

OFT Annual Report and Accounts 2013 to 2014

Annexe H

Reporting on better regulation

Simplification and Burden Minimisation 2014 – A summary of better regulation compliance measures carried out by the OFT in 2013 to 2014

Introduction

This is the OFT's final report leading up to its closure on 31 March 2014 as result of Government reforms to the arrangements for competition, consumer protection and consumer credit regulation.

During the year the OFT continued to support the Government's committed aim to delivering less regulation, better regulation and regulation as a last resort.¹

Table H.1 sets out the actions the OFT has undertaken during the year to meet its commitment to better regulation generally, and particularly to comply with the requirement under Part 4 of the Regulatory Enforcement and Sanctions Act 2008, voluntarily accepted by OFT, to keep performance of its **regulatory functions** under review and secure that they do not impose or maintain unnecessary burdens on business.

¹ The Government's regulatory policy is outlined in 'Reducing regulation made simple' (HM Government, December 2010).

Table H.1 – Actions undertaken in 2013-14

Item	Work area	Relevant objectives	(Actions in 2013-14)
1	Transparency	To provide better information about the work we do, what we are doing, how long it is likely to take and how we will engage with stakeholders so as to minimise burdens and increase our accountability.	<p>We have published impact indicators on our website in line with a commitment in our 2011-15 Spending Review Business Plan:</p> <p>For all our cases we acted in accordance with the commitments set out in our Transparency Statement, as updated by changes to our Competition Act procedures guidance. This included publishing case opening summaries on our website for all Competition Act cases.</p> <p>We increased the transparency of our Consumer Credit Act enforcement work, making it easier to access the full range of our activity on the OFT website.</p>
2	Stakeholder engagement	To facilitate discussion between the OFT and businesses, consumers and other stakeholders, and to hear any concerns about unnecessary burdens.	<p>Members of the OFT's policy team, working closely with the CC, the CMA leadership and a group with specialist expertise in the two organisations, developed the new guidance documents which had to be in place by 1 April 2014. This guidance related to changes introduced by ERR Act 2013 or to changes which arose as a result of the unity of the new organisation. We have worked very closely with the FCA in the run-up to the transfer of consumer credit regulation to them in April 2014.</p>

Item	Work area	Relevant objectives	(Actions in 2013-14)
3	Prioritisation	<p>To ensure that we made appropriate decisions about which projects and programmes of work we undertake across areas of our responsibility where we have discretion to choose whether or not to act. We prioritise so as to focus our interventions on areas which pose the greatest threat to competitive, open and well-functioning markets.</p>	<p>We continued to use our published prioritisation principles to inform our decisions about which work to take forward where we have discretion to choose. Our prioritisation principles describe the factors we consider and balance when we make decisions on our priorities. Those principles are:</p> <ul style="list-style-type: none"> • Impact: what would be the likely direct and indirect effect on consumer welfare, and what would be the expected additional economic impact on efficiency/productivity? • Strategic significance: does the work fit with OFT's strategy and objectives, is the OFT best placed to act and what would be the impact of the new work on the balance of OFT's current portfolio of work? • Risks: what is the likelihood of a successful outcome? • Resources: what are the resource implications of doing the work, are the resource requirements proportionate to the benefits and will any savings be created for the OFT by enabling us to meet our objectives more efficiently? <p>We consulted on – and subsequently published – our Annual Plan for 2013-14, which set out the OFT's strategic priorities for the year. This was informed by the OFT's Strategic Assessment of Risks to UK Consumers and Markets which was published in November 2012.</p>

Item	Work area	Relevant objectives	(Actions in 2013-14)
4	Evaluation	To evaluate whether the OFT delivers its objectives proportionately to costs and burdens and to help the OFT target and follow up its work to maximise benefit to consumers.	<p>The OFT was committed to producing annual estimates of direct consumer savings as a result of our activities. The most recent estimates, published in March 2014, show a benefit to cost ratio of 10.0:1.</p> <p>In addition, in 2013-14 we conducted two significant evaluations.</p> <p>First, an evaluation of our work in the cash ISA market. The evaluation focussed on the impact of the OFT's recommendations on switching and transparency in our response to the Consumer Focus super-complaint. We estimate total annual consumer benefits in the range between £4.07 million to £8.11 million from a faster switching process.</p> <p>Second, an evaluation of the conditional clearance of the Shell/Rontec merger which required the divestment of 12 forecourts. It found that (i) the OFT's assessment of the impact of the merger on competition was correct and (ii) the OFT's intervention to divest forecourts effectively restored pre-merger levels of competition. This prevented price increases to consumers.</p> <p>By contributing to a better understanding of the impact of our interventions on markets, these evaluations will also inform future work of the CMA and how it is conducted.</p>

Item	Work area	Relevant objectives	(Actions in 2013-14)
			The OFT published the outcomes of all our evaluations on our website at: www.gov.uk/oft
5	Impact estimation and monitoring	To provide estimates of the likely impact of prospective interventions, including burdens on business, so as to inform prioritisation decisions and ensure that interventions are risk based and well targeted.	During initial prioritisation it was the policy of the OFT to estimate the likely impact of an intervention, with these estimates updated as the project progressed. As part of the ongoing process of producing Impact Estimation Plans, teams considered the impact of any intervention on businesses as well as consumers.
6	Market-wide targeted analysis of consumer problems	To facilitate better targeting of, and more consistent, consumer enforcement action.	Details of the market studies we carried out can be found in the main body of the Annual Report.

Item	Work area	Relevant objectives	(Actions in 2013-14)
7	Consumer protection enforcement principles	To ensure that the OFT's consumer protection enforcement complies with the principles of better regulation and the Regulators' Compliance Code, and does not impose unnecessary burdens on business.	The OFT's commitment to proportionate and targeted enforcement was set out in published consumer protection enforcement principles. It had been the OFT's practice to consult relevant stakeholders on the fitness for purpose of these principles, and to update them as necessary, on an annual basis. This process was not undertaken in 2013 -14 given that recent changes to the consumer landscape were still bedding in and the OFT was itself coming to an end. The OFT has assisted the CMA in preparing for its consumer enforcement role as reflected in the CMA's guidance on the use of its consumer powers
8	Use of intelligence	To improve overall outcomes of work carried out by the OFT (and where possible, its enforcement partners such as TSS) by increasing the use of intelligence to ensure that	<p>As noted in the 'Prioritisation' section above, through an objective assessment of intelligence within and outside the OFT, the OFT's Strategic Assessment informed our strategic priorities, as set out in our Annual Plan 2013-14. The Strategic Assessment identified current, emerging and potential risks to consumers and markets and thus helped the leadership team take decisions on what work to prioritise. The Pipeline and Performance Group's Intelligence Unit continued to systematically monitor, analyse and report across a wide range of sources of intelligence.</p> <p>At the instigation of the Enforcement and Mergers Management Team we carried out a review of the OFT's pipeline and intelligence management functions, building on and improving existing processes, and ensuring</p>

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		interventions are risk-based and well-targeted.	ongoing investment in the OFT's pipeline for continuation into the Competition and Markets Authority. We worked with the Consumer Protection Partnership to identify its priority areas, based on assessment of information and evidence indicative of consumer detriment.
9	Compliance partnerships	To maximise compliance with the Consumer Protection from Unfair Trading Regulations 2008 (CPRs) and the Business Protection from Misleading Marketing Regulations 2008 (BPRs) through means other than formal enforcement action.	We continued to apply the set of principles prepared in 2009-10 for use when working with compliance partners to maximise compliance with the CPRs and BPRs. Our Compliance Partners have tried and tested systems for encouraging compliance and include self-regulatory bodies, statutory enforcers, industry funded self-regulatory and co-regulatory bodies, code scheme operators, trade and business associations. This approach was consistent with the OFT's wider consumer enforcement protection enforcement principles. The adoption of a risk-based approach allowed the OFT and our partners to apply the principles of proportionality and to make the best use of resources through a mix of incentives, support and enforcement. For example, in October we published a consultation document - Guidance for lettings professionals - compliance with relevant consumer protection law: a consultation - which once finalised will assist lettings professionals comply with consumer protection laws and laws about dealing with other businesses which are relevant to them.
10	Self-regulation	To promote and safeguard consumers' interests by supporting the	As noted above we continue to support the principles of self regulation. From 2 April 2013 under changes to the consumer landscape introduced by Government responsibility for operating a successor scheme to the

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		principles of self regulation.	OFT's Consumer Codes Approval Scheme transferred to the Trading Standards Institute (TSI).
11	Consumer education and campaigns	To enable people to better protect their interests as consumers and thereby improve consumer welfare generally without resort to formal enforcement action.	The UTCCRs hub will be launched to businesses in sectors with high detriment. Promotion will be aligned with TSI's activity for DSRs and SOGA. We promoted the Competition compliance toolkit to businesses and aligned business compliance promotion with enforcement and other action in markets.
13	Consumer credit	To increase the effectiveness of our regulation of consumer credit businesses through use of market intelligence, an	We continued to provide timely and targeted intelligence on credit markets and practices to ensure that enforcement resources were targeted at those firms/issues causing the most detriment, and to support policy development.

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		<p>effective licensing regime, targeted and proportionate enforcement, working with industry to raise standards, limiting any burdens on businesses to what is necessary to protect the interests of consumers.</p>	<p>We continued to work on simplifying and focusing our information requests to businesses when assessing their competence to engage in specific high risk categories of consumer credit or ancillary credit activities. We introduced a single credit competence form for licence applicants to replace the previous two forms and have continued to provide assistance to applicants with licensing queries.</p> <p>The year also saw the end of the renewals process for most licence holders as we moved to the maintenance payments process. This reduced the burden for those licence holders – the vast majority – who have not raised any regulatory concerns.</p> <p>We have worked very closely with colleagues in government and the FCA on the development of a model of credit regulation for the FCA, leading up to publication of the FCA’s final rule book for the credit sector in order to ensure a seamless transition for regulated businesses. This included sitting on the FCA's programme board and policy development group and involvement with many other transition related activities.</p> <p>With the same objective e have shared our experience and knowledge of regulating credit markets in order to assist the development of the FCA’s regulatory model as they prepare for this work. Since legislation permitting this was enacted, we have been sharing data with the FCA to further assist them in preparing for their new regulatory responsibilities in advance of the formal transfer.</p>

Item	Work area	Relevant objectives	(Actions in 2013-14)
14	Anti-money Laundering (AML) regulations	To assist the OFT's supervised businesses to comply with requirements through advice and published guidance, and to monitor compliance and take proportionate enforcement action in the event of non-compliance in line with the Regulators' Compliance Code and the principles of better regulation.	<p>We carried out:</p> <p>76 inspections of registered businesses to assess their compliance with the Regulations, resulting in the issue of 35 warning letters. We carried out 15 revisits and five desktop inspections to follow up on non-compliance issues identified in previous visits.</p>
15	Competition work – non regulatory contributions to simplification		<p>In July 2013, the OFT published revised guidance on applications for leniency and no-action in cartel cases. The guidance contains easy to understand tables and diagrams outlining the steps in the leniency application process. It was accompanied by two user-friendly Quick</p>

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			Guides, one dealing with leniency for businesses and the other dealing with no-action letters for individuals.
