

The OFT is the UK's competition and consumer authority. Our mission is to make markets work well for consumers. Our vision is of competitive, efficient, innovative and fair dealing markets where standards of consumer 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.

# The Office of Fair Trading Annual Plan 2006-07

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# overview

## Overview by the Chairman and Chief Executive

The OFT is part way through a three year plan established by the Board in 2004. In this Annual Plan, the first produced since taking up our appointments in October 2005, we thought it would be useful to explain our view of:

- the OFT's mission and how this fits within the UK's economic policy
- the OFT's recent achievements, where these can be built upon, and the further changes needed within the organisation, and
- the context of this plan, and our detailed objectives and priorities.

A number of themes run through the document. One of these is **continuity**: building on the work and considerable successes of recent years and learning from experience and constructive external comment and criticism. Another is **rising to challenges** across the spectrum of our activities: for instance, ensuring that our work continues to be of the highest quality, that we communicate clearly and effectively within and outside the organisation, and that we evaluate the outcomes of our work. The final theme is **change**: the OFT has gone through a period of tremendous change over the past few years; that will continue and deepen to enable the OFT to deliver on the challenging agenda of making UK markets work well.

### What we do

Our economic wellbeing depends on having a productive domestic economy and ensuring that businesses in all parts of the UK are competitive. Our role in doing this is to make markets work well for consumers, and hence for business and the wider economy. This mission has evolved as new powers in the competition and the consumer fields have become available to us.

We use intelligence to identify where markets are not functioning properly or where there appear to be specific issues affecting consumer welfare. In many cases markets correct themselves through normal competitive processes, and unnecessary, inappropriate or disproportionate intervention may cause more harm than good as well as imposing additional costs on consumers. Where market correction does not occur we encourage conditions under which markets do work well by using various instruments such as enforcement and consumer credit licensing. In many cases self-regulation, guidance or education are appropriate change mechanisms. Where enforcement action is appropriate, we take a proportionate and risk-based approach, following the principles of good enforcement set out in the Enforcement Concordat.

We challenge: private restrictions on competition through misuse of market power; behaviour which is detrimental to consumers; and public restrictions on businesses, including legislation that inhibits the functioning of markets. We empower consumers by helping them to acquire the information and confidence they need to obtain the best value and to understand the risks they face in markets, and we protect those who are most vulnerable.

Consumer Direct will enable us to provide practical and impartial advice to consumers to help them to sort out problems they may be having with suppliers. We will use the information we gather from the million and a half calls we expect to receive this year to inform our work and that of our partners.

#### **What we have done well**

The OFT's staff has achieved significant successes over the past year. The first OFT – endorsed consumer codes of practice were launched nationally and set a new path to self-regulation in a number of sectors. We pioneered the use of the EC Injunctions Directive to bring the first cross-border court action to protect UK consumers. We won an important case in the High Court on the misleading use of 'own reference' prices in discount advertising. We worked with partners in the Trading Standards Service (TSS) to target consumer scams and designed and delivered a comprehensive programme of education and training for the TSS on new powers under the Enterprise Act. In addition we worked on the new Consumer Credit Bill and planned the takeover of responsibility for Consumer Direct from the Department of Trade and Industry (DTI).

In specific markets, we delivered comprehensive reports on care homes, property searches and public subsidies and launched a number of new studies, including those on the Pharmaceutical Price Regulation Scheme and the Commercial Use of Public Information. Two market references on Northern Ireland Banking and Directory Advertising Services were made to the Competition Commission.

In our competition work we took a decision against Mastercard in respect of its collective setting of its domestic UK interchange fee, and issued a statement of objections on similar issues against Visa. We issued a statement of objections against 50 independent schools in respect of their information sharing agreement. We also successfully defended appeals against our decisions in the Genzyme and replica football kit cases in the Competition Appeal Tribunal (CAT). Investigations were carried out into a number of cartels in the construction industry including, and in conjunction with the Serious Fraud Office, the first raids carried out using criminal enforcement powers where proceedings are pending. Finally, our merger control work continues to be highly rated by users.

#### **Building on achievements: challenges and changes**

These achievements provide the basis for future development of our work and the organisation.

We support the Government's moves to achieve more consistency and better coordination in local authority regulatory services. The decision to entrust the OFT with new roles, in relation to consumer law and trading standards – which the Hampton Report proposed should go to a separate entity – is particularly welcome. This will retain the close link between competition and consumer law and policy that has deep roots in the UK and is well established in a number of other jurisdictions, such as the USA, Canada and Australia. The Enterprise Act reinforced this link.

These new responsibilities require a new partnership with the TSS, one that needs to be open, adaptable and inclusive. We must make the best use of our complementary skills and experience in order to deliver a first-rate service to consumers and to business. We will become a national voice and advocate for the TSS as well as a centre of excellence and of intelligence. This will benefit the TSS and local government generally.

The National Audit Office (NAO) report on competition enforcement is a valuable contribution to appraising and refocusing our work after several years of experience of new legislation. The report recognises the OFT's intellectual leadership and international reputation, and the steps we have taken to address weaknesses in our competition work. The report's recommendations focused on: prioritisation and resourcing of casework; case management in terms of timescales, costs and quality control; and measurement and communication of our achievements. The OFT has accepted all of the NAO's recommendations and will implement those not already implemented over the next year.

Early identification of issues and the need, or otherwise, for intervention or remedy, and the establishment of clear priorities and timetables, are vital for both consumer and competition work. Equally vital, at the front-end of our work, will be gaining a better understanding of industries, practices and areas where consumer detriment is most significant. We expect that our new responsibility for Consumer Direct, and other operational changes, will significantly improve our ability to collect and understand relevant information across a wide range of markets. After we have taken initiatives we will want to measure their effects on consumer welfare and Consumer Direct will help us, and our partners, to analyse the effects of our work.

We must ensure that we are effective in stopping hardcore offenders, whether cartels or bid-rigging in the competition field or persistent or flagrant offenders in the consumer field. The vast majority of businesses accept that it is to their advantage to comply with competition and consumer law, as this enhances the confidence of consumers. We will aim to reinforce this compliance culture.

We will strengthen our interaction with business interests of many kinds, consumer groups, partners such as the TSS, other regulators, national and local government and the devolved administrations in Scotland, Wales and Northern Ireland.

We recognise the need to develop further a service-based, collaborative internal culture within the OFT. Major contributors to success in this area include improved internal processes, knowledge management, reporting lines, teamwork, skills training and career planning. In addition we will develop a single integrated external 'front office', to ensure that all enquiries are dealt with promptly and are allocated for further action to the appropriate part of the organisation. We will endeavour to ensure that any structural change required to deliver our longer term mission will not impact on objectives for 2006/07.

We have to ensure that our processes are efficient and effective and that our work is of the highest intellectual calibre, is soundly based and is comprehensively reasoned, so that it stands up to objective scrutiny and is subject to ex-post evaluation to assess benefits accruing to consumers and the economy as a whole.

**This year's Annual Plan: framework and context**

This Annual Plan sets out a framework that links our high level mission and goals to our functions and capabilities. This framework provides a context for setting annual objectives and better measurement of the OFT's performance against those objectives. Our achievement will not be enough, however. We must also seek to improve market functioning and outcomes by influencing others. Success will require action and change by businesses, individual consumers and government.

Finally we would like to pay tribute to our predecessor, Sir John Vickers. He led the OFT through the recent period of unprecedented change. As a result of his work, we inherit an organisation and staff that are capable of building on the achievements of the recent past and rising to meet the challenges and changes of the future.



**Philip Collins**  
Chairman



**John Fingleton**  
Chief Executive

# framework

## Annual planning framework

Markets work well when:

- **Businesses** are customer-focused, competitive and efficient, and they understand and comply with consumer and competition law.
- **Consumers** are confident, empowered, know their rights and are able to make informed choices or, where appropriate, have the necessary protection.
- **Government** promotes competition and removes laws and regulations that harm competition or consumers.
- **Partners** in public administration – the OFT, the TSS, other competition and consumer authorities and other national regulators – work together.
- **Markets** are open to new entrants, allow customers to switch supplier and provide useful and useable information to enable consumers to make choices.

Evaluation of our impact will play an increasingly important part in our planning and work strategies. Our aim will be to identify and target significant issues and particular sectors that give rise to consumer detriment. We will ensure that we have the right capabilities within the organisation to ensure success and that our values underpin all that we do.

### Instruments

We have a number of statutory functions:

- consumer credit licensing and regulation
- regulation of estate agents
- responding to super-complaints (made by designated consumer bodies)
- merger control, where we consider that mergers:
  - qualify for investigation under the Enterprise Act, and if so,
  - should be referred to the Competition Commission for further investigation
- assisting the European Commission to carry out any inspections in the UK under Articles 81 and 82 of the EC Treaty.

We have discretion to use, and have used, the following instruments:

- identification and investigation
  - intelligence and complaint gathering and research
  - working with sector regulators, the Trading Standards Service and other partners
  - investigating alleged infringements of competition and consumer law
  - studying how well markets work, and where necessary making references to the Competition Commission for more detailed study



- prevention
  - encouraging businesses to improve trading practices and to raise standards of self-regulation, for example, through the OFT Consumer Codes Approval Scheme
  - promoting compliance with consumer and competition law by issuing guidance, conducting compliance reviews, explaining our decisions and publicising enforcement action
  - educating consumers so they have the skills and knowledge they need to get the best from markets
- enforcement
  - accepting and reviewing undertakings
  - refusal and revocation of consumer credit licences and issuing informal warnings
  - warning and banning estate agents
  - pursuing criminal prosecutions in cartel cases
  - disqualifying directors under competition law
  - applying financial penalties
  - seeking court injunctions
- advocacy
  - working with regulators on regulatory reform of disproportionate public restrictions and the application of competition law
  - screening new law and regulation, for example, through reviewing Regulatory Impact Assessments (RIAs)
  - encouraging private redress for breaches of consumer and competition law
  - taking action to clarify the application of relevant law where necessary
  - advising the Government on how to achieve the most effective economic policy regime for competition and consumers
  - campaigns and education directed at businesses, consumers and government on competition and consumer issues
  - using our influence and links with international bodies to promote the interests of UK consumers.

### Evaluating our performance

Over the next two years we will put considerable effort into more objective and comprehensive evaluation of our direct impact and what we achieve through influencing others.

Our current benchmarks are:

- consumers judge that markets deliver more and better choices
- consumers and business judge market abuses have been addressed
- business judges that barriers to fair and open markets are being addressed
- consumers and business have better understanding of their rights and objectives under competition and consumer law
- partners and other stakeholders judge that we operate in accordance with our values
- 85 per cent of the users of Consumer Direct are satisfied or very satisfied with the service.

We have established an evaluation programme into how effective enforcement and non enforcement methods, such as information campaigns, are at changing business and consumer behaviour. We will gather evidence to improve our understanding of our own impact on a number of key areas, such as OFT approved codes.

We have recently calculated a very conservative estimate of the consumer savings generated by our competition enforcement work. It shows that the savings are already substantially higher than the resources we put in. We will work on increasing the accuracy of these estimates by including, for example, important effects like deterrence.

An essential part of establishing an evidence base will be to implement systems to record and monitor key data from competition casework. We will use this to assess our performance, assist prioritisation and feed back any lessons in the choices made.

We will also work on establishing appropriate performance measures in consumer regulation enforcement and in our market studies work. We will be working with academics and other competition authorities internationally to set baseline and success criteria that will enable a robust evaluation of our performance and impact. We will start conducting early impact assessments in market studies and set out success criteria for consumer enforcement projects. We will also continue our efforts to define and, as far as possible, quantify, general levels of consumer detriment through Consumer Direct and ad-hoc survey work.

Work in the coming year includes evaluating:

- the Consumer Codes Approval Scheme: we will investigate whether Approved codes have changed business behaviour
- the benefits of Consumer Direct to consumers, businesses and database users
- estimates of consumer savings that more accurately (and less conservatively) reflect competition enforcement work
- the deterrence effect via a survey of anti-trust practitioners
- the impact of our competition enforcement work in one of the key priority sectors
- the effectiveness of our market studies in delivering the desired improvements to markets, consumers, and fair dealing businesses
- the Enterprise Act – Part 8 training for Trading Standards Officers
- what measures and methods are appropriate for demonstrating the impact of our scams work.

### Our values

We understand that our decisions can have a significant impact on businesses and consumers and we will ensure, therefore, that we are:

- **objective and fair in judgement**
- **consistent and proportionate** in the use of our powers and in our approach:
  - business will be given the opportunity to remedy breaches of most consumer law
  - proceedings will be brought by the most appropriate enforcement body
  - action is coordinated so that businesses are not subjected to unnecessary multiple approaches
  - publicity related to enforcement will be accurate, balanced and fair.
- **accountable** for our actions and decisions: to the public through scrutiny by Parliament and the devolved administrations, and via the appeal mechanisms provided by legislation.
- **open and consultative**: it is important that the public and business understand what we do and why we do it. We will be transparent in our forward planning and involve stakeholders in the process. It is important to explain the rationale for our decisions and how we intend to use our resources and powers. We will be open in our dealings while observing the requirements of commercial confidentiality.
- **collaborative**: we work with others to get the best results.
- **committed to diversity**, good staff relations and development of people and their skills.

### Complaints procedure

In addition to the legal processes available in relation to our formal decisions, we will provide a high quality and timely response to other complaints about the way we work.

# objectives

## 2006-07 objectives

In the coming year:

We will continue to focus on the five priority areas identified in our Annual Plan last year, where we want to achieve greatest impact:

- **Consumer credit:** Following passage of the Consumer Credit Bill we will develop new guidance on, for example, fitness, requirements on licensees and use of penalties. We will develop a risk-based licensing model and, across the OFT, share best practice and monitor work relating to finance and credit.
- **Healthcare:** We will develop a strategy for our work in healthcare which defines our role, messages and targets for advocacy and enforcement actions. We will engage stakeholders so as to identify more clearly the issues that affect competition in healthcare provision and cause consumer detriment – this will include a conference on competition issues in healthcare which we will host in late 2006. In conjunction with our mass-marketed scams priority we will target health scams. In the autumn we will conduct, with our partners in the Medicines and Healthcare Products Regulatory Agency and the TSS, an internet sweep of ‘miracle cures’ and target resources at the most serious cases revealed by the sweep.
- **Construction and housing (including related services such as estate agency):** We are coordinating work in this area under three themes: inputs to construction – building work and supplies (our cartel work is of most relevance here); supply of new buildings (both commercial and domestic); and services relating to housing (such as estate agency and repairs). We will publish a summary of our work and achievements in this priority area before April 2007.
- **Mass-marketed scams:** We will continue our annual scams campaign (simultaneously with our international partners in ICPEN) in February/ March 2007. Our focus throughout 2006-07 will continue to be on enforcement and educating consumers to recognise the tell-tale signs of a scam as well as telling them about specific scams. During the year we will publish the results of a major piece of research into the types of people who fall for scams and the size of the problem in the UK.
- **Interaction between government and markets:** Government can impact on markets in a number of ways given the public sector’s role as regulator, subsidiser, buyer and provider of services. We will engage with government to try to ensure a pro-competition and pro-consumer culture in the public sector. Activities will include advising government departments on policy issues, new legislation and Regulatory Impact Assessments and providing training and direction and participation in the Competition Forum.<sup>1</sup>

<sup>1</sup> The Competition Forum is a cross-government body made up of representatives from government departments, local government and the Competition Commission. Its purpose is to enhance awareness of UK and EU competition issues and to provide a forum for discussion. Its work includes identifying markets where competition appears not to be working well.

We will better understand and tackle areas where consumer detriment is most significant. Our responsibility in respect of Consumer Direct will be especially helpful in this regard to ourselves and our partners.

We will root out and stop hardcore offenders, whether cartels or bid-rigging in the competition field or persistent or flagrant offenders in the consumer field.

We will inform, educate and train businesses and consumers with the aim of reinforcing a compliance culture.

We will evaluate the outcomes of our work and the effects on business behaviour and consumer welfare and feed back any lessons learnt about our choices.

We will improve efficiency and better integration of the diverse range of the OFT's work, in particular by developing a single point of contact through which we will gather intelligence and enquiries, consider priorities for action, and act as the 'voice of the customer' within the OFT.

We will establish risk-based priorities for our work.

We will ensure that our work is of the highest quality and that decisions are soundly based and comprehensively reasoned so that they stand up to objective scrutiny.

We will work with partners, firms, individual consumers or their representatives and government to meet our goal of making markets work well.

Some of the changes announced in the pre-Budget report will require primary legislation. But there is much we can do over the coming year using our existing powers. Working with our partners we will:

- strengthen our capability to operate effectively in the English regions and in Scotland, Wales and Northern Ireland working with UK, local and devolved governments – this will involve the creation of a TSS coordination team
- develop our trading standards expertise by a combination of secondments, recruitment of new people, and building the knowledge and experience of our current staff
- deepen our relationship with local government, other national regulators and departments, developing a national voice for the TSS
- initiate projects to bring together information and analysis on TSS' resources and outcomes, looking especially at contribution to national and local economies
- build on existing partnership work to identify and spread best practice
- focus our joint work with the TSS on areas of greatest consumer detriment, such as scams and cartels
- ensure that Consumer Direct continues to benefit individual consumers
- ensure that Consumer Direct benefits all consumers by developing its market intelligence capability and, working with our partners, integrate this in our work and theirs
- take initial steps to facilitate the integration of the work of other bodies for which we may be responsible in due course.

## Objective 1

We will work with businesses to make effective use, and extend the range of the Consumer Codes Approval Scheme as a self regulatory tool which enables them to raise their standards in trading practices in their dealings with consumers.

### Budget

The budget is £1.4 million.

### 2006-07 deliverables

We will encourage more businesses to achieve approval under the Consumer Codes Approval Scheme, and we will promote the Approved code logo and the benefits from operating within it. We will consider how best to measure the effectiveness of these codes during the year.

### Key performance indicators

- The number of codes that have completed Stage One of the OFT approval process increases from 11 to 15.
- The number of OFT Approved codes increases from five to eight.

## Objective 2

In partnership with the Trading Standards Service, other enforcement agencies and business organisations, we will help businesses comply with consumer legislation. Where enforcement action is required to address behaviour that harms consumers, we will adopt a risk-based approach to enforcement.

### Budget

The budget is £11 million.

### 2006-07 deliverables

Where we take enforcement action, it will be intelligence-led and proportionate to the risk involved. We will seek market-based solutions by working with business to achieve effective self regulation, for example, publishing guidance to help firms comply with their legal obligations and to help consumers to understand their rights. Where a market-based solution is not possible we will consider enforcement action.

Central to the move from a complaint-led to a market-based approach to our work will be the collection and use of market intelligence. Since the launch of the pathfinder regions in the middle of 2004, Consumer Direct has gained a growing reputation for the delivery of rapid, high quality advice of direct benefit to consumers. OFT will maintain and, wherever possible, build on this achievement. We will maximise use of the Consumer Direct database not only in targeting enforcement but also as a prime source of information on consumer detriment and the markets or areas in which consumers feel less confident. We will analyse what Consumer Direct complaints data can tell us about the incidence of complaints about particular products, businesses, sales channels and methods of payment. Information about the amount paid for deficient goods and services will significantly improve our ability to identify the scale of consumer detriment beyond the number of complaints. We will also seek wider market intelligence to place any results in context,

including measures of market size, trends in sales volumes and the presence of vulnerable consumer groups. In addition we will consider ways in which Consumer Direct could deliver better information in the future to improve the focus of our work.

We will also progress our consumer detriment study, which will improve the evidence base on which future priority areas are determined, and enable us to make better day to day decisions on prioritising potential market interventions.

**Key performance indicator**

- We will establish an intelligence-led system, to enable risk-based targeting and prioritisation of our work by September 2006.

In choosing where to act we will complement the work of the Trading Standards Service, share our knowledge with them and offer support and training. Our role in coordinating enforcement action and encouraging consistent regulatory outcomes will remain an important feature of our work.

Our toolkit will be enhanced from December 2007 with the implementation of the Unfair Commercial Practices Directive (UCPD). We will work with DTI on implementation of the directive; play a key role in producing guidance; and work closely with our TSS partners on enforcement of the legislation.

During the year we will also see the second phase of implementation of the Consumer Protection Cooperation Regulation (CPC). We will: expand our coordination role within the UK and the rest of Europe; provide training to other bodies designated as competent authorities; work with the EU to develop an IT system for CPC work; and administer that system for the bodies involved within the UK. The OFT will be a member of the CPC Regulatory Committee.

**Key performance indicators**

- Publish guidance on the UCPD in draft for consultation by autumn 2006 and set up a training programme by early 2007.
- Provide CPC guidance and training to all UK designated competent authorities by December 2006.

The roll out of a new IT system (PROMOD) for credit licensing will begin in late summer 2006, and will assist us in screening consumer credit licensees and applicants for possible risks to consumers, without unnecessary burdens on business. The Consumer Credit Bill, when fully implemented, will also bring focus and targeting to the licensing regime.

We will seek to increase our use of guidance, compliance reviews and compliance seminars, in conjunction with our regulatory partners where appropriate.

**Key performance indicators**

- Completion of the second phase of the credit advertising compliance project leading to a 30 per cent reduction in levels of identified non-compliance.
- Review of compliance with our debt collection guidance to be completed and a report published in Summer 2006.
- Undertake eight education seminars aimed at estate agency businesses to facilitate improved compliance with the Estate Agents Act and related legislation.

Our Scambusters Team will target the most prevalent and harmful scams aimed at UK consumers. The Scams Enforcement Group brings together relevant enforcement agencies to exchange information and best practice and to coordinate action against scams. Close cooperation with our international counterparts will also remain an essential part of our work to combat scams.

**Key performance indicator**

- Together with our partners, take action against the five types of mass-marketed scam identified as most harmful to consumers.

## Objective 3

We will take enforcement action to deter, or stop, anti-competitive practices and encourage compliance with competition law.

**Budget**

The budget is £11.4 million.

**2006-07 deliverables**

Our competition enforcement record is good, but in the light of the NAO report we recognise we must improve casework management, communicate our successes better and take up the lessons learned from all of our cases. To achieve this we will:

- improve the timeliness of our investigations and communicate timescales more systematically to those affected by them
- ensure that our 'historic' caseload is dealt with more effectively
- support our casework better
- communicate the results of our competition casework effort more effectively
- evaluate the outcomes of our enforcement action and ensure that the results are used effectively in our competition compliance programme
- increase the number of cases we take on our own initiative rather than in reaction to a complaint.

**Supporting casework:** Our casework is subject to rigorous scrutiny internally and on appeal by the CAT. We are restructuring the competition enforcement division to enable us to deal with our varied caseload and reach robust conclusions. We have already appointed two senior directors with responsibility for progressing competition casework and ensuring that it is subject to appropriate scrutiny. Our new 'preliminary investigations unit' and intelligence from other parts of the OFT (for example, Consumer Direct) will help us to prioritise our investigations. During the year we will also provide all casework staff with training in effective competition casework management.

We prioritise our competition casework systematically against six criteria:

- likely consumer harm from the anti-competitive behaviour
- strength of the evidence provided to us
- type of case (for example, is it a 'hardcore' cartel?)
- special features of the particular case
- precedent or policy value – especially if the case is in an OFT priority area
- whether the OFT is best placed to take action.

We will publish more detailed thinking on the use of these criteria during the year and consult stakeholders on how best they might be used.

#### Key performance indicators

- We expect to begin investigations in 25-40 cases where we suspect an infringement. We will increase the number of these that are 'own initiative' investigations.
- We expect to make between five and 10 reasoned and published decisions under the Competition Act 1998. We will publish between 20 and 30 other case closure summaries of which five to 10 will involve informal resolution of potential competition issues.
- We expect to publish between 20 and 30 other case closure summaries of which five to 10 will involve informal resolution of potential competition issues.
- We will give a first substantive response to competition complaints within 30 working days in 90 per cent of cases.

- By May 2006 we will publish the average time it has taken for our completed investigations under the Competition Act to progress:
  - from complaint (or other commencement) to the beginning of a 'formal' investigation
  - from the beginning of the 'formal' investigation to either closure, Statement of Objections or notice of intention to accept commitments
  - from Statement of Objections to decision.

We will repeat this annually.

**Effective communication:** We will improve communication during a case – as far as we can in law – with those subject to investigation and others with a legitimate interest in the outcome, and more widely as part of our compliance work with the business community. We will promote knowledge of and compliance with competition law among small and medium-sized businesses in particular.

#### Key performance indicators

- By June 2006 we will have adopted guidance with a view to:
  - consulting complainants before finally dealing with their complaints
  - being clearer at the Statement of Objections stage, to enable complainants and others to provide input to the case process before a final decision is made
- We will conduct a survey of business and consumers, to be published by June of each year to find out current levels of awareness of competition law.



**Improved evaluation:** We will undertake better evaluation of the impact of our work. We will embed consumer detriment estimation into casework and improve our methodology to estimate consumer savings from competition enforcement work. This will feed back into case prioritisation. Collecting data systematically will also enable ex-post analysis of our work. We will undertake a survey of anti-trust practitioners to assess the deterrence effect of our mergers and CA98 work.

This will help us (and others) to benchmark ourselves against international best practice so as to ensure we remain rated as among the most effective competition enforcement bodies in the world. This will also help us to respond to and implement the recommendations made by the National Audit Office regarding communication and performance measurement.

#### Key performance indicators

- Before April 2007 we will publish for comment our proposals for improved performance indicators for our competition enforcement work. In particular:
  - we will develop a method of calculating a more comprehensive estimate of consumer savings from our competition enforcement work which will be published for comment
  - we aim to improve year on year our overall 'benchmark' position as an effective competition enforcement agency both in national and international specialist surveys.

## Objective 4

We will work to keep markets open and competitive using merger control.

#### Budget

The budget is £2.1 million.

#### 2006-07 deliverables

We will investigate whether mergers qualifying for investigation give rise to a realistic prospect of a substantial lessening of competition. We will refer those that meet this test to the Competition Commission, unless we accept undertakings in lieu of reference. We will also examine those mergers referred to us under the European Merger Control Regulation.

#### Key performance indicators

- We expect to consider between 180 and 230 public mergers and we expect 30-50 of these will merit detailed consideration at case review meetings.
- We expect to refer to the Competition Commission or accept undertakings in lieu of a reference for between 20-25 mergers.

As with our competition enforcement work, we need to evaluate the impact of our merger control work. Our sister body, the Competition Commission, has already done work in this area, which we believe we should build on.

#### Key performance indicator

- By April 2007 we will publish for comment our proposals for improved performance indicators as noted above under Objective 3.

We will review our procedural guidance – in particular when giving informal and confidential guidance to merging parties – and our processes for accepting undertakings in lieu of reference to the Competition Commission. This is particularly relevant since we are now clearer about the CAT’s power to review our decisions on our own resources and processes. We intend to invite comments on how our procedures might be improved during 2006.

## Objective 5

We will identify and study markets to see whether they are working well and either identify options for improvements ourselves or, where appropriate, refer them to the Competition Commission for further investigation or accept undertakings in lieu.

### Budget

The budget is £4.8 million.

Market studies and market references take a comprehensive look at markets, often covering both consumer and competition issues. Where problems exist we will identify the most effective remedies; if the issue is best dealt by a reference to the Competition Commission we will adopt that course. Studies vary in length depending on factors such as the character of the market, the breadth and complexity of the issues, quality of evidence and the scale of the consultation and research needed. The OFT is also required to respond to super-complaints within 90 days.

When deciding on market studies and making market references to the Competition Commission, we will consider:

- the scale and significance of the possible problems/consumer detriment in the market, or significance to productivity and economic growth
- the prospects of obtaining evidence and, should a study subsequently be launched, of identifying remedies
- whether the likely benefits from a study would justify the possible cost and disruption to business
- whether the OFT is the most appropriate body to undertake the study, and
- whether a study appears preferable to enforcement action.

No single criterion is judged in isolation, and all the information is assessed in the context of the particular market.

We are developing approaches to systematic identification of areas where we can most effectively target our activity. This will include assessment of consumer detriment, productivity impact and it will draw on the views of stakeholders and make the best possible use of information available from Consumer Direct.

#### **2006-07 deliverables**

**Identifying problem areas:** We will establish a monitoring function to identify areas where there is greatest potential for us to have a beneficial impact and help build a strategic portfolio of market studies and potential references.

#### **Delivering market studies, market references, responding to super-complaints and reviews of undertakings**

We will continue to deliver to timescales, retaining our independent view whilst working closely with stakeholders. We will publish revised guidance on our approach to market studies during the year. We will ensure the continuing effectiveness of remedies imposed by the Competition Commission by means of monitoring, review and enforcement. We will carry out a programme of reviews of undertakings. This work will include continuing to monitor undertakings relating to supermarkets and a review of SME banking undertakings.

**Evaluation:** Market studies and references are still, relatively, in their early days. It is vital that we learn from our experience to date and so we will develop an approach to evaluation that will enable us to assess which studies and references have been most successful and the reasons for these. Using this approach, by the end of the year we will evaluate at least one or two of the market studies and references in our portfolio of cases. The knowledge gained from our evaluation work will inform future work.

#### **Key performance indicators**

- All market studies meet the timetable stated at their launch.
- Super-complaints are responded to within 90 days.
- Revised guidance on the OFT's approach to market studies will be published by March 2007.
- A monitoring function to identify key areas for studies, based on an assessment of consumer detriment and productivity impact, will be set up by autumn 2006.
- An evaluation strategy and framework for market studies and references will be published by September 2006.

## Objective 6

We will inform and educate consumers to help them to protect and promote their own interests in the market. We will inform and educate businesses so as to improve their understanding of their rights and responsibilities, and how to comply with the law. We will raise awareness and understanding of the benefits of competition and the consequences of falling foul of competition and consumer law.

### Budget

The budget is £3.7 million.

### 2006-07 deliverables

We will promote the OFT as a forward looking, proactive organisation through all our communications with the media, consumers, business and stakeholders. Our communications will be clear and accessible to the intended audience through language and design. Our website will be improved to make it more interactive.

### Key performance indicators

- We will launch our new website by the end of 2006.
- We will aim to raise the number of visitors to our website by 10 per cent by April 2007.
- We will support the Trading Standards Institute's Young Consumers of the Year Competition and continue to coordinate our consumer education programme through our alliance of public and private sector organisations, with the aim of avoiding duplication of effort and improving standards.

### Key performance indicator

- We will aim to increase the number of alliance members from 66 to 125.

We will continue to provide consumers with the advice and information they need to make informed decisions. Our work to reach minority communities will continue. Our methods of communication will vary depending on our intended audience. They will include electronic media and advocacy as well as print, advertising and partnership work.

Our publicity campaigns will continue to be targeted to appropriate audiences (using intelligence from Consumer Direct), and other sources as appropriate, and we will focus on building up consumers' confidence and skills rather than just offering information. We will work closely with the TSS and other partners and will take on board advice about local situations and adapt plans accordingly. We will remain pro-active in our communication with other government departments, partner organisations and businesses. We will ensure our stakeholders are aware of, and can contribute to, our programmes. We will run two specific, targeted consumer campaigns to back up the OFT priorities for this year on scams and credit.

**Key performance indicators**

- We will exhibit at two minority community events.
- We will run two nationwide campaigns on OFT priorities on scams and credit.

We will use the media, both nationally and regionally, to publicise and explain the work of the OFT with targeted publicity in trade press as well as national media. Media coverage, especially of enforcement action, has an important deterrent role and informs consumers. We will maintain the pool of staff trained to give media interviews and explain the OFT's position.

In guidance and advice to businesses generally we will focus on how to comply with the law. We will explain the benefits of competition to small and medium sized businesses. We will continue with our regional roadshow programme working in partnership with local business groups and the TSS, to include events in Scotland and Wales and we will take part in Business Open Days organised by HM Revenue and Customs.

**Key performance indicators**

- We aim to increase small and medium size businesses' awareness of competition law by five per cent, from the baseline in 2005-06.
- We also aim to ensure that at each roadshow that every local Trading Standards Department is represented.
- Working closely with the TSS, Consumer Direct and other partners we will collect feedback and advice to inform the content of our roadshow programme and ensure that we highlight issues where there is a particular local interest.
- We will continue to evaluate all roadshows and will use the information to ensure that future roadshows/events focus on the issues which business, enforcement partners and consumers want.

## Objective 7

We will seek to influence government policy in order to ensure markets work well for business and consumers and ensure the OFT has an effective stakeholder strategy.

**Budget**

The budget is £1.8 million.

**2006-07 deliverables**

Government can impact on markets in a number of ways given the public sector's role as regulator, subsidiser, buyer and provider of services. We will engage with government to try to ensure a pro-competition and pro-consumer culture in the public sector. Activities will include:

- providing advice and guidance to government departments on policy issues, new legislation and on Regulatory Impact Assessments (RIAs).
- improving government understanding of how its actions can impact on competition – we will do this by providing training sessions and the Competition Forum.
- responding to government consultation and proposals that would impact on the work of the OFT in making markets work well.

We will maintain and further develop relationships with stakeholders in all nations of the UK and internationally.

We will work with stakeholders on the Payment Systems Task Force to address competition problems to ensure the market works well for all users.

### Key performance indicators

#### Payment Systems

We will publish:

- the second annual report of the Payment Systems Task Force by summer 2006
- the Cheques Working Group Report by summer 2006.

#### Influencing Government

We will:

- develop links into government for promoting awareness of competition and consumer issues and for assessing the impact of government on markets
- produce relevant reports when government activity is likely to restrict competition or fail to make the most of competition in particular markets
- promote improvement in the quality of government competition assessments by scrutinising Regulatory Impact Assessments (RIAs)
- advise and educate government departments on assessing competition impacts and producing quality RIAs
- provide substantial comments/guidance on between two and five proposed regulatory initiatives that could have a significant impact on competition
- revise the competition assessment filter and accompanying guidance for RIAs by autumn 2006.

#### Stakeholder work

We will:

- take part in international fora – including the OECD, ECA, UNCTAD, ICN and ICPEN – to lead and influence the development of international competition and consumer policy. We will liaise with other jurisdictions to share best practice and identify issues for future work
- maintain an effective dialogue with our core UK stakeholders, ensuring they are kept up to date with the OFT's priorities, policies and actions. We will continue to gather intelligence about issues that are of most concern to stakeholders and ensure this information feeds into OFT's work.

#### Public enquiries

We will:

- answer calls to designated telephone enquiry point within four rings (12 seconds)
- have a call abandonment rate of less than five per cent during operational hours. Average length of completed calls to be less than 3.5 minutes
- respond to correspondence (including faxes and emails) – within 10 working days.

## Objective 8

We will ensure that the OFT has the capabilities needed to deliver its objectives.

### Budget

The budget is £9.1 million for corporate services and £5.9 million for accommodation costs.

### 2006-07 deliverables

The NAO Report found a number of ways in which we could improve our competition enforcement work, which we recognise and accept as being equally applicable to our consumer and markets work. More efficient and effective processes across the OFT are necessary to deliver on many of their recommendations, in terms of:

- input from senior staff to help more junior staff
- improved guidance to staff
- better project management and internal scrutiny
- engaging more openly with parties on timescales and deadlines
- measurement and monitoring of performance
- availability of knowledge, both internally and externally.

We will ensure that we recruit, retain, motivate and develop high quality staff, and that they are rewarded appropriately. During the year we expect to make a significant investment in the development of our staff across the OFT, in the light of:

- needs identified during the planning process
- the NAO Report
- the Professional Skills for Government programme
- Personal Development Plans agreed as part of the annual Performance Planning and Development Review process.

We will continue to maintain our Investors In People (IIP) standard.

We will ensure that resource allocation reflects our priorities and is responsive to changes in them. We will improve the OFT's performance measurement by using the 'Balanced Scorecard' in Corporate Services and evaluating it for use across the OFT.

We will continue to drive efficiency across the OFT.

### Key performance indicators

- We will work to retain our IIP designation.
- Efficiency savings of five per cent have been achieved across the organisation by the end of March 2007.

We will develop more consistent and documented ways to manage cases, and projects in general. Simple, clear management policies and procedures will be developed and communicated to staff.

We will ensure that we value diversity and address this in our activities, in the spirit of the Government's 10 Point Plan to increase diversity in the Civil Service, and through our Equality Scheme 2005-2008. We will develop the strategy through which we will embed diversity into the OFT's ways of working, develop a Diversity Toolkit and publish a Disability Equality Scheme.

### Key performance indicator

- Diversity Toolkit to be complete by May 2006; Disability Equality Scheme by September 2006.

We will support the office with systems and business processes that enable flexible, efficient working. Particular emphasis will be given to modernising our IT infrastructure, and improving our knowledge and document management.

# resources

## Financial resources

This is the second year of the three-year Treasury funding cycle. In negotiating our funding with Treasury we agreed a flat cash settlement for each of the three years 2005-06 to 2007-08; this is comprised of £52.1 million for operations, £2 million ring-fenced for litigation and £1.4 million for capital investment. We are relying on efficiency improvements and accumulated under-spending from previous years to fund any increases in expenditure.

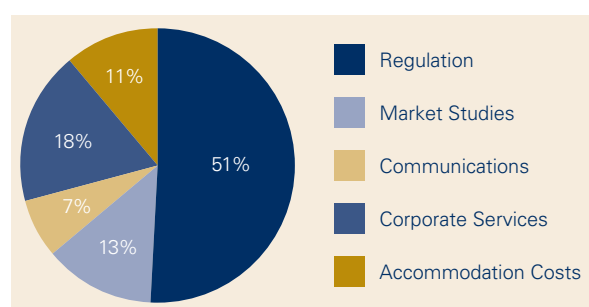
In addition to this, with effect from 1 April 2006 we will take over responsibility for Consumer Direct. As part of this we have agreed with the DTI and Treasury for the transfer to the OFT of the current ring-fenced budget for Consumer Direct of £19 million in 2006-07 and £19 million in 2007-08.

Our efficiency target for this and the following year for existing OFT activities (that is, excluding Consumer Direct) is five per cent per annum. Efficiency savings achieved to date are in line with our target of three per cent for 2005-06, and have been achieved through a mix of reducing staffing levels, more efficient procurement and better service delivery. We believe that the programmes we have in place will enable us to achieve the targeted level of savings in 2006-07 while still ensuring agreed service delivery levels. For example, as a smaller department we are benefiting from framework procurement agreements developed by larger departments, which will be a continuing source of improved efficiency for us.

Planned expenditure during 2006-07 is expected to be a total of £55.4 million for core OFT activities (£51.2 million for operations, £2 million for litigation, £1.4 million for capital and £0.8 million for general reserve). This breaks down as follows:

|  | <b>£ million<sup>2</sup></b> |
|--|------------------------------|
| Competition and Consumer Regulation                        | 28.7                         |
| Market Studies and Advocacy                                | 7.2                          |
| Communications   | 3.8                          |
| Corporate Services   | 9.8                          |
| Accommodation Costs, that is:<br>rent, rates and utilities | 5.9                          |

**Pie graph for OFT Budget 06/07**



In addition we will spend £19 million on Consumer Direct and the Board may authorise additional expenditure on priorities arising during the year by using some of our end year flexibility.



# information

## Further information

More information about the Office of Fair Trading and our work can be found on the website at [www.offt.gov.uk](http://www.offt.gov.uk) in the latest annual report and in our publication A Guide to the OFT which can be ordered by phoning 0800 389 3158.

We would like to thank all those who responded to our consultation on this Plan. These responses can be found on our website at [www.offt.gov.uk](http://www.offt.gov.uk)

# annexes

## A About the OFT

**A.1** The OFT is the UK's competition and consumer authority. Our mission is to make markets work well for consumers. Our vision is of competitive, efficient, innovative and fair dealing markets where standards of consumer 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.

**A.2** The OFT has a Board comprised of a Chairman, Chief Executive and five non-executive directors. It is responsible for strategic direction, priorities, performance, and decisions on individual market studies. The Audit Committee advises on all aspects of audit, corporate governance, risk management and internal control within the OFT. It reports to the Chief Executive, in his role as Accounting Officer, and the OFT Board.

**A.3** The OFT has about 700 staff based in London and a representative in Scotland. Our annual budget is £55 million.

### Board and senior management

Chairman – Philip Collins

Chief Executive and Accounting Officer – John Fingleton

Non-executive directors: Allan Asher, Lord Blackwell, Christine Farnish, Richard Whish and Rosalind Wright

Solicitor to the OFT – Brian McHenry

Director of Consumer Regulation Enforcement – Christine Wade

Director of Competition Enforcement – Vincent Smith

Director of Markets and Policy Initiatives – Jonathan May

Chief Operating Officer – Bart Smith

Director of Communications – Mike Ricketts

## B Performance in 2005-06

- B.1** Our latest research showed that about two out of five of all consumers surveyed believed that there were better quality goods and services and more choice available than in the previous year.
- B.2** Consumers did not see themselves as especially well informed about their rights, but they were relatively confident about using them.
- B.3** Businesses gave an average score of 7.4 (out of 10) for the extent to which abuse in their markets had been addressed.
- B.4** The mean rating given by businesses for the extent to which barriers to fair and open competition were being addressed was 7.3 – identical to the score achieved in 2004.
- B.5** The latest tracking research shows a growing awareness of competition law among larger businesses, but the awareness among smaller businesses is still not rising.
- B.6** Using conservative and internationally accepted preliminary evaluation methods, an initial ‘lower bound’ estimate of the direct detriment prevented in the cases taken using the OFT’s competition enforcement and merger control powers since March 2000 is around £750 million.
- B.7** Our latest stakeholder survey shows that the OFT is rated highest for being fair and objective, independent, professional and transparent, but less for being consistent, accountable and proportionate in judgement.

## If you would like to find out more

The Office of Fair Trading  
Fleetbank House  
2-6 Salisbury Square  
London EC4Y 8JX

Switchboard number: **020 7211 8000**  
Publications order line: **0800 389 3158**  
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