at 31 March 2012	755	1,583	5,400	7,738

20.1 Early Departure Provision

The OFT meets the additional costs of benefits beyond the normal PCSPS benefits in respect of employees who retire early by paying the required amounts annually to the PCSPS over the period between early departure and normal retirement date. The OFT provides for this in full when the early retirement programme becomes binding, by establishing a provision for the estimated payments. There were no new early retirees during the year (2010–11: thirteen).

20.2 Pension Provision

The pension provision is unfunded, with benefits being paid as they fall due and guaranteed by OFT for the previous Chairman and Director Generals. There is no fund and therefore no surplus or deficit. An actuarial valuation was carried out by the Government Actuary's Department (GAD) at 31 March 2012.

The financial assumptions used in the calculation of the liability as at 31 March 2012 are as follows:

- The gross rate of increase in salaries is 4.25 Per cent per annum (2010–11: 4.90 Per cent per annum)
- The gross rate used to discount scheme liabilities is 4.85 Per cent per annum (2010–11: 5.60 Per cent per annum)
- The gross rate of increase for pensions in payment and deferred pensions is 2.00 Per cent per annum, (2010–11: 2.65 Per cent per annum)
- In nominal terms, these assumptions imply price inflation of 2.00 Per cent per annum (2010–11: 2.65 Per cent per annum)

Other amounts to be disclosed in order to understand the change in provision:

	£000
– Overnight increase in liabilities (change in real return)	–
– Current service cost (net of employee contributions)	–
– Employee contributions	–
– Interest cost	83
– Past service cost	–
– Actuarial loss	69
	152
– Benefits paid	(90)
Increase in provision	62

20.3 Other

Where OFT decisions are overturned on appeal, the OFT would expect to pay the costs of the other parties. If the requirements of IAS 37 are met the OFT recognises a provision for that liability. No further disclosure is appropriate on the grounds that it may prejudice the outcome of the assessment of those costs.

21 Capital and other commitments

21.1 Capital commitments

	2011-12	2010-11
	£000	£000
Contracted capital commitments at 31 March 2012 not otherwise included in these financial statements:		
Property, plant and equipment	46	65

21.2 Commitments under operating leases

	2011-12		2010-11	
	Buildings	Other	Buildings	Other
	£000	£000	£000	£000
At 31 March 2012 obligations under operating leases for the following periods comprise:				
Not later than one year	3,965	29	3,878	2
Later than one year and not later than five years	16,771	93	16,402	4
Later than five years	30,633	–	34,967	–
Total	51,369	122	55,247	6

21.3 Finance leases

The OFT does not have any finance lease commitments.

21.4 Other financial commitments

The department has no non-cancellable contracts (which are not leases or PFI contracts).

22 Financial Guarantees, Indemnities and Letters of Comfort

The OFT has not entered into any Financial Guarantees and Indemnities, or provided Letters of Comfort. However, on 11 March 2002 the entity then known as the Department for Trade and Industry issued a personal liability indemnity to the OFT Chairman and Board Members. Parliament approved the Minute which gives the Chairman and Board Members of the OFT the equivalent indemnity to that given to civil servants under the Civil Service Management Code. Therefore, the Crown accepted responsibility for the personal civil liabilities, including costs, of the Chairman and other Board Members.

23 Contingent liabilities disclosed under IAS 37

Where appeals are made against OFT decisions there is a possibility of a transfer of economic benefits to third parties. Information required under IAS 37 is not disclosed on the grounds that it may prejudice the outcome of negotiations.

24 Losses and Special Payments

Managing Public Money requires a statement showing losses and special payments by value and by type to be shown where they exceed £250,000 in total and those that individually exceed £250,000.

In 2011-12 there were no cases in excess of £250,000 (2010-11: nil).

24.1 Losses statement

There was one fruitless payment of £5,060 in 2011-12 (2010-11: nil).

24.2 Special payments

There were no special payments in 2011-12 (2010-11: nil).

25 Related-party transactions

The OFT had a small number of transactions with other government departments and other central government bodies. Most of these transactions have been with the Department for Business, Innovation and Skills, the Central Office of Information, HM Courts and Tribunals Service and Consumer Focus. None of the Board Members, key managerial staff or other related parties has undertaken any material transactions with the OFT during the year.

26 Events after the reporting period

In accordance with the requirements of IAS 10 Events after the Reporting Period, post balance sheet events are considered up to the date on which the accounts are authorised for issue. This is interpreted as the date of the Certificate and Report of the Comptroller and Auditor General. The financial statements do not reflect events after this date. On 14 June 2012 it was announced that Clive Maxwell has been appointed as interim Chief Executive Officer, following an internal Civil Service competition.

13 TRUST STATEMENT

Statement of the Principal Accounting Officer's Responsibilities

Under section 7 (2) of the Government Resources and Accounts Act 2000, HM Treasury has directed the Office of Fair Trading (OFT) to prepare for each financial year a Trust Statement in the form and on the basis set out in the Accounts Direction.

HM Treasury has appointed the Chief Executive Officer as Accounting Officer of the OFT with overall responsibility for preparing the Trust Statement and for transmitting it to the Comptroller and Auditor General.

The responsibilities of an Accounting Officer, including responsibility for the propriety and regularity of the public finances for which an Accounting Officer is answerable, for keeping proper records and for safeguarding OFT's assets, are set out in the Accounting Officers' Memorandum issued by HM Treasury and published in Managing Public Money.

The Trust Statement is prepared on an accruals basis and must give a true and fair view of the state of affairs of fees levied and penalties imposed by the OFT, together with the net amount surrendered to the Consolidated Fund.

In preparing the Trust Statement, the Accounting Officer is required to comply with the requirements of the Government Financial Reporting Manual prepared by the Treasury and, in particular, to:

- observe the Accounts Direction issued by HM Treasury, including the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis
- make judgements and estimates on a reasonable basis
- state whether applicable accounting standards, as set out in the Government Financial Reporting Manual have been followed, and disclose and explain any material departures in the account
- prepare the Trust Statement on a going concern basis

Governance Statement

The OFT's Governance Statement, covering both the Resource Accounts and the Trust Statement, is shown on pages 53 to 64.

The Certificate and Report of the Comptroller and Auditor General to the House of Commons

I certify I have audited the financial statements of the Office of Fair Trading's Trust Statement for the year ended 31 March 2012 under the Government Resources and Accounts Act 2000. The financial statements comprise the Statement of Revenue, Other Income and Expenditure, the Statement of Financial Position, the Statement of Cash Flows and the related notes. These financial statements have been prepared under the accounting policies set out within them.

Respective responsibilities of the Principal Accounting Officer and auditor

As explained more fully in the Statement of the Principal Accounting Officer's Responsibilities, the Accounting Officer is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. My responsibility is to audit, certify and report on the financial statements in accordance with the Government Resources and Accounts Act 2000. I conducted my audit in accordance with International Standards on Auditing (UK and Ireland). Those standards require me and my staff to comply with the Auditing Practices Board's Ethical Standards for Auditors.

Scope of the audit of the Trust Statement

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the circumstances of the Office of Fair Trading's Trust Statement and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Office of Fair Trading; and the overall presentation of the financial statements. In addition I read all the financial and non-financial information in the Annual Report to identify material inconsistencies with the audited financial statements. If I become aware of any apparent material misstatements or inconsistencies I consider the implications for my certificate.

I am required to obtain evidence sufficient to give reasonable assurance that the expenditure and income reported in the financial statements have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

Opinion on Regularity

In my opinion, in all material respects the expenditure and income recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

Opinion on Financial Statements

In my opinion:

- the financial statements give a true and fair view of the state of the Office of Fair Trading's Trust Statement affairs as at 31 March 2012 and of its net revenue for the year then ended; and
- the financial statements have been properly prepared in accordance with the Government Resources and Accounts Act 2000 and HM Treasury directions issued thereunder.

Opinion on other matters

In my opinion, the information given in the Annual Report for the financial year in which the financial statements are prepared is consistent with the financial statements.

Matters on which I report by exception

I have nothing to report in respect of the following matters which I report to you if, in my opinion:

- adequate accounting records have not been kept or returns adequate for my audit have not been received from branches not visited by my staff; or
- the financial statements are not in agreement with the accounting records or returns; or
- I have not received all of the information and explanations I require for my audit; or
- the Governance Statement does not reflect compliance with HM Treasury's guidance.

Report

I have no observations to make on these financial statements.

Amyas C E Morse

Comptroller and Auditor General
National Audit Office
157–197 Buckingham Palace Road
Victoria
London
SW1W 9SP

22 June 2012

Statement of Revenue, Other Income and Expenditure

for the year ended 31 March 2012

	2011-12	2010-11
Note	£000	£000
REVENUE:		
Fines and penalties:		
Penalties imposed under the Competition Act 1998	59,777	100,483
Other income:		
Fees received under the Enterprise Act 2002	4,500	2,895
TOTAL REVENUE AND OTHER INCOME FOR THE YEAR	64,277	103,378
EXPENDITURE:		
Debts written off or otherwise impaired	2,570	7,473
Net revenue for the Consolidated Fund	61,707	95,905


There were no recognised gains or losses accounted for outside the above Statement of Revenue. All operations are continuing.

The notes on pages 97 to 102 form part of these accounts.

Statement of Financial Position

as at 31 March 2012

		31 March 2012	31 March 2011
	Note	£000	£000
Receivables falling due after more than one year	2.1	–	2,427
Current assets:			
Receivables	2.2	3,307	12,553
Accrued fees and penalties	2.2	631	300
Cash at bank and in hand	3	–	2,481
Total current assets		3,938	15,334
Current liabilities:			
Payables	4	–	(150)
Total current liabilities		–	(150)
Total assets less current liabilities		3,938	17,611
Represented by:			
Balance on Consolidated Fund Account	5	3,938	17,611



John Fingleton

Chief Executive and Accounting Officer

21 June 2012

The notes on pages 97 to 102 form part of these accounts.

Statement of Cash Flows

for the year ended 31 March 2012

		2011-12	2010-11
	Note	£000	£000
Net cash flow from operating activities	A below	(72,899)	(97,058)
Amounts paid to the Consolidated Fund	5	75,380	95,037
(Decrease)/increase in cash in the period		(2,481)	2,021

Note to the Cash Flow Statement

A: Reconciliation of Net Cash flow to Movement in Net Funds

Net revenue for the Consolidated Fund	(61,707)	(95,905)
(Decrease) in non-cash assets	(11,342)	(1,003)
Decrease/(increase) in current liabilities	150	(150)
Net cash flow from operating activities	(72,899)	(97,058)

B: Analysis of Changes in Net Funds

(Decrease)/increase in cash in the period	(2,481)	2,021
Net funds at 1 April (Net cash at bank)	2,481	460
Net funds at 31 March (Closing balance)	-	2,481

The notes on pages 97 to 102 form part of these accounts.

Notes to the Trust Statement

1 Statement of accounting policies

1.1 Basis of accounting

The Trust Statement is prepared in accordance with the accounts direction issued by HM Treasury under section 7 of the Government Resource and Accounts Act 2000 and the accounting policies detailed below. The policies have been developed with reference to International Financial Reporting Standards (IFRS) as adapted or interpreted for the public sector, and other relevant guidance. They have been applied consistently in dealing with items that are considered material to the accounts.

The income contained in the Trust Statement is that flow of funds which OFT handles on behalf of the Consolidated Fund and where it is acting as agent rather than principal.

The financial information contained in the statements is rounded to the nearest £000.

1.2 Accounting convention

The Trust Statement has been prepared in accordance with the historic cost convention.

1.3 Revenue recognition

Fees and penalties are measured in accordance with IAS 18. They are measured at the fair value of amounts received or receivable net of repayments.

For merger fees, if an anticipated merger is notified by way of a statutory merger notice the fee is recognised when the OFT has investigated the intended merger and issued its decision. Until then it is treated as deferred income, as the fee will be refundable if the merger does not meet the required criteria. In all other merger cases income is recognised when the decision is reached and accrued where necessary.

For CA98 penalties, revenue is recognised when a penalty is validly imposed and an obligation to pay arises. When a penalty is imposed the entity concerned is given two calendar months in which to appeal the decision if it chooses. Where no appeal is lodged or when the period for appeal has expired, the full value of the penalty is recognised as a valid debt. Where an appeal is lodged recognition of the debt does not occur until the appeal process has been completed.

1.4 Impairment of receivables

A review is made annually of all outstanding CA98 penalties receivables, to determine recoverability and a provision is set up in the event that recovery of the receivable is in doubt. The provision serves to reduce the receivable in the Statement of Financial Position, but also reduces the Balance on Consolidated Fund Account. The creation of this provision and any subsequent movement, or any write-offs which have not been previously provided for, register in the Statement of Income and Expenditure.

If a party has been offered the option to pay their penalty by instalments and subsequently defaults on their payments for any reason, for example if they enter Administration, every step is taken to pursue the debt. However, an impairment provision is created for any outstanding balance and maintained until such time as the recovery process has been completed, at which time any unused provision is released. This also applies where a penalty is imposed on a party that has already entered Administration, or does so before payment of the penalty can be made.

1.5 Receivables

Receivables are shown net of impairments in accordance with the requirements of IAS 39.

1.6 Value Added Tax (VAT)

Merger fees and CA98 penalties are outside the scope of VAT.

2 Receivables

2.1 Non-current receivables

	2011-12	2010-11
	£000	£000
Amounts falling due after one year:		
Competition Act 1998 penalties	–	2,427
Total	–	2,427

2.2 Current receivables

	2011-12	2010-11
	£000	£000
Amounts falling due within one year:		
Competition Act 1998 penalties	17,233	23,908
Less provision for impairment	(13,926)	(11,355)
Net Competition Act 1998 penalties	3,307	12,553
Accrued income – merger fees	631	300
Total	3,938	12,853

In certain circumstances parties that have been penalised under CA98 are offered the option to pay their penalty over an extended period. This creates both current and long-term receivables.

3 Cash at bank and in hand

	2011-12	2010-11
	£000	£000
Balance held at Citibank at 1 April	2,481	460
Net change in cash balances	(2,481)	2,021
Balance held at Citibank at 31 March	–	2,481

4 Current payables

	2011-12	2010-11
	£000	£000
Deferred income	–	150
Total current payables	–	150

5 Balance on the Consolidated Fund Account

	2011-12	2010-11
	£000	£000
Balance on Consolidated Fund Account as at 1 April	17,611	16,743
Net revenue for the Consolidated Fund	61,707	95,905
Less amount paid to the Consolidated Fund	(75,380)	(95,037)
Balance on Consolidated Fund Account as at 31 March	3,938	17,611

6 Contingent liabilities disclosed under IAS 37

Where appeals are made against OFT decisions there is a possibility of a transfer of economic benefits to third parties. Information required under IAS 37 is not disclosed on the grounds that it may prejudice the outcome of negotiations.

7 Events after the reporting period

In accordance with the requirements of IAS 10 Events after the Reporting Period, post balance sheet events are considered up to the date on which the accounts are authorised for issue. This is interpreted as the date of the Certificate and Report of the Comptroller and Auditor General. The financial statements do not reflect events after this date.

ACCOUNTS DIRECTION GIVEN BY HM TREASURY IN ACCORDANCE WITH SECTION 7(2) OF THE GOVERNMENT RESOURCES AND ACCOUNTS ACT 2000.

1. This direction applies to those government departments listed in appendix 2.
2. The Department shall prepare a Trust Statement (“the Statement”) for the financial year ended 31 March 2012 for the revenue and other income, as directed by the Treasury, collected by the department as an agent for others, in compliance with the accounting principles and disclosure requirements of the edition of the Government Financial Reporting Manual by HM Treasury (“FReM”) which is in force for 2011–12.
3. The Statement shall be prepared, as prescribed in appendix 1, so as to give a true and fair view of (a) the state of affairs relating to the collection and allocation of taxes, licence fees, fines and penalties by the Department as agent and of the expenses incurred in the collection of those taxes, licence fees, fines and penalties insofar as they can properly be met from that revenue and other income; (b) the revenue and expenditure; and (c) the cash flows for the year then ended.
4. The statement shall also be prepared so as to provide disclosure of any material expenditure or income that has not been applied to the purposes intended by Parliament or material transactions that have not conformed to the authorities which govern them.
5. When preparing the Statement, the Department shall comply with the guidance given in the FReM (Chapter 13). The Department shall also agree with HM Treasury the format of the Principal Accounting Officer’s Foreword to the Statement, and the supporting notes, and the accounting policies to be adopted, particularly in relation to revenue recognition. Regard shall also be given to all relevant accounting and disclosure requirements in Managing Public Money and other guidance issued by HM Treasury, and to the principles underlying International Financial Reporting Standards.
6. Compliance with the requirements of the FReM will, in all but exceptional circumstances, be necessary for the accounts to give a true and fair view. If, in these exceptional circumstances, compliance with the requirements of the FReM is inconsistent with the requirement to give a true and fair view, the requirements of the FReM should be departed from only to the extent necessary to give a true and fair view. In such cases, informed and unbiased judgement should be used to devise an appropriate alternative treatment which should be consistent with both the economic characteristics of the circumstances concerned and the spirit of the FReM. Any material departure from the FReM should be discussed in the first instance with HM Treasury.
7. The Statement shall be transmitted to the Comptroller and Auditor General for the purpose of his examination and report by a date agreed with the Comptroller and Auditor General and HM Treasury to ensure compliance with the administrative deadline for laying the audited accounts before Parliament before the Summer Recess.
8. The Trust Statement, together with this direction (but with the exception of the related appendices) and the Report produced by the Comptroller and Auditor General under Section 7(2) of the Government Resources and Accounts Act 2000 shall be laid before Parliament at the same time as the Department’s Resource Accounts for the year unless the Treasury have agreed that the Trust Statement may be laid at a later date.

Chris Wobschall
Deputy Director, Assurance and Financial Reporting Policy
HM Treasury

20 December 2011

Appendix 1 to Annex D

Trust Statement for the year ended 31 March 2012

1. The Trust Statement shall include:

- a Foreword by the Principal Accounting Officer
- a Statement of the Principal Accounting Officer's Responsibilities
- a Governance Statement
- a Statement of Revenue, Other Income and Expenditure
- a Statement of Financial Position
- a Cash Flow Statement
- such notes as may be necessary to present a true and fair view

2. The Notes shall include among other items:

- the accounting policies, including the policy for revenue recognition and estimation techniques and forecasting techniques together with statements explaining any significant uncertainty surrounding estimates and forecasts
- a breakdown of material items within the accounts
- any assets, including intangible assets and contingent liabilities
- summaries of losses, write-offs and remissions
- post balance sheet events
- any other notes agreed with HM Treasury and the National Audit Office

Appendix 2 to Annex D

No	Sponsoring Department	Income stream	Responsible Entity
01	DCLG	National Non - Domestic Rates	DCLG
02	DECC	Petroleum licenses EU Emissions Allowance	DECC
03	Office of Fair Trading	Competition Act penalties Merger Fees	OFT
04	Ofgem	Fossil Fuel Levy Fines and penalties	OFGEM
05	Water Services Regulatory Authority	Fines and penalties	OFWAT
06	DWP	Financial Assistance Scheme	DWP