The OFT is the UK's consumer and competition authority. Our mission is to make markets work well for consumers. We pursue this goal by supporting effective self-regulation to improve trading practices, by enforcing the law to eliminate anti-competitive behaviour and unfair trading, by reviewing mergers to assess their competitive effects, by studying markets and the impact of government regulations on competition, and by communicating with consumers and businesses. We strive to be a centre of intelligence, liaising with partners and stakeholders to inform our work, and a centre of excellence, attracting the best people to achieve our objectives.

Annual Report 2005-06

This edition of the OFT's Annual Report covers a 12-month period from 1 April 2005 to 31 March 2006.

Presented to Parliament pursuant to section 125 (1) of the Fair Trading Act 1973 and section 4 of and paragraph 5 of schedule 24 to the Enterprise Act 2002.

Ordered by the House of Commons to be printed 11 July 2006

HC 1213 London: The Stationery Office £16.15

From the Chairman
Philip Collins

OFFICE OF FAIR TRADING

The Rt Hon Alistair Darling MP
Secretary of State for Trade and Industry
1 Victoria Street
London
SW1H 0ET

11 July 2006

Dear Secretary of State

I enclose the Office of Fair Trading's report which describes our work and achievements over the year to March 2006.

Our mission is to make markets work well for consumers, using our competition and consumer law powers to drive productivity in the UK economy and tackle sources of significant consumer detriment.

We pursue our mission through targeted enforcement, clear guidance to business and consumers, positive interaction with stakeholders and effective advocacy, all supported by rigorous research and analysis.

The OFT is committed to continual improvement. We are working with partners and stakeholders to focus our activities in those areas where intervention will deliver the greatest benefits. We are reshaping the OFT to meet new responsibilities and challenges following the additional consumer functions with which we have been entrusted and the NAO Report on our competition work and to reorganise and rationalise processes, organisation and services to deliver value for money, market-led solutions.

We aim to secure the OFT's reputation as a world-class consumer and competition authority.

Yours sincerely

Philip Collins

Philip Collins
Chairman

INVESTOR IN PEOPLE

Office of Fair Trading
Fleetbank House
2-6 Salisbury Square
London EC4Y 8JX
Switchboard: (020) 7211 8000
Direct Line: (020) 7211 8920
Fax: (020) 7211 8966
email: Chairman@oft.gov.uk

contents

chairman's statement

The UK's economic wellbeing depends on competitive, efficient, innovative and customer-focused markets – markets that work well for consumers. When businesses are in vigorous and open competition, consumers benefit from improved value, choice and quality. At the same time, the economy thrives as competitive markets reward and incentivise increased productivity.

Making markets work well for consumers is the OFT's mission. We achieve this by encouraging businesses to comply with competition and consumer law and improve their trading practices through self-regulation, acting decisively to stop hardcore or flagrant offenders, studying markets and recommending action where required, and empowering consumers with the knowledge and skills to make informed choices and get the best value from markets.

The OFT has made progress in fulfilling its mission in recent years. I have been particularly impressed with how it has contributed and responded to major legislative change. The challenge now is to build on this record and secure the OFT's reputation as a world-class competition and consumer authority.

We must focus our resources on areas where consumer detriment is greatest. In doing so, our work must be informed not just by complaints, but also by the intelligence we gather about the functioning of markets. We must ensure the highest standards of objectivity and thoroughness in our decision-making. And we must improve our processes, organisation and the service we provide to our stakeholders.

During 2005–06, we welcomed the Government's decision to strengthen our consumer role by entrusting us with the strategic leadership of local authority Trading Standards Services that was called for by the Hampton report. We look forward to acting as the national voice and advocate of TSSs and to working in close partnership with them to ensure a risk-based, proportionate and coordinated approach to their work. In addition, we have already taken on overall management responsibility for Consumer Direct, which is providing consumers with access to high-quality advice and helping us monitor markets and identify traders and practices that are causing problems for consumers.

The decision not to transfer these new responsibilities to a separate body ensures the continued integration of consumer and competition policy and enforcement, which is fundamental to making markets work well for consumers and has deep roots in the UK and other well-respected jurisdictions such as the USA, Canada and Australia.

The breadth and importance of our responsibilities requires us to deliver the best possible value to UK taxpayers. The National Audit Office (NAO) report on our competition enforcement activity provided a valuable independent critique of our work. The NAO recognised our intellectual leadership and international reputation, while identifying a number of areas on which we should focus. We have begun implementing all its recommendations. More generally, we are committed to better evaluation of our impact on consumer detriment and the benefits we deliver to the economy as a whole.

Finally, I would like to pay tribute to my predecessor, Sir John Vickers, who led the OFT through a period of unprecedented change. As a result of his work, John Fingleton and I have inherited an organisation that is capable of building on the achievements of the recent past and rising to meet the challenges of the future.

Philip Collins
Chairman

chief executive's review

The past year has been one of considerable progress for the OFT. We built on our previous achievements to improve outcomes across the broad spectrum of our activities. We prepared ourselves for further change, including a raft of new responsibilities arising from the Government's Hampton agenda. And we set out a new vision of how the OFT will make markets work well for consumers.

The enhanced competition and consumer powers at our disposal mean we are better able to make a difference for consumers, customer-focused businesses and the wider economy. During 2005/06, we saw how proportionate intervention by the OFT and our partners – supported by sound market intelligence, effective communication, rigorous self-regulation and competition advocacy – can improve consumer welfare and drive productivity. In relation to much of our enforcement work, the benefits we achieve for consumers greatly exceed the resources we put in.

The new vision for the OFT is born out of these successes and a desire to provide even greater value in future. Specifically, it commits the OFT to:

- be a centre of excellence in consumer and competition policy and enforcement
- be a centre of intelligence, using economic data and feedback from Consumer Direct, partners and stakeholders to inform our own and others' work
- undertake high-impact work that has significant benefits for consumers and the economy, improves legal certainty, and supports wider compliance and deterrence using our entire range of policy instruments
- achieve our objectives in partnership with others, including the Government, Trading Standards Services, businesses and consumers and their representatives
- develop, promote and attract the best talent.

John Fingleton
Chief Executive

Themes and highlights

2005/06 produced a number of significant highlights for the OFT.

Our support for self-regulation through our Consumer Codes Approval Scheme (CCAS) continued. We approved and promoted two more codes of practice, which will benefit millions of holidaymakers and users of estate agents. We also launched the CCAS nationally to consumers.

Working with partners such as Trading Standards Services, sector regulators and local police forces, we put an end to a number of harmful mass-marketed scams including bogus prize-draw mailings and premium-rate telephone number promotions. Internationally, we prevented two Dutch companies from sending misleading mailings to UK consumers. We also won an important case in the Brussels Court of Appeal, which upheld an injunction preventing a Belgian company from sending misleading mailings to UK consumers. This landmark case was the first-ever cross-border court action in Europe to stop a trader in one country sending misleading advertising to consumers in another.

We took wide-ranging action to protect consumers in credit markets. In just one example, an OFT investigation found that the charges imposed by credit card companies when cardholders default were too high. We demanded that credit card issuers review and amend their charges.

Through our national consumer education strategy, we sought to empower consumers to make smart buying decisions. We held the first-ever conference for members of the OFT-led consumer education Alliance. Key initiatives during the year included a programme to encourage young people to shop around for credit, and scams awareness month, a campaign to help consumers recognise and report scams.

Our competition enforcement work showed that the UK regime, though relatively young by international standards, was coming of age in terms of its economic impact.

Our cartels investigation branch unearthed further evidence of bid-rigging in the construction industry. We acted against 50 independent schools whose information-sharing agreement on proposed fee increases involved a distortion of competition. We decided that a collective agreement to fix the domestic interchange fee for MasterCard credit and charge card transactions infringed UK and EC competition law and led to higher prices for shoppers. And we liaised with professional bodies to end a number of regulations and practices which were incompatible with competition law.

We successfully defended an appeal to the Competition Appeal Tribunal (CAT) by pharmaceuticals company Genzyme, which was ordered to end a margin squeeze we had identified. The CAT also largely upheld our approach to setting penalties against four of the 10 parties who appealed in our replica football kit decision of 2003.

Effective merger control is crucial to ensuring that markets perform well. We considered a total of 248 mergers and merger proposals during the year, several of them raising complex competition issues. Our work continues to be highly rated by users.

Our market studies team investigated the workings of specific markets and the impact of government as a regulator, subsidiser, buyer and provider of services. These studies highlighted the need for a one-stop-shop for information on care home provision and for reform of the property search market. We also responded to a super-complaint from Citizens Advice by announcing our intention to investigate the £5.4bn market for payment protection insurance, which is a source of significant consumer concern.

We fulfilled a commitment to look again at the UK grocery market in the light of the supermarkets' move into the convenience store sector. Our new investigation uncovered features of the market, particularly relating to the planning system, that could reasonably be suspected to distort competition and harm consumers, and we signalled our intention to refer the market to the Competition Commission. This work is an example of the increasingly holistic approach OFT brings to making markets work well for consumers.

The early achievements of the OFT-led Payment Systems Task Force showed how stakeholder liaison could be as effective as enforcement action in combating consumer detriment. The historic agreement reached with major banks on faster clearing times for internet and telephone payments will, according to independent estimates, benefit the economy to the tune of between £750m and £1,340m over a 10-year period from late 2007.

Looking ahead

While we have achieved much during the year, we recognise that expectations are growing. The Government's decision to transfer managerial control of Consumer Direct to the OFT, and to give us a bigger role in coordinating the work of the Trading Standards Service, is both a welcome opportunity and a sizeable organisational challenge. On top of this, the National Audit Office's report on our competition enforcement work recommended changes to the way we manage our casework and measure and communicate our achievements.

In response to these and other priorities we have embarked on a major restructuring programme to improve our processes and further integrate the work of our competition and consumer teams. The aim of these changes is to take the OFT to a new level of operational effectiveness, and I look forward to reporting significant progress in the next annual report.

about the OFT

Our goals. As the UK's competition and consumer authority, our mission is to make markets work well for consumers. Our vision is of competitive, efficient and innovative markets where standards of consumer care are high, where consumers are empowered and confident about making choices, where businesses comply with consumer and competition laws, and where regulation on business is proportionate to the ultimate consumer benefits or effect on the economy.

We pursue these goals by:

- enforcing the law to eliminate anti-competitive behaviour and unfair trading
- working with businesses and their representatives to improve compliance and raise standards of behaviour through guidance and advice
- supporting effective self-regulation to improve trading practices
- studying markets to identify market failures and recommend action
- informing consumers through campaigns and education, and helping them resolve problems with suppliers through Consumer Direct.

Overall performance

We currently assess our overall performance by evaluating the impact of our activities on consumers, businesses and other stakeholders. We do this through annual research that measures our progress against five key objectives. In late 2005, independent research firm Synovate carried out this work by conducting telephone interviews with consumers, businesses and stakeholders.

Key objective	Survey findings
Consumers judge that markets deliver more and better choices in terms of goods and services.	Two in five consumers (39 per cent) believed there was more choice and better quality available than in the previous year.
Consumers and businesses judge that market abuses have been addressed.	Businesses gave an average score of 7.4 out of 10 for the extent to which markets were free from illegal market practices, abuses or anti-competitive behaviour; consumers gave a score of 6.3 out of 10 for the extent to which they felt 11 different market sectors offered a service that was fair and reasonable. These were exactly the same scores as in 2003 and 2004.
Businesses judge that barriers to fair and open competition are being addressed.	The mean rating given by businesses for the extent to which they felt their market was fair, open and free from barriers to competition was 7.3 out of 10 – identical to the score achieved in 2003 and 2004.
Consumers and businesses have a better understanding of their rights and obligations under competition and consumer law.	Consumers feel better informed about their rights than they did a year ago, and they continue to feel confident in using those rights. For the first time, more than half of all businesses are aware of the Competition Act. Awareness of the Enterprise Act among businesses also continues to rise. For more, see page 70.
Stakeholders judge that we operate in accordance with our values (see page 12).	Stakeholders gave us the following performance scores (out of 10) for each of our values:

Independence	7.1
Fair and objective	6.7
Professionalism	6.8
Transparency	6.7
Clear analysis	6.3
Consistent	6.4
Accountability	6.0
Proportionate/considered judgement	6.0
Diversity	6.4

Over the next two years, we will develop more objective and comprehensive ways of evaluating our direct impact and what we achieve through influencing others.

Our powers

We have statutory powers and duties under a wide range of legislation, including:

- Articles 81 and 82 of the European Community Treaty
- Enterprise Act 2002
- Consumer Protection (Distance Selling) Regulations 2000
- Unfair Terms in Consumer Contracts Regulations 1999
- Competition Act 1998
- Control of Misleading Advertisements Regulations 1988
- Estate Agents Act 1979
- Consumer Credit Act 1974.

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:
  - businesses will be given the opportunity to remedy breaches of most consumer law
  - proceedings will be brought by the most appropriate enforcement body
  - action will be 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, decisions, policy and use of resources: to the public through publication of reasoned decisions and scrutiny by Parliament and the devolved administrations, and via the appeal mechanisms provided by legislation
- **transparent:** 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** of backgrounds, experiences and perspectives among our staff and to helping them develop their skills and careers.

our organisation

The OFT board has a Chairman, Chief Executive and five non-executive directors. It is responsible for strategic direction, priorities, performance and decisions on individual market studies.

On 30 September 2005, Sir John Vickers stepped down from his role as the OFT's Chairman and Chief Executive after completing his term of appointment. As required by the Enterprise Act, the roles of Chairman and Chief Executive were then split. Philip Collins took over as OFT Chairman for a four-year term and John Fingleton became Chief Executive for a five-year period.

Philip Collins became Chairman of the OFT in October 2005. He is a solicitor who has practised in UK and EU competition law for more than 30 years. He was formerly a partner in international law firm Lovells where, in 1978, he was the first partner appointed to specialise in competition law. He went on to be made head of the firm's competition and EU law practice. Subsequently, he was Senior Counsel at Wilmer Cutler Pickering Hale & Dorr LLP, based in Brussels. He was one of the founders of the Competition Law Forum at the British Institute of International and Comparative Law.

John Fingleton became Chief Executive of the OFT in October 2005. He had previously been Chairperson of the Irish Competition Authority since May 2000. Prior to that, he taught economics at Trinity College, Dublin, and held visiting positions at universities in Brussels and Chicago.

Allan Asher is Chief Executive of energywatch. Previously he was the Campaigns Director of the Consumers' Association. He is also Director of the Foundation for Effective Markets and Governance in Canberra, Australia, and Chair of the Consumer Policy Committee of the British Standards Institute.

Lord Blackwell is non-executive Chairman of SmartStream Technologies Group. He is a non-executive Director of Slough Estates plc and The Corporate Services Group plc and its subsidiary, Comensura Ltd. He is also an adviser to KPMG Corporate Finance, and Chairman of the Centre for Policy Studies.

Christine Farnish is Chief Executive of the National Association of Pension Funds. A former Assistant Chief Executive of Cambridge City Council, she worked at Oftel for four years, initially as Consumer Affairs Director and for the last six months as Acting Deputy Director General. She then spent four years as Director of the Consumer Division of the Financial Services Authority.

Richard Whish is Professor of Law at King's College, London, where he has worked since 1991. He was in legal practice, as a partner, from 1989 to 1998, and continues to act as a consultant on competition law. He has extensive experience of advising governments and NGOs on the development of competition law.

Rosalind Wright CB was Director of the Serious Fraud Office (SFO) until April 2003. Before that she was General Counsel and an Executive Director in the Securities and Futures Authority. She is Chairman of the Fraud Advisory Panel, a member of the supervisory committee of the European Anti-Fraud Office and a member of the Bar Association for Commerce, Finance and Industry.

Left to right
Lord Blackwell,
Christine Farnish,
John Fingleton,
Richard Whish,
Philip Collins
and Allan Asher

Structure
During the period of this Annual Report we had four frontline divisions: Consumer Regulation Enforcement, Competition Enforcement, Markets and Policy Initiatives, and Communications. They are supported by our Legal and Corporate Services divisions and the Secretariat.

Consumer Regulation Enforcement
licenses businesses that provide credit to consumers, coordinates enforcement activity throughout the UK with our regulatory partners, and takes action, where necessary, against traders who break the law and/or are unfit to act as estate agents or carry out regulated consumer credit activities. The division also encourages business and industry to self-regulate by adopting voluntary consumer codes of practice and works closely with a range of partners to influence and shape consumer protection regulation domestically and internationally.

Competition Enforcement
is responsible for combating and deterring anti-competitive agreements and abuses of dominant market position through enforcement of the law and by providing guidance to businesses. The division also investigates proposed and completed mergers, applying a competition test to determine if they should be referred to the Competition Commission (CC).

Markets and Policy Initiatives
carries out three main activities:

- economic and statistical advice and financial analysis
- market studies and super-complaints
- information, liaison, market intelligence and advice on new legislation and policy initiatives.

Communications
is responsible for marketing and publicity, consumer education, business information, media relations and the OFT website. It also manages the OFT's library and information systems.

Legal
advises our frontline divisions on the use of our statutory powers and on legislative proposals from the UK and Europe. It is also responsible for the OFT's involvement in litigation.

Corporate Services
is responsible for the OFT's human resources, finance, risk management, internal audit, technology and facilities management.

Secretariat
provides administrative support to the Chairman, Chief Executive and non-executive board members.

DIVISIONAL DIRECTORS

Jonathan May is Director of Markets and Policy Initiatives. He joined the OFT in 2001 following two and a half years as Director of UK Competition Policy at the Department of Trade and Industry (DTI). He previously worked at the Treasury with responsibility for handling competition, utility regulation and energy issues.

Brian McHenry has been the Solicitor to the OFT since June 2004. He joined the Treasury Solicitors Department in 1978 and had two spells at the Competition Commission (formerly the Monopolies and Mergers Commission) including from 2000 to 2004 as its Chief Legal Adviser.

Mike Ricketts became Director of Communications in 2001. He was Deputy Head of Information at the Department of Transport and became Director of News at the DTI in 1994. He went on to establish and run the communications department at the Greater London Authority.

Bart Smith joined the OFT as its first Chief Operating Officer in April 2005 and leads the Corporate Services teams. After studying in the US, he joined the US Securities and Exchange Commission as a financial economist. He then came to Britain and worked for several companies including Coopers and Lybrand. He joined PricewaterhouseCoopers in 1997 where he was most recently Director of Performance Improvement Consulting.

Vincent Smith became Director of Competition Enforcement in 2003, having been Deputy Director of the division since 2002. He moved to the OFT from Oftel where he was the senior competition lawyer. Before that he had more than 10 years' experience as a practitioner of EC and competition law in London and Brussels.

Christine Wade MBE was appointed Director of Consumer Regulation Enforcement in 2003. She was previously Director of Co-regulation and Coordination within the division. A former head of Essex Trading Standards Service, she was Chair of the Society of Chief Trading Standards Officers in 2000–01 and was awarded an MBE for her services to Trading Standards in 2002.

Directors

Consumer Regulation Enforcement

Enforcement and credit licensing	Ray Hall
Market transformation	Colin Brown
Market transformation	Ray Watson
Consumer Direct	Adrian Walker-Smith
OFT Plus programme	David Fisher

Competition Enforcement

Case scrutiny and policy – senior director	Ali Nikpay
Competition casework – senior director	Simon Priddis
Scrutiny	Sean-Paul Brankin
Competition appeals policy	Louis Christofides
Mergers	Simon Pritchard
Cartels	Simon Williams
Media, sport and information industries	Chris Mayock
Service industries	Frances Warburton
Basic industries, energy and vehicles	Alan Williams
Consumer goods industries	Christiane Kent
Preliminary investigations	Ann Pope

Markets and Policy Initiatives

Chief Economist	Amelia Fletcher
Professional advice and quality assurance leadership of research and evaluation programmes; advice on policy legislation	Tony Donaldson

Markets and Policy Initiatives continued

Market studies and identification of suitable areas for study	Daniel Gordon
Payment systems; stakeholders relations; OFT Enquiries Unit	Chris Rawlins
Super-complaints; preliminary market studies; market investigation references; monitoring, enforcing and review of remedies	Graham Winton

Legal

OFT Plus programme	Paul Gurowich
Consumer Regulation Enforcement	Jessica Farry
Consumer Regulation Enforcement	Simon Brindley
Consumer Regulation Enforcement	Harsha Shewaram

Corporate Services

Finance	Darryl Fernandez
Human resources	John Shelley

Corporate governance

Further information on corporate governance along with a full set of the audited resource accounts for the year ended 31 March 2006 is available at www.oft.gov.uk/News/Annual+report/index.htm

Strategic leadership of Trading Standards Services

The Government's December 2005 Pre-Budget Report outlined new functions for a strengthened OFT. As a result, we will provide a national voice for, and strategic leadership to, local authority Trading Standards Services (TSSs).

We will act as the champion for TSSs, while ensuring they take a risk-based, proportionate and coordinated approach to the enforcement of consumer legislation in a way that minimises the burdens on business and benefits consumers. We will promote the sharing of knowledge and best practice, give expert advice and support, and be a centre of intelligence on consumer issues and consumer regulation enforcement.

Our remit will include most consumer regulation responsibilities currently undertaken by the Trading Standards Service except those related to food, animal health and environmental management, which clearly fall within the remit of other national regulators.

In exercising our new responsibilities, we will work closely with the proposed new Local Better Regulation Office, which will coordinate central government priority setting for local authority regulatory services.

Our preparations during 2005–06 for our new responsibilities: page 35

Consumer Direct

Consumer Direct is the national telephone and online consumer advice service managed by the OFT since 1 April 2006. It aims to give consumers clear, practical and impartial advice to help them sort out problems or disagreements with suppliers.

Consumer Direct advisers can talk to callers about their consumer rights and help them make complaints to or about traders. They can also give pre-shopping guidance and warn people about scams and the tactics of rogue traders.

Consumer Direct does not intervene in disputes or recommend particular suppliers or products. When callers need further help, including face-to-face advice, Consumer Direct refers them to specialist agencies such as their local Trading Standards Service or Citizens Advice.

The service is delivered by more than 300 staff in 11 contact centres in England, Scotland and Wales (consumers in Northern Ireland are served by the separate but similar ConsumerLine service).

We will use the information we gather from the millions of calls we expect to receive to monitor national and local markets and identify problem traders. This will help us establish our priorities and inform our market studies, enforcement and communication work. It will also enable us to measure the effects of our work on consumer welfare. We are considering how to make the information we gather available for wider use.

FREEDOM OF INFORMATION

Under the Freedom of Information Act, anybody may request information from a public authority, such as the OFT, which has functions in England, Wales and/or Northern Ireland. The Act also requires public bodies to make information available through a publication scheme – the OFT's publication scheme sets out the information we publish and how it can be obtained (much of it is available on our website and is free of charge).

We aim to be open and transparent about our work, and provide as much information as possible. However, we are not permitted to disclose certain information we receive in the course of carrying out our duties. We may also withhold information if we believe doing so would serve the public interest better than disclosing it, or if disclosing the information would be an unlawful breach of confidence.

During 2005–06, we received 232 requests for information under the Freedom of Information Act. Of these:

- we granted 49 requests in full
- we made a partial disclosure in 68 cases
- we refused to disclose in full in 53 cases
- we did not hold the required information in 37 cases
- we gave advice and assistance in 21 cases
- we were still awaiting a response from the requestor in three cases
- one was a 'vexatious request'.

We responded to 91 per cent of requests within the statutory 20-day period.

We received and responded to 10 appeals against non-disclosure. In seven cases the original decision was upheld and in three cases the original decision was upheld in part.

Where we decide not to disclose, the person making the request has a final right of appeal to the Information Commissioner. There were two such appeals during 2005–06. In both cases, at the end of the financial year the Information Commissioner had yet to rule on our decision not to disclose.

Requests for information from those unable to access our website or find the information they are looking for can be sent in writing to:

Ian Bennett
Freedom of Information Act Coordinator
OFT
Room GC/7C
Fleetbank House
2–6 Salisbury Square
London EC4Y 8JX

Fax: 020 7211 8569
email: foiaenquiries@oft.gov.uk

BETTER REGULATION

As a non-ministerial government department, the OFT is required to report its Better Regulation performance under the headings below. It is recognised that some departments, such as the OFT, will not have entries for all headings.

Regulatory Impact Assessments

The OFT does not sponsor legislation and has not been responsible for any regulatory proposals which required a Regulatory Impact Assessment (RIA) during 2005–06. However, we assist regulatory departments in central and devolved government by providing advice on the competition assessment part of their RIAs.

During the year, we received and responded to 81 RIAs. In two cases, our in-depth advice resulted in a change to the proposal or RIA. We also delivered eight educational seminars to regulatory departments. Following an OFT review, we began changing the 'competition filter' and revising guidance on competition assessments. Our work helped raise the quality of competition assessments in RIAs.

Separately, we contributed to the consumer aspects of the partial RIA by the Department of Trade and Industry (DTI) on the transposition into UK law of the Unfair Commercial Practices Directive (UCPD). We provided complaints data as well as information on the perceived benefits of the UCPD and on the types of scams it would catch. We also contributed extensively on the impact of the UCPD on existing consumer protection legislation in light of its maximum harmonisation objective.

Alternatives to classic regulation

The OFT has powers and duties under various statutes, which are administered in accordance with the statutory requirements. Where the law provides flexibility, we adopt a proportionate approach to enforcement. Examples include:

- acceptance of undertakings in lieu of merger and market investigation references where we can identify a comprehensive solution to perceived competition problems
- acceptance of undertakings from traders believed to have infringed consumer protection legislation where we believe this would secure compliance with the law in future without the need for court action
- acceptance of commitments in certain circumstances involving possible breaches of the Competition Act instead of proceeding with a view to adopting a formal infringement decision
- agreed outcomes in infringement cases where appropriate. Our proposed settlement of the independent schools case (see page 43) is an example.

We support self-regulation by business. By the end of the financial year, we had approved five consumer codes of practice under the Consumer Codes Approval Scheme. Codes approved under the scheme are operated by sponsoring bodies, such as trade associations, and deliver benefits to consumers above those required by law. Approved consumer codes represent a model of self-regulation that is attracting a great deal of interest both within the UK and abroad.

Consumer Codes Approval Scheme: page 23

Consultation

The OFT aims to follow the principles of the Cabinet Office's code of practice on consultations even though it is not making new regulations.

During the financial year, we concluded 11 relevant consultations. These were primarily on draft guidance documents, on which detailed comments were sought from knowledgeable stakeholders.

Three consultations lasted 12 weeks or more. Seven of the eight remaining consultations lasted six to nine weeks due to legislative timetables beyond OFT control. The remaining consultation was on the OFT annual plan, for which consultation for about eight weeks was augmented with public meetings.

The OFT's Consultation Coordinator provided advice to consultation managers throughout the period and aimed to ensure a range of methods was used to obtain useful input from stakeholders.

The OFT was also active in responding to consultations by other government departments. This is an effective way of ensuring that competition and consumer protection issues are properly considered in government policy-making.

We responded to more than 25 consultations during the year. Notable examples, of where we were able to ensure the benefits of competition and consumer protection were recognised by other government departments, were our response to the DTI's Hampton Report consultation, our response to the Forestry Commission's plans to engage in increased public procurement and our response to the DTI's credit card cheques consultation (see page 29).

Regulatory reform
Not applicable.

Examples of regulations with sunset clauses
Not applicable.

Commitments to review specific regulations or regulatory areas within the next year
We do not make regulations, and do not therefore have any of our own legislation to review. We do, however, have a general function of reviewing markets that are not working well for consumers. In doing so, we make recommendations to government, which may include deregulatory proposals.

A high proportion of our market studies to date has involved consideration of regulatory issues and 'government and markets' remains one of our five priority areas for 2006–07.

RACE EQUALITY

The OFT operates a race equality scheme that commits us to equal and fair treatment of our stakeholders, including consumers, businesses and our staff, regardless of their race or ethnicity.

Under the scheme, all areas of our organisation have a duty to promote race equality. For example, we:

- give consumers from ethnic minority backgrounds access to advice and education
- ensure our enforcement decisions do not impact disproportionately on ethnic minority businesses
- consult ethnic minority stakeholders when we undertake enforcement action or carry out market studies
- promote equality of opportunity in our recruitment and employment policies and practices.

During 2005–06, we began carrying out race equality impact assessments to ensure our activities did not discriminate against people from ethnic minorities. We also sought the views of ethnic minority businesses on how we could improve our consultation process.

Our work on race equality was recognised by Business in the Community, the corporate responsibility charity, which named the OFT as the 'best newcomer' in its Race for Opportunity annual benchmarking of more than 100 UK organisations.

supporting

We launched our Consumer Codes Approval Scheme nationally to consumers through a campaign to promote the 'OFT Approved code' logo. We approved two codes of practice that will benefit millions of holidaymakers and users of estate agency services. By the end of the year, through the scheme, consumers had a clear signpost to fair-dealing businesses in five significant areas of economic activity.

Objective 1
supporting self-regulation

CONSUMER CODES APPROVAL SCHEME

The Consumer Codes Approval Scheme aims to help consumers identify businesses that promise to treat them fairly and to encourage businesses to deliver higher standards of customer service than required by law.

Under the two-stage scheme, a code sponsor such as a trade association submits its draft code to the OFT for assessment. When we are satisfied it meets our core criteria, we announce that the sponsor has completed Stage One. The sponsor then moves to Stage Two where it has to demonstrate that its code is operating effectively. Once the sponsor has fulfilled this to our satisfaction, we can approve the code and its members can be licensed to use the 'OFT Approved code' logo.

Approved codes

During the year, we approved codes of practice operated by the Association of British Travel Agents (ABTA) and the Ombudsman for Estate Agents Company Ltd (OEA).

The majority of UK travel agents and tour operators are members of ABTA, and around 90 per cent of the 20 million package holidays sold in the UK every year are covered by its code. Key features of the code include:

- access for consumers to low-cost dispute resolution via arbitration
- a disciplinary committee to deal with members who do not adhere to the standards required by the code
- a set of model terms and conditions for members to use in their consumer contracts.

The OEA represents around 65 per cent of estate agency offices. Its code says that:

- consumers will have access to free dispute resolution via the OEA scheme
- consumer satisfaction surveys will be undertaken to check members are complying with the code
- members must use fair and clear contract terms
- a disciplinary council will deal with members who fail to abide by the code.

These two endorsements brought the number of approved codes to five. The three other approved codes – which earned our approval in 2004–05 – are operated by the Direct Selling Association, the Vehicle Builders and Repairers Association Ltd, and the Society of Motor Manufacturers and Traders Ltd.

Progress of other codes

During 2005–06, five more code sponsors completed Stage One. They were the Debt Managers Standards Association, the British Association of Removers, the Carpet Foundation, Robert Bosch Ltd (for its Bosch Car Service code) and Software Research Ltd (for its SafeBuy assurance scheme covering online retailers). We worked with these code sponsors to advise them on the evidence they needed to provide to obtain our approval.

We supported a further 15 code sponsors who were working towards Stage One. This included advising them on how they could satisfy our core criteria.

In total, we handled 28 applications to the scheme during 2005–06. This compares with 25 in 2004–05.

Promoting the logo

'Buy with confidence when you see this sign' was the key message of our million-pound campaign to promote the 'OFT Approved code' logo as a widely recognised brand that points consumers to fair-dealing businesses.

The eight-week campaign – our biggest ever – was fronted by actress Amanda Holden. It reached a total television audience of 3.5 million and a radio audience of 12 million. It included extensive advertising on local radio, in local and national newspapers, on billboards and on buses. In addition, tens of thousands of promotional leaflets were distributed at major railway stations and through Trading Standards Services, Citizens Advice Bureaux and businesses signed up to approved codes.

Our investment in promoting the logo was a significant factor in encouraging more code sponsors to enquire about the scheme.

We also worked to promote approved codes in partnership with code sponsors. Our January 2006 campaign to raise awareness of the ABTA code was timed to coincide with the peak time for buying a holiday. It was supported by Magenta Devine, travel writer and presenter of television travel show The Rough Guide. In March 2006, we promoted the OEA code through advertising in the property pages of local and national newspapers, and publicity featuring Fiona Fullerton, actress, TV presenter and author of books for homebuyers. Video news releases helped secure television and radio coverage for both codes.

Codes website

We expanded the OFT codes website during the year. It allows consumers to search for businesses in their area that are signed up to codes approved by the OFT, and provides details of approved codes and contact details for the code sponsor. There is also a facility for consumers to provide feedback on businesses that are signed up to OFT approved codes. This is sent to the code sponsor and copied to the OFT.

OFT codes website: www.codes.oft.gov.uk

Consultation

We consulted on an update of the core criteria for the scheme. We received responses from code sponsors, consumer groups, Trading Standards Services and enforcement agencies. We plan to publish a formal response in the summer of 2006.

Research

To inform our work on the scheme, we carried out research into consumers' expectations of their dealings with suppliers. Clear information on costs was very important to 80 per cent of consumers and 70 per cent wanted procedures to deal quickly and simply with complaints. These are both key elements of our core criteria. We also asked consumers if they would value a logo to help them choose traders committed to high standards of customer service: more than 75 per cent said they would.

Performance against our annual plan

Objective

We will encourage businesses to raise their trading practices in their dealings with consumers, for example through effective self-regulation.

Our commitment	Our performance
Handle/carry out:	
• 32 code applications (seven more than in 2004–05)	• Dealt with 28 applications.
• three OFT approvals (dependent upon code sponsors)	• Five more codes completed Stage One. • Approved two codes.
Promote the codes scheme nationally through a range of activities to raise awareness among consumers and business.	• Ran national marketing campaign to raise awareness of 'OFT Approved code' logo and promoted approved codes.

During 2005–06, the OFT spent £2.27m on achieving this objective. This money was allocated as follows:

Staff costs	£0.94m
Publicity and events	£1.21m
Other operating costs	£0.12m

consumer

We worked closely with our partners in enforcing the laws that protect consumers against unfair trading. We encouraged businesses to comply by giving them guidance and the opportunity to cease suspected breaches, but took firm action against persistent or flagrant offenders. We enjoyed particular success in our work to clamp down on harmful mass-marketed scams and took wide-ranging action to protect consumers in credit markets.

Objective 2
enforcing consumer regulations

SCAMS

An estimated five million people in the UK fall victim to mass-marketed scams every year and lose up to £1bn in the process. Combating scams is one of the OFT's five priority areas and we made good progress during the year by taking action against the most harmful scams, educating consumers and working with enforcement partners and private-sector organisations in the UK and abroad.

Bogus prize-draw mailings

Early in 2005–06, we prevented two Dutch companies from sending misleading mailings to UK consumers by using our cross-border enforcement powers.

In the first case, we secured binding undertakings from DC Direct Communications Venk BV preventing it from publishing or distributing misleading advertisements. DC Direct Communications organised the sending of a large number of prize-draw mailings, which the OFT considered misleading, to UK residents on behalf of companies selling goods and services such as healthcare products. Shortly afterwards, we secured similar undertakings from Fitanova BV, which had initiated and agreed the marketing material for DC Direct Communications.

Then in December 2005, the Brussels Court of Appeal upheld an injunction that prevented a Belgian company from sending misleading mailings to UK consumers. In 2004, the commercial court in Brussels had ruled in favour of the OFT, preventing D Duchesne SA from sending unsolicited misleading notifications of prize wins to UK residents. The landmark case was the first-ever cross-border court action in Europe to stop a trader in one country sending misleading advertising to consumers in another.

Misleading premium-rate promotions

A number of traders pledged to stop publishing misleading premium-rate prize promotions after we acted against them.

The companies sent out scratch-cards, letters or promotional envelopes that in our view gave the misleading impression that recipients had won major prizes to entice people to telephone or send a text message to a premium-rate number. In one such case, more than 190,000 people called the premium-rate numbers at a cost of around £7.50 per call.

The companies and their officers gave binding undertakings that they would not breach misleading advertisements regulations and certain other laws.

Matrix schemes

We put an end to several online matrix schemes that promised consumers expensive electronic gadgets as a 'free gift' in return for buying a low-value product. Participants who bought the products were added to a waiting list for their 'free gift'. But before they reached the top of the list, a set number of recruits had to join the scheme, and most people never received their 'free gift'. The promoters of these schemes, to which tens of thousands of people had signed up, gave undertakings that they would not continue or repeat the promotion of what we considered were unlawful lotteries.

Pyramid selling scheme

We obtained a High Court injunction against Mr Gurdeep Singh in relation to his involvement in a pyramid selling scheme known as the OMI and VIP Clubs. Both clubs claimed to provide significant discounts on travel and leisure services in exchange for a £1,695 membership fee. They also promised members the opportunity to earn large amounts of commission for recruiting other people. The clubs claimed to have 10,000 members. The injunction covers the making of misleading claims, the promotion of an unlawful lottery and failure to provide cancellation rights to new members.

Home-working scams

In February 2006, the OFT and 21 local authority Trading Standards Services (TSSs) joined forces with 61 other consumer protection agencies worldwide to identify 'hidden traps' online. The UK focused on home-working scams. These typically ask consumers to pay a fee in order to get paid work, but victims rarely make any money from the schemes. The internet sweep was coordinated by the International Consumer Protection and Enforcement Network (ICPEN). Operators of sites that appeared to be contravening consumer laws are being contacted to secure changes.

ICPEN: page 34

Scams by spam

We stepped up our work with international partners to combat the huge and growing problem of spam (unsolicited commercial email), which is frequently a vehicle for scams such as fraudulent lotteries, prize giveaways, loan deals and health cures.

In conjunction with the European Commission's Contact Network of Spam Authorities, we hosted an international summit for more than 60 public and private sector agencies from 27 countries. These agencies, signatories to the London Action Plan (LAP) on spam, are committed to tackling spam through coordinated enforcement and consumer education.

Operation Spam Zombie saw us team up with other LAP signatories to urge internet service providers to do more to address the problem of spam perpetrators hijacking computers and turning them into 'zombies' to bombard people with spam without the computer owner's knowledge.

In one example of our enforcement action, we prevented a company from selling lists of 200 million bogus 'opt-in' email addresses to potential spammers through its website. After a warning from the OFT, the website ceased trading.

Consumer education

In February 2006, we ran scams awareness month, a major consumer education campaign to arm consumers with the knowledge and skills to recognise and report scams (see page 67).

Joined-up action

An important step towards a more joined-up approach to stamping out scams came when we launched the Scams Enforcement Group in September 2005. The group brings together enforcement agencies from the Trading Standards Service, local police forces, sector regulators, and self-regulatory and co-regulatory bodies. Members exchange information on new scams and coordinate enforcement action.

In addition, we did a lot of behind-the-scenes work with postal operators, accommodation address agencies and other service providers to disrupt scams. This included developing information-sharing protocols to exchange intelligence on new scams, and working with Western Union and the Metropolitan Police to warn customers about the abuse of reputable money transfer services in scams.

Internationally, we joined two partnerships in Canada that aim to stamp out telemarketing fraud including the 'Canadian lottery' scam in which UK consumers have lost millions of pounds.

CREDIT

In credit markets – another of the OFT's five priority areas – there is significant scope for consumers to suffer detriment. During 2005–06, we made progress in ensuring fairer treatment of consumers by businesses offering credit.

Credit card default charges

We investigated the charges imposed by credit card companies when cardholders default, for example by failing to pay on the due date or by exceeding their credit limit. Our conclusion was that, in general, these charges were too high and were likely to be considered unfair for the purposes of unfair contract terms legislation by a court.

We discussed our findings and recommendations for change with eight leading credit card issuers and shared our analysis with the Association for Payments and Clearing Services. We then published a statement of our position on the calculation of fair default charges, and announced that we expected all credit card issuers to review their charges in the light of the statement and amend them without undue delay. We also set out the conditions under which we might intervene again.

Overseas credit card transactions

A Court of Appeal ruling confirmed that an important protection available to credit cardholders extends to overseas purchases. The judgement, which followed an OFT appeal, overturned a previous ruling by the High Court that section 75 of the Consumer Credit Act did not apply to foreign transactions.

Section 75 makes credit card issuers individually as well as jointly liable with suppliers if the consumer has a valid claim for misrepresentation or breach of contract (where the purchase price is above £100 but no more than £30,000).

Credit card cheques

We responded to consultation by the Government on measures to improve transparency in relation to credit card cheques. We called for the Government to legislate to ensure consumers have to opt to receive such cheques and that providers make clear their terms of use.

Credit advertising

Many credit advertisements fail to provide the required information and fail to give sufficient prominence to key information, according to two investigations carried out during the year.

In an OFT coordinated review carried out by TSSs, more than 60 per cent of adverts in regional newspapers and 68 per cent in popular car magazines failed to comply fully with new credit advertising regulations. We also examined national newspapers and found that 67 per cent of credit adverts reviewed breached the regulations.

Following both reviews, we supported TSSs in their work with advertisers and publishers to improve compliance. We provided them with ad hoc guidance and took on cases of national importance. In addition, we published updated guidance on credit advertising law.

Licensing

Businesses involved in consumer credit or hire must have a consumer credit licence. The OFT protects consumers by monitoring the fitness of those holding or applying for licences.

In considering the fitness of a business to hold a consumer credit licence, the OFT takes into account factors including:

- any offence of violence or dishonesty by those running the business
- failure to comply with the Consumer Credit Act or other consumer legislation
- evidence of unfair business practices.

In 2005–06, we:

- issued 155 notices to applicants and licensees about their fitness to be granted or retain a licence
- issued 229 warning letters
- refused 53 licences
- revoked 19 licences.

A further 783 applications did not proceed following further enquiries to the applicant, and 614 applications were withdrawn.

We continued to modernise our Consumer Credit Licensing Bureau. This included developing a new computer system, which will go live in late summer 2006 (see page 80).

We also issued a leaflet to help smaller businesses work out whether they need a licence.

Debt collection

We launched a review of the compliance of debt collectors with OFT guidance setting out their responsibilities as holders of credit licences. We will report in summer 2006.

Reform of credit law

We worked closely with the DTI on the reintroduction of the Consumer Credit Bill after it was set aside prior to the 2005 general election. The Bill became law on 30 March 2006.

The new legislation benefits borrowers and fair-dealing lenders by modernising the 32-year-old regulatory framework for consumer credit. In particular, it:

- strengthens our powers by allowing us to put conditions on licences and impose fines
- improves our ability to obtain information about the fitness of businesses to hold licences
- creates an alternative dispute resolution scheme providing a no-cost route for consumers to seek redress
- enables unfair credit agreements and practices to be more effectively challenged in the courts.

Consumer education

We ran a major consumer education campaign to encourage consumers to shop around for credit (see page 67).

Stakeholder dialogue

We built on our existing relationships with stakeholders in the credit industry by organising regular meetings with the main trade associations. These covered current issues of interest and some practical implications of the changes to the regulatory regime.

Cooperation with FSA

We worked with the Financial Services Authority (FSA) on an action plan, subsequently published in April 2006, setting out how we would work together effectively and efficiently to remove unnecessary burdens on businesses and enhance the services we provide to businesses and consumers.

ESTATE AGENCY

Enforcement action

During 2005–06, we took formal action under the Estate Agents Act involving the issue of notices banning agents in 10 cases. Their misconduct included obtaining money by deception, failing to pay clients' money promptly into clients' bank accounts and failing to pass on offers promptly and in writing. We also sent warning notices to a further two agents and carried out a total of 138 investigations of the fitness of agents to carry out estate agency work.

In addition, we made greater use of our Enterprise Act powers to clamp down on unlawful practices in the market and obtained binding undertakings from seven agents, two estate agency businesses and one property investment business.

We secured undertakings from two directors and one former manager of Countrywide North Ltd, the Scottish subsidiary of Countrywide plc, the largest estate agency group in the UK. We required them to be more transparent in their dealings with consumers after we found they had failed to disclose their personal interest in properties they had bought and were selling via Countrywide. We also secured undertakings to the Court from Keith Fryer trading as Capital Funding, a property investment business which we believed had been misleading consumers about its ability to purchase their properties.

Guidance

We continued our education programme for estate agents in which we explain their legal duties and provide examples of behaviour we consider unlawful. We gave compliance talks to a number of large estate agency chains, and were pleased to note a subsequent drop in the number of complaints received about these agencies. We also ran regional seminars in conjunction with TSSs for estate agents operating in their regions.

In December 2005, we published guidance on what constitutes estate agency work. This was primarily aimed at internet property retailers, some of whom claim not to be engaging in estate agency when in our view they fall within the legal definition. By making these claims they are more likely to be able to sign up sellers who have already entered into sole-agency agreements with traditional high street estate agents.

KEY CASES

The Officers Club

The High Court accepted undertakings from high-street retailer The Officers Club, and its founder and chairman, not to publish misleading advertisements referring to discounts from its previous prices.

The judgement clarified the law on 'own price' discounting. Among other things, it made clear that, where retailers advertise discounts from their own previous prices, the previous prices must be genuine.

We had challenged The Officers Club's permanent '70 per cent off everything' advertising strategy as it created the misleading impression the company was offering a reduction from its own genuine previous prices. The Officers Club ceased the strategy in June 2004 but its refusal to promise not to repeat it prompted us to take the case to the High Court.

Landmark ruling in Scotland

In the first court action of its kind by the OFT in Scotland, the Court of Session granted interim enforcement orders against a Glasgow-based double-glazing supplier for providing poor goods and services. The orders against MB Designs (Scotland) Ltd and its directors were granted under Part 8 of the Enterprise Act for breaches of the Supply of Goods and Services Act, the Sale of Goods Act and unfair contract terms legislation.

The case followed a large number of complaints passed to us by TSSs in Scotland. We gave MB Designs the chance to sign undertakings that it would not repeat these breaches but it refused to do so.

Supermarkets' online pricing

Asda, Sainsbury's, Tesco, Waitrose and Ocado agreed to provide clearer information about their online pricing after the OFT received complaints from customers that the prices charged for groceries on delivery were different from those advertised on the websites.

The four big supermarket chains (not Ocado, which only operates online) use guide prices on their websites to show the prices of goods in-store on the day the order is placed. In most cases (apart from Ocado) the actual prices customers pay the supermarkets will be the in-store prices on the day when goods are assembled for delivery. In-store prices may change between dates of order and delivery.

We believed their websites did not make it sufficiently clear that the prices shown were guide prices and what relation they had to the actual prices that would be charged. They and Ocado also agreed to provide greater transparency on other issues.

Hardcore offenders

Where rogue traders persistently ripped off consumers, we took court action to put an end to their illegal activities.

Second-hand car dealer Christopher Fulke-Greville was sentenced to 18 months in prison and ordered to pay the OFT's costs after we took contempt-of-court proceedings against him. He had breached a court order preventing him committing offences under the Trade Descriptions Act and breaching the Sale of Goods Act.

We also acted against a rogue roofer who breached a court order that banned him from taking advance payment for roofing work and providing little or no service in return. James Slater was found to be in contempt of court and was ordered to pay costs and sentenced to six months imprisonment suspended for three years.

Tenancy contracts

We secured fairer contract terms for tenants of two large property companies – Bankway Properties Ltd and the William Pears Group – which have thousands of properties in London and the South East. The companies provided undertakings that they would amend their contracts.

We also secured undertakings from the London Borough of Newham that it would remove potentially unfair terms from tenancy agreements used in providing housing to previously homeless people.

GUIDANCE

We encourage businesses to raise their trading practices by issuing guidance on key consumer laws. Doing this also enables us to take more effective enforcement action against businesses that fail to comply.

Tenancy agreements

We issued guidance designed to improve the clarity and fairness of tenancy contracts between landlords and tenants. The OFT receives more than 200 complaints every year about unfair terms in tenancy contracts. The guidance includes examples of terms considered to be unfair and possible ways of revising them. It also covers tenancy agreements used by public sector and social housing providers.

Home shopping

Car dealers and suppliers of IT equipment who enter into distance contracts with consumers (for example, by selling online, by mail order, by fax or over the telephone) were reminded of their obligations under the Consumer Protection (Distance Selling) Regulations 2000 in OFT guidance documents.

During the year, we also consulted on updated guidance for all businesses that sell without face-to-face contact. When we issue the revised guidance, it will replace separate versions previously published by the OFT and the DTI.

Holiday caravans

We published guidance to promote fairer contracts in the holiday caravans sector. The guidance is for owners of caravan parks and organisations offering advice to consumers looking to buy a static holiday caravan. Before producing the guidance, we consulted with more than 300 organisations. We had received numerous complaints about terms that permitted variations to agreements, restricted the sale of second-hand caravans and allowed unrestricted increases in pitch fees.

REGULATORY LEADERSHIP

Under the Enterprise Act, the OFT is responsible for coordinating enforcement action by TSSs and other designated enforcers against traders breaching certain key consumer laws.

We continued to train our enforcement partners in the use of their injunctive Enterprise Act powers. Between August 2005 and the end of the financial year, we ran 16 one-day advanced courses for 500 TSS personnel and lawyers from 140 local authorities. In addition, we delivered 12 basic training sessions to a further 200 TSS personnel.

We coordinated enforcement by ensuring action was taken by the most appropriate body. Where TSSs and other enforcers were acting, they frequently called on us for support ranging from answering simple queries to drafting court documents. In total, we provided ad hoc advice on more than 500 cases. With our support, TSSs were able approximately to triple their level of Enterprise Act enforcement in 2005–06 compared with the previous year.

The relationships we have developed through this work will be crucial in the leadership and coordination role in local authority regulatory services that is envisaged for the OFT in Government proposals (see page 18).

During the year, we ran a nationwide training programme for our enforcement partners in the use of the Consumer Regulations Website (CRW), an information-sharing website used by the enforcement community to notify the OFT of intended action under the Enterprise Act.

www.crw.gov.uk

INTERNATIONAL COOPERATION AND ENFORCEMENT

Cooperation regulation

We continued to prepare for the new Consumer Protection Cooperation Regulation (CPCR), which will improve the enforcement of consumer legislation across Europe when it comes into force in December 2006.

The CPCR creates a network of public consumer protection bodies with new powers to tackle cross-border consumer detriment. Under the CPCR, a competent authority in one European Union (EU) member state will be able to take action on behalf of another member state where it is better placed to do so. It also introduces a requirement for authorities to exchange information, subject to confidentiality rules, and to stop a cross-border infringement once they have been notified of it.

In late 2005, we contributed a detailed response to the DTI's public consultation on the CPCR. Then in January 2006, we were designated as the UK's Single Liaison Office. As such, we will coordinate action under the CPCR in the UK and sit on the new statutory regulatory committee overseeing the enforcement of the CPCR. We were also designated as a competent authority under the CPCR.

www.europa.eu.int/comm/consumers

Unfair Commercial Practices Directive

We worked closely with the DTI on the European Commission's Unfair Commercial Practices Directive, and became a member of the DTI's project board tasked with overseeing implementation in the UK. We responded fully to the consultation on the directive, outlining how we believe it can be introduced to the best advantage of UK consumers, businesses and enforcers.

We are very supportive of this principles-based directive, which introduces a general duty not to trade unfairly, prohibits specific practices that cause consumers significant harm, and sets common standards across the EU. It will minimise the need for specific laws to address unfair practices and provide better protection, for example against aggressive selling. In the UK, it offers a welcome opportunity for simplification of existing law and should enhance coherent and proportionate enforcement by the OFT and Trading Standards Services.

The directive will come into force in December 2007.

www.europa.eu.int/comm/consumers

ICPEN

Our one-year presidency of the International Consumer Protection and Enforcement Network (ICPEN) continued until August 2005 when we handed over presidency to the consumer authority in the Republic of Korea. With the presidency going to a non-EU country, our leadership of the ICPEN Europe sub-group was extended for a further year and we hosted a meeting of ICPEN Europe members in October 2005.

In February 2006, we ran scams awareness month in the UK (see page 67), which was part of a global campaign by ICPEN to raise consumer awareness of fraud. We took a leadership role by encouraging other members to participate, sharing our publicity materials, and reviewing and reporting on the effectiveness of the initiative. We also teamed up with ICPEN members on an internet sweep (see page 67).

www.icpen.org

Building relationships

To promote international enforcement cooperation and the sharing of best practice, we hosted delegations from consumer protection bodies of 16 countries.

RESEARCH

We continued our research into consumer detriment. Building on the study of non-financial detriment and the related focus groups we commissioned in 2004, we ran a seminar to discuss the initial findings with academics and regulators, and spoke with business and consumer groups. Later in the year, we began collecting data from our enforcement work to test the emerging methodology for determining the characteristics of those susceptible to detriment.

Our aim is to use the research to help prioritise our work and target our resources on areas where our intervention will have the most beneficial impact for consumers.

The research has been of interest to the European Commission and the Organisation for Economic Cooperation and Development, both of whom are also examining the issue of consumer detriment.

PREPARING FOR NEW RESPONSIBILITIES

We began preparing for the new responsibilities outlined for us in the Government's December 2005 Pre-Budget Report (see page 18).

Our preparations included holding regional workshops with heads of TSSs to explore with them how we could best begin fulfilling our new role as a national champion of TSSs. Discussions centred on coordinating enforcement action, sharing information and best practice, balancing national and local priorities, maximising use of resources and raising the profile of TSS work. These workshops helped us formulate an action plan for further discussion with the TSSs.

We also contributed to talks led by the DTI on the development of the proposed Local Better Regulation Office.

In advance of taking responsibility for the Consumer Direct telephone advice service, we worked closely with the DTI to agree the details of the handover. We put in place a new management team for the service and began developing systems that will enable us to use the Consumer Direct database to gain a better understanding of markets and trading practices.

Performance against our annual plan

Objective

We will actively enforce consumer protection legislation, coordinated with other enforcement agencies, with the aim of eliminating unfair business practices and ensuring that only fit persons hold a consumer credit licence or act as an estate agent.

Our commitment	Our performance
Consumer credit and estate agents: enforcement action	
Under the consumer credit and estate agents regimes:	
• make around 1,100 fitness challenges	• Made 1,595 fitness challenges.
• achieve around 30 enforcement outcomes	• Achieved 10 enforcement outcomes directly through Enterprise Act action and achieved compliance in many other instances through the provision of guidance and compliance seminars as well as supporting enforcement action undertaken by our enforcement partners in TSSs.
• issue, or undertake compliance reviews of, seven guidance documents.	• Issued two guidance documents and undertook compliance review of guidance for debt collectors. Issue of other guidance postponed in part as a consequence of delays to the Consumer Credit Bill.
Consumer credit: licensing	
Review the application forms and arrangements for access to criminal conviction disclosures.	• Reviewed forms and launched new ones in October 2005. • Continued work to gain improved access to criminal convictions information.
Review our initiative to handle selected cases in an informal way as a means of achieving a quicker resolution of fitness doubts.	• Postponed review until 2006–07.
Complete compliance review of debt collection guidance and review of non-status lending guidance.	• Launched compliance review of guidance for debt collectors. • Postponed review of non-status lending guidance until 2006–07.

Our commitment	Our performance
Consumer credit: licensing	
Review our processes and working practices as part of the preparation for implementing the new licensing regime.	• Postponed review until 2006–07 as a result of delays to Consumer Credit Bill.
Complete consultation on proposed changes to the group licensing regime and implement any necessary changes.	• Completed consultation but postponed implementation of changes until 2006–07 as a result of delays to Consumer Credit Bill.
Consult on proposals for changes to the names policy for credit licensing.	• Amended policy to reflect changes to credit advertising regulations but postponed consultation until 2006–07.
Consumer credit: general	
Implement the Distance Marketing of Financial Services Regulations so as to achieve maximum benefit to consumers through their application.	• Worked with Financial Services Authority on enforcement of regulations.
Complete our consumer credit advertising compliance programme, including newspaper and credit card advertising, with a follow-up exercise involving TSS regions.	• Carried out review of credit ads in national newspapers and broadcast media and coordinated review by TSSs of ads in regional newspapers and car magazines. Also completed review of credit card advertising. • Took appropriate enforcement action to improve compliance, including by supporting TSSs.
Consumer credit: legislative reform	
Prepare for implementation of new legislation through dialogue with the TSS community and businesses.	• Began informal discussions but postponed formal consultation until 2006–07 as a result of delays to Consumer Credit Bill.
Consult on: • guidance on application of Part 8 Enterprise Act powers to new statutory provisions which replace extortionate credit • information sheets to accompany arrears letters and default notices • leaflet to consumers on time orders.	• See above.
Finalise memoranda of understanding with the Financial Ombudsman Service and the Financial Services Authority on the alternative dispute resolution scheme.	• See above.

Our commitment	Our performance
Consumer credit: legislative reform	
By May 2005, finalise guidance on Statutory Instruments (SIs) supporting the new Consumer Credit Act.	• Issued guidance in relation to credit advertising, plus draft guidance on agreements, pre-contract disclosure and early settlement.
Estate agents: general	
Improve compliance by a combination of seminars to estate agency businesses and the publication of guidance aimed at estate agents, buyers and sellers on the relevant legislative provisions. And assess compliance with guidance by a formal review.	• Continued compliance work through seminars and guidance. • Decided not to undertake formal review of compliance with guidance.
Scams	
Identify any misleading or deceptive prize-draw mailings originating from within the UK and consider action under the Control of Misleading Advertisements Regulations and/or Enterprise Act 2002.	• Identified and acted against several misleading prize-draw mailings.
Target resources to tackle telemarketing scams originating in Canada, working closely with our counterparts.	• Continued to work with Canadian authorities and joined two anti-fraud partnerships in Canada.
Aim to obtain undertakings or initiate court action in a further three to five cases of misleading or deceptive mailing from overseas.	• Obtained undertakings from three Dutch companies and won case in Brussels Court of Appeal that upheld an injunction preventing a Belgian company sending misleading mailings to UK consumers.
Develop an overarching strategy to ensure long-term and sustained reduction in the number of misleading or deceptive mailings from overseas.	• Agreed and began implementing strategy.
Give priority to misleading health claims and clairvoyant/psychic mailings, while continuing to combat sweepstake and 'prize win notification' mailings.	• Stopped several large-scale bogus prize-draw mailings and also acted against misleading health cure and clairvoyant mailings.
Sustain our action to combat telemarketing scams, particularly from Canada, and aim to refer around three to five new cases of such scams originating from Canada to the authorities in that jurisdiction.	• Continued to support international action against telemarketing scams. • Provided evidence to Canadian authorities in key cross-border cases.

Our commitment	Our performance
Scams	
Tackle more cases involving deceptive advertising where individuals repeatedly breach the ICSTIS code using different companies.	• Obtained undertakings from numerous individuals that prevent them repeating deceptive advertising.
Undertake an internet sweep on spam and scam schemes, follow up with proportionate action and publicise outcomes.	• Carried out internet sweep on home-working scams and took appropriate enforcement action. • Carried out Operation Spam Zombie.
Aim to drive up the standards in the holiday club market, hoping to obtain undertakings or initiate court action in three to five cases.	• Obtained undertakings from two former directors of a holiday club marketing agency.
Unfair Commercial Practices Directive	
Contribute effectively to consultation on the mechanism for implementation.	• Contributed widely prior to consultation on implementation and subsequently sent full formal response.
Other	
Achieve 160 enforcement outcomes under the Enterprise Act and other injunctive legislation and issue 10 guidance documents.	• Achieved 174 enforcement outcomes including the issue of 80 warning letters. • Issued 10 guidance documents.
Carry out investigations into three market sectors and secure trader compliance where necessary by appropriate means.	• Carried out four investigations (online health products, dating agencies, car hire and ticket agents) and took appropriate action to secure compliance.
Develop our enforcement coordination function, encouraging consistent regulatory outcomes while recognising the diversity among other enforcers and regulators.	• Coordinated significantly increased enforcement activity by TSSs and other enforcers.
Build up efficient liaison and cooperation systems and develop the CRW as the main information-sharing platform for enforcement activity under the Enterprise Act.	• Used the CRW to share information and best practice.

During 2005–06, the OFT spent £10.49m on achieving this objective. This money was allocated as follows:

Staff costs	£8.94m
Litigation	£0.21m
Other operating costs	£1.34m

enforcing

We used our powers under UK and European law to combat all forms of illegal anti-competitive behaviour, including cartels and the abuse of market power, while working to promote compliance through guidance to business. During the year, our investigations led to action against the fixing of credit and charge card fees and bid-rigging in the construction industry, along with our first interim measures direction. We also welcomed an inquiry into our own enforcement activities by the National Audit Office, and announced measures to raise our effectiveness further in line with the NAO's recommendations.

Objective 3
enforcing competition

Enforcement actions
We opened 1,195 cases under the Competition Act, of which 23 involved possible cartel activity. Formal investigations were launched into 18 cases where we had reasonable grounds to suspect an infringement had occurred; seven of these were potential cartel cases. We issued six formal decisions during the reporting period and one interim measures direction.

We conducted 92 on-site inspections in seven cases. Of these, 34 were under section 27 of the Act (where we have the power to enter business premises without a warrant and require the production of documents) and 58 were under section 28 (where we have the power to enter and search business premises under a warrant from the High Court or the Court of Session in Scotland).

Under our leniency programme, we can reduce fines for businesses which blow the whistle on cartels and, if certain conditions are satisfied, give total immunity to the first to come forward. We entered into conditional leniency agreements with 22 undertakings in nine cases.

We imposed total fines of £4,696,305, reduced to £1,864,305 after leniency.

We closed two cases after securing changes in behaviour from the businesses involved, and published summaries of these cases on our website.

Details of all decisions under the Competition Act: www.oft.gov.uk/business/competition+act

National Audit Office report
A National Audit Office inquiry into our competition enforcement work, which reported in November 2005, recognised the OFT's strong international reputation and its intellectual leadership on competition issues, but saw scope for raising our effectiveness at an operational level. While acknowledging the challenges we face in enforcing competition law – such as our broad remit and the complexity of investigations – the NAO suggested we do more to improve the prioritisation and resourcing of our casework, the transparency and speed of case management and the way we measure and communicate our achievements.

The report noted that the OFT had already identified and acted upon some of the issues it raised. Among the measures we introduced in 2005–06 were:

- the creation of a new Preliminary Investigation Unit to screen and prioritise incoming complaints based on clear, published criteria. The unit, which will become fully operational later this year, will report to a newly appointed Senior Director of Competition Casework, and will have direct and regular input from the OFT's Chief Executive
- the appointment of a Senior Director of Case Scrutiny and Policy to ensure that case teams receive first-class legal and economic advice, and to head case review meetings to test the robustness of our decision-making
- a more flexible approach to case management, allowing experienced staff from across the division to be deployed in investigations, while retaining a core of sector specialists.

We also began work on developing improved performance indicators for our enforcement actions. The annexes to this report (see pages 82 and 83) contain a first estimate of the consumer detriment caused by infringements and a list of all Competition Act investigations concluded during the year. Details of how this and other work arising from the NAO report will be carried forward are contained in our 2006–07 Annual Plan.

Despite being relatively young by international standards, the UK competition regime was ranked among the best in the world by two separate reviews, the NAO observed. A report prepared by KPMG for the DTI in 2004 concluded that the UK was rated third highest by expert commentators, behind the US and Germany. The Global Competition Review's annual rating of competition agencies in 2005 placed the OFT joint fourth, behind the two US competition agencies and the UK's Competition Commission.

The NAO report, The Office of Fair Trading, enforcing competition in markets: www.nao.org.uk

KEY CASES

Mastercard

Every time a purchase is made using a credit or charge card, a fee is paid by the retailer's bank to the card-issuing bank. The two parties may set the level of this 'interchange' fee between themselves, but in the absence of such a bilateral agreement, a fallback fee, called the 'multilateral interchange fee' (MIF), will apply.

Between March 2000 and November 2004, a body representing the major banks who participate in the MasterCard payment scheme, the MasterCard UK Members Forum (MMF), entered into a collective agreement to set the level of the MIF for purchases made in the UK using UK-issued MasterCard credit and charge cards. As there were few bilateral agreements in place between forum members at the time, the MMF MIF was paid on virtually every transaction as a percentage of the total transaction value. The sums involved were considerable: in 2004, 700 million purchase transactions were made using a MasterCard, worth a total of £42.7bn.

We investigated the agreement and decided that it infringed Article 81 of the EC Treaty and the Chapter I prohibition of the Competition Act. We found that the agreement deterred card issuers and the retailers' banks (known as the 'merchant acquirers') from competing by negotiating their own interchange fees. We also found that the MMF MIF was used to recover costs not associated with the operation of the MasterCard scheme as a mechanism for transmitting payments, such as those for interest-free periods.

Recouping these extraneous costs through the MMF MIF resulted in the merchant acquirers paying an unduly high interchange fee to card issuers. This was passed on to retailers and ultimately to consumers – including those who did not use a MasterCard – in the form of higher retail prices.

Our decision has been appealed by MMF, MasterCard International Incorporated and MasterCard Europe Spri, and the Royal Bank of Scotland Group.

As the agreement had been notified to us by MMF under the Competition Act, no penalties were imposed.

Arrangements put in place by MasterCard after November 2004 for setting the MIF also gave us grounds to believe that competition law had been infringed, and in February 2006 we launched an investigation into these. We also formally notified Visa in October 2005 of our objections to its multilateral interchange for credit, charge and deferred debit card transactions.

Credit markets, which include credit and charge cards, are one of our five priority areas.

Construction cartels

Bid-rigging in the construction sector – another OFT priority area – continued to be the focus of our cartel investigations work. During 2005, we unearthed evidence of anti-competitive practices in over 1,000 contracts with a combined value of £500m.

In July 2005, we found that six roofing contractors had engaged in collusive tendering to fix the prices of roofing services in Western-Central Scotland, in breach of the Chapter I prohibition of the Competition Act. The contracts affected included those for a clinic, a school and several banks. Council taxpayers were among those who lost out as a result.

The parties were fined almost £260,000 in total, reduced to around £138,000 by leniency.

In February 2006, we imposed fines on 13 roofing contractors who had been involved in a series of separate price-fixing arrangements in tendering for contracts in London and the South East, the Midlands, Doncaster, Edinburgh and Glasgow between 2000 and 2002. One of the firms paid compensation to rival contractors of between £15,000 and £50,000 for backing off a contract or providing a cover bid which they knew would be higher than its own tender.

Most of the rigged contracts involved the installation of mastic asphalt for flat roofs or car parks. Among the customers affected were a local authority and the developers of the new Bullring shopping centre in Birmingham.

The contractors were fined a total of around £2.3m, reduced to around £1.6m by leniency.

For full details of the parties and individual fines: www.oft.gov.uk/business/competition+act

Stock check pads

We imposed financial penalties on a number of companies that had agreed to fix the prices of, and share the market for, the supply of stock check pads in the UK.

Stock check pads are paper notepads with tear-off sheets that are used by staff in restaurants and similar establishments to record customers' orders.

We found that the Bemrose and Achilles check pad businesses had agreed the prices at which they would sell check pads to their customers and also agreed not to try and win business from each other's customers. The Bemrose business was owned for a short period at the beginning of the infringement by Broadway Incentives and its parent company 4imprint Group PLC before being sold to BemroseBooth Ltd and its parent company Bemrose Group Ltd. Achilles Paper Group Ltd was responsible for the Achilles check pad business throughout the infringement period.

Bemrose Group Ltd and BemroseBooth Ltd were together fined £1,888,600 (reduced to £nil by leniency), Achilles Paper Group Ltd was fined £255,697.50 (reduced to £127,848.75 by leniency), and 4imprint Group PLC was fined £40,470.

Independent schools

Following one of the largest inquiries ever conducted by the OFT, we provisionally concluded in November 2005 that an agreement between 50 fee-paying independent schools to exchange detailed information about the fees they intended to charge was in breach of competition law.

During the 2001–02, 2002–03 and 2003–04 academic years, the schools, all of which are charities, exchanged information on intended fee increases and fee levels for boarding and day pupils through a survey known as the 'Sevenoaks Survey'. This information was updated and circulated between four and six times a year as schools developed their fee increase proposals as part of their annual budgetary processes.

In order to arrive at an effective conclusion of the case, we worked with a steering group of the Independent Schools Council (which included senior governors nominated by the schools) on a proposed settlement which was put to the schools in February 2006.

Under this proposal, which has now been accepted by all 50 schools, the schools will make an *ex gratia* payment totalling £3m into a charitable trust fund to benefit the pupils who attended the schools during the academic years to which the *Sevenoaks Survey* related. In addition, each of the schools will pay a nominal penalty of £10,000.

Associated Newspapers

The way was cleared for a potential new afternoon or evening newspaper to be distributed to London commuters after Associated Newspapers Ltd (ANL) agreed in February 2006 to give up exclusive distribution rights at the capital's underground and overground stations.

Following an OFT investigation, ANL, which publishes the free morning paper *Metro* and the *Evening Standard*, gave a binding commitment to offer to give up its exclusive afternoon and evening distribution slots with London Underground and Network Rail and waive its exclusive rights with train operating companies. ANL will also offer to allow third parties, which are awarded such slots, access to its distribution racks and give them reasonable space and prominence for their branding.

As a result of ANL's commitments, which took effect from March 2006, we closed our case.

London Metal Exchange

We took urgent action in February 2006 to prevent the London Metal Exchange (LME) from restricting competition by extending the hours of trading on its electronic trading platform, LME Select. This took the form of an 'interim measures direction' – the first issued by the OFT under section 35 of the Competition Act.

In May 2006, following a period of continued investigation and the receipt of substantial and material new evidence, the OFT withdrew the interim measures direction that had been imposed on the LME. The OFT no longer considered it necessary to act urgently to protect the public interest or to prevent serious and irreparable harm to Spectron Group plc. The OFT continues to investigate the suspected abuse of a dominant position by LME.

We can issue a direction where an undertaking is already being investigated under the Competition Act, and we consider urgent action is needed either to protect the public interest or prevent serious, irreparable damage to a particular person or category of persons.

Competition Act appeals

Responding to appeals against our decisions, which are heard by the independent Competition Appeal Tribunal (CAT), is a crucial part of our enforcement work. The CAT can confirm, set aside or vary an OFT decision, remit the matter back to the OFT or make any other decision the OFT could have made.

Genzyme

In September 2005, the pharmaceuticals company Genzyme was ordered by the CAT to supply its drug Cerezyme to bona fide homecare service providers at a discount to end a margin squeeze identified by the OFT.

The CAT had earlier upheld our decision that the company had abused a dominant position by charging independent homecare service providers a price for the drug which allowed them no possible margin. This infringed the Chapter II prohibition of the Competition Act.

Under this second ruling, Genzyme must supply Cerezyme, which is used to treat a rare inherited disorder called Gaucher disease, to any bona fide homecare service provider at a drug-only price that is discounted by not less than 20p per unit from the NHS list price prevailing for such drugs from time to time. If requested, Genzyme must provide the OFT with information so that, among other matters, we can monitor its compliance and assess the effectiveness of the order in removing the competition problem.

Argos and Littlewoods

The record penalties we imposed on Argos and Littlewoods for entering into unlawful agreements to fix the price of Hasbro toys and games were the subject of a CAT judgement in April 2005.

Having previously upheld our infringement decision, the tribunal reduced the penalty for Argos from £17.28m to £15m, and for Littlewoods from £5.37m to £4.5m. In the CAT's opinion, these were the lowest fines that could be reasonably justified, given the gravity of the case and the need for deterrence.

Both Argos and Littlewoods sought permission to appeal to the Court of Appeal on legal points relating to the CAT's liability and penalty judgements. This request was refused by the CAT but subsequently granted by the Court of Appeal. The new appeal, to which the OFT will respond, was joined with that of JJB Sports (see under 'Replica kit') and was due to be heard in May 2006.

Replica kit

In a ruling in May 2005, the CAT largely upheld our approach to setting penalties for four of the 10 parties in our replica kit price-fixing decision of August 2003. However, on a limited number of points relating to the price-fixing agreements, it took a different view on the appropriate level of penalty. It consequently reduced the fines for three appellants and, for the first time, increased a penalty set by the OFT.

We decided that the companies had entered into a series of agreements to fix the price of certain replica kit manufactured under licence by Umbro, including England and Manchester United shirts.

The four parties, Allsports, JJB Sports, Manchester United and Umbro, had challenged the level of the fine we imposed on them. The CAT reduced JJB Sports' fine from £8.373m to £6.3m, Manchester United's fine from £1.652m to £1.5m and Umbro's fine from £6.641m to £5.3m. The fine for Allsports was increased from £1.35m to £1.42m.

The CAT had earlier rejected an appeal from JJB Sports and Allsports to set aside our infringement decision.

JJB Sports was refused permission by the CAT to appeal both the liability and penalty judgements. However, the Court of Appeal granted permission to appeal, and was due to consider both the JJB Sports and Argos and Littlewoods appeals at a hearing in May 2006.

Attheraces

Our finding that 49 racecourses had acted unlawfully by collectively selling certain media rights to the broadcasting venture, Attheraces, was set aside by the CAT in August 2005. This was the first time the CAT had overturned one of our infringement decisions.

Our decision was appealed by the Racecourse Association, acting for itself and for the owners of 29 racecourses, and the British Horseracing Board. They argued inter alia that the collective sale of rights was necessary for the launch of interactive betting services on digital television and the internet, as it would be commercially unrealistic to expect bidders for the rights to conduct separate negotiations with up to 37 different racecourse owners.

The CAT accepted this argument and also stated that our market definition was flawed and that we had failed to prove there was an anti-competitive effect on the market. It therefore ruled that the racecourses in question had not infringed the Chapter I prohibition of the Competition Act.

JJ Burgess & Sons

In July 2005, the CAT set aside our decision that Hertfordshire-based funeral directors, W Austin & Sons Ltd, had not acted unlawfully in refusing to allow another firm of funeral directors, JJ Burgess & Sons Ltd, use of the Harwood Park crematorium in Stevenage, which it owns.

The CAT ruled that W Austin had a dominant position in the Stevenage/Knebworth area in the supply of both crematoria and funeral directing services and that its refusal to allow Burgess access to Harwood Park constituted an abuse of either or both of these within the meaning of the Chapter II prohibition of the Competition Act.

Double Quick Supplyline

We consented to a reduction in the penalty imposed on Double Quick Supplyline Ltd (DQS) for price-fixing and/or maintaining minimum resale prices in the supply of desiccant, a chemical used in the manufacture of double-glazing. This followed an appeal by the company to the CAT.

In November 2004, we decided that DQS, along with four other companies, had infringed the Chapter I prohibition of the Competition Act over a period from March 2000 to at least March 2003.

We conceded that the penalty should be reduced after it came to light that DQS became responsible for the undertaking involved in the infringement only in June 2001.

Given the specific circumstances of the case, and in particular the nature of the evidence, we consented to a reduction in DQS's penalty to £36,210. This final figure reflected our view that DQS was involved in the infringement between January 2002 and March 2003, and a reduction in the starting point percentage used to calculate the penalty.

Ticketing block exemption

An arrangement which exempts travel cards and other joint ticketing schemes from the Chapter I prohibition of the Competition Act significantly benefits consumers and should be extended for another five years, we advised the Secretary of State for Trade and Industry in November 2005.

After public consultation, we concluded that the ticketing schemes covered by the block exemption, which came into force in March 2001, continued to offer consumers flexibility and value for money and encouraged the use of public transport. These benefits outweighed any negative effects that these schemes might have on competition. We also recommended some changes that would make it easier for ticketing schemes to benefit from the block exemption in future.

The Secretary of State accepted our recommendations and the changes to the block exemption came into force in January 2006.

Leniency and no-action guidance

Our leniency programme is essential to detecting cartel activity. One of the two construction cartel cases described on page 42 was opened when a leniency applicant came forward with details of contracts in which bid-rigging had occurred; this party was granted a 100 per cent reduction in its financial penalty. In the other case, the party was granted full immunity from penalty in recognition of the fact that it was the first party to apply for leniency and voluntarily provide information in connection with the OFT's pre-existing investigation in the case. A further five companies in these two cases that had volunteered information and cooperated fully after our investigations had begun were granted partial reductions in their financial penalties.

To help ensure that our leniency programme functions effectively, we held a conference for competition lawyers in June 2005 to seek their views on the OFT's policies. Following this, we published an interim note in July 2005 setting out in some detail how the OFT will deal with applications for leniency and no-action letters going forward. The guidance covers both our corporate leniency policy under the Competition Act and our criminal immunity policy under the Enterprise Act.

Under the procedures set out in the interim note, companies can obtain confidential no-names guidance on any aspect of our leniency and no-action letter policies. The procedures also allow legal advisers to find out (subject to certain conditions) if immunity is available for their clients. Finally, the interim note formally establishes a marker system which allows a company to be 'marked in the queue' on the basis of a real concern that it has engaged in cartel activity. It is then given a period of time to investigate the matter further before having to make a full submission of all relevant facts to us.

The OFT will monitor the effectiveness of these procedures before publishing a final note later this year.

Involvement of third parties in Competition Act investigations

During the year we consulted on a guideline explaining how the OFT will involve complainants and other third parties in Competition Act investigations.

The document explains when we will give complainants and other third parties a formal opportunity to comment on our provisional findings and how the involvement process will be managed. It also contains guidance on submitting a complaint to the OFT about anti-competitive behaviour.

We published an Issues Paper in May 2005 setting out options and produced a draft guideline for formal consultation in November 2005. The final guideline was published in April 2006.

Competition in the professions

Consumers in Northern Ireland will benefit from greater competition between solicitors as a result of changes to the practice regulations of the Law Society of Northern Ireland (LSNI), which were announced in response to an OFT investigation – one of several during the year examining the impact of professional rules, regulations and practices on consumers.

The LSNI, which is the professional body and regulator for Northern Ireland solicitors, lifted its prohibitions on fee advertising, the charging of uneconomic fees and soliciting to existing or potential clients.

We also investigated practice regulations of the LSNI which prohibit the payment by solicitors of referral fees to non-lawyers. This is also prohibited by statute, and the matter was therefore raised with the relevant Northern Ireland Department.

In another case, we looked at how solicitors collect and supply price information to courts following complaints that the practice of one local law society was incompatible with competition law.

Surrey Law Society (SLS) conducted a survey of its members' hourly litigation rates for use by the courts in awarding costs. It also circulated a version of the results to its members with the names of firms removed. We found that, while the data was anonymous, it still enabled members to know with a reasonable degree of certainty what others were charging, and could prompt them to align their rates irrespective of their costs. After SLS decided not to repeat the exercise, we closed the case.

In a letter to the Law Society of England and Wales, we recommended that information on litigation rates for courts be collected by an independent third party, rather than by a representative body of solicitors or a practising solicitor in a particular area.

A further case involving solicitor participation in referral arrangements in South Wales was also resolved following a change of conduct by the parties.

We considered that the model adopted to establish and run an estate agent's conveyancing panel unnecessarily restricted price competition between participating solicitors.

Law Firm Services Ltd, which runs the referral scheme, implemented new arrangements to address our concerns and we closed the investigation. We are working with the Law Society of England and Wales to provide guidance on how solicitor referral fee arrangements can avoid the risk of infringing competition rules.

In Scotland, we contributed to the Scottish Executive Working Party on legal services markets. Positive outcomes included the withdrawal by the Law Society of Scotland of anti-competitive fee guidance and the amendment of advertising rules that unnecessarily restricted competition. The Scottish Executive committed to bring in new arrangements to permit other bodies to provide litigation and advocacy services (currently reserved to solicitors and advocates).

Newspaper and magazine distribution

We conducted an internal review of our draft Opinion on the compatibility of newspaper and magazine distribution agreements with competition law, which was published in May 2005, in the light of consultation responses received. A fresh draft Opinion was published for consultation at the end of May 2006.

Performance against our annual plan

Objective

We will use our powers actively under competition legislation to deal with anti-competitive practices.

Our commitment	Our performance
Using the Competition Act powers and/or our powers under Articles 81 and 82 of the EC Treaty we expect to respond to around 1,000 complaints of anti-competitive behaviour and to investigate between 30 and 50 cases under the Competition Act and/or Articles 81 and 82 of the EC Treaty. We expect to secure outcomes from 10 to 20 of these investigations, of which between five and 10 will be fully reasoned and published decisions.	• Responded to 1,350 complaints. • Completed 23 investigations. • Secured 13 outcomes. • Made seven decisions (including one interim measures direction).
We will investigate carefully – together with the Serious Fraud Office (SFO) (and the Crown Office in Scotland) – potential criminal cartel offences.	We are jointly investigating one bid-rigging case with the SFO, which was referred to the SFO in November 2004. Inquiries are ongoing. The SFO felt that its powers under the Criminal Justice Act 1987 should be used, rather than the Enterprise Act 2002.

During 2005–06, the OFT spent £11.98m on achieving this objective. This money was allocated as follows:

Staff costs	£9.46m
Administration costs	£2.52m

reviewing

Company mergers can have a significant impact on how markets perform. We investigated completed and anticipated mergers above a certain size to assess their competitive effects. We referred mergers to the Competition Commission, or accepted undertakings instead of a reference, where we believed they might substantially lessen competition.

Objective 4
reviewing mergers

Merger cases

The OFT examined a total of 248 mergers and merger proposals in 2005–06. Of these, 36 raised more complex competition issues and were considered at a case review meeting – an internal forum for rigorously testing the OFT's internal views before a decision is made.

A merger qualifies for investigation if the UK turnover of the business being acquired is over £70m, or if the merger will create or enhance a 25 per cent share of supply of a particular product or service in the UK, or a substantial part of the UK.

Where we believe that it is, or may be, the case that a merger has resulted, or may be expected to result, in a substantial lessening of competition, we must refer it to the Competition Commission unless:

- we can resolve the competition problem by agreeing binding undertakings with the merging parties instead of a reference
- the merger is insufficiently advanced to warrant a reference
- the affected markets are not of significant importance to warrant a reference
- the customer benefits resulting from the merger outweigh its adverse effects.

In 2005–06 the following mergers were referred to the CC:

Case title	Affected market	Date of reference
Bucher Industries AG/Johnston Sweepers Limited	Outdoor sweepers	6 April 2005
Future plc/Highbury House plc	Special interest consumer magazines relating to computer games	14 April 2005
British Salt/New Cheshire Salt Works	Pure dried vacuum salt and compacted salt	26 May 2005
Ardagh International Holdings/ Redfearn Glass	Supply of glass containers	1 August 2005
National Express Group/ Thameslink and Great Northern Rail franchise	Passenger rail services	3 August 2005
Vue Entertainment Holdings (UK) Limited/A3 Cinema Limited	Cinema exhibition services	23 September 2005
Stagecoach plc/Greater Western Rail franchise	Passenger rail services	30 September 2005
FirstGroup plc/Greater Western Rail franchise	Passenger rail services	30 September 2005
National Express Group/Greater Western Rail franchise	Passenger rail services	30 September 2005
South West Airports Ltd/Exeter and Devon Airports Ltd	Airport infrastructure services in South West England	11 October 2005
Robert Wiseman Dairies plc/ Scottish Milk Dairies Limited	Supply of fresh processed milk to middle ground customers in Greater Glasgow area and/or Central Belt of Scotland	19 October 2005
Heinz/HP Foods Group	Supply of tomato ketchup, brown sauce, barbeque sauce, tinned baked beans and tinned pasta products to retail customers	26 October 2005
Macaw (Holdings) Ltd/ Cott Beverages Ltd	Supply of own label carbonated soft drinks	28 November 2005
HMV Group plc/Waterstone's plc/ Ottakar's plc	Retail sale of books to final consumers	6 December 2005
EWS Railway Holdings/Marcroft Engineering	Supply of in-field rail freight wagon maintenance services	6 February 2006
Stagecoach/Scottish Citylink	Supply of passenger transport services on point-to-point flows in Scotland	15 March 2006
Safenet inc/nCipher plc	Provision of hardware security modules	30 March 2006

Undertakings in lieu of a reference to the CC were given in the following cases:

Case title	Affected market	Date of reference
Completed acquisition by the Blackstone Group of UGC Cinemas Holdings Limited	Cinema exhibition services	28 April 2005
Completed acquisition by Terra Firma Investments (GP) 2 Ltd of United Cinemas International (UK) Limited and Cinema International Corporation (UK) Limited	Cinema exhibition services	9 May 2005
Completed acquisition by Hilton Group plc through Ladbroke Racing (Reading) Limited of Jack Brown (Bookmaker) Limited	Supply of betting services through licensed betting offices	13 February 2006
Completed acquisition by William Hill Plc of the licensed betting office business of Stanley Plc	Supply of betting services through licensed betting offices	13 February 2006

KEY CASES

Boots – Alliance UniChem

We decided we would not refer the anticipated acquisition by Boots plc of Alliance UniChem plc (UniChem) to the CC provided that satisfactory undertakings were given to address our competition concerns.

Boots has 1,423 stores across the UK, of which 1,350 contain a pharmacy. UniChem is a pharmaceutical wholesaler which also owns a chain of 958 UK pharmacies (trading under the name of Moss but to be rebranded Alliance Pharmacy).

While both companies provide retail pharmacy services, the acquisition raised no competition concerns at a national level. However, we identified about 100 local areas where competition would either be reduced or eliminated altogether as a result of the merger.

Boots offered to divest stores in all of these areas, and in February 2006 we decided to consider these undertakings in lieu of a CC reference. Our decision was appealed to the Competition Appeal Tribunal by the pharmaceutical wholesaler and pharmacy retailer, Celesio AG. The appeal was subsequently dismissed on 9 May 2006.

As a postscript to this decision, we reiterated our call for a review of government regulations which restrict entry into the retail pharmacy sector. As well as harming competition generally, these regulations could prevent the cost savings arising from a Boots-UniChem merger from being passed on to consumers in the form of enhanced services.

Cinema chain mergers

Three mergers of major cinema chains in the UK came under OFT scrutiny during the year. In two cases, we accepted divestment undertakings in lieu of a reference to the CC, while a third was referred to the CC after undertakings offered by the parties failed to address our concerns.

We found that the completed acquisition by Terra Firma Investments (GP) 2 Ltd, which owns the Odeon cinema chain, of United Cinemas International (UK) Ltd and Cinema International Corporation (UK) Ltd might be expected to lessen competition substantially, to the detriment of cinema-goers, in 11 local areas where both UCI and Odeon operated.

Terra Firma offered to divest a cinema in each of these areas to address our concerns. We accepted this undertaking in May 2005 and did not refer the merger to the CC.

We also accepted a divestment undertaking from Blackstone Group and its UK subsidiary Cineworld UK Ltd following the completed acquisition of the UGC cinema chain. Our assessment identified six areas where Cineworld and UGC cinemas competed. Blackstone offered to divest cinemas in these areas and, in June 2005, we announced that the merger would not be referred to the CC.

Our review of the completed acquisition by Vue Entertainment of A3 Cinema Ltd raised concerns about a loss of competition in the Basingstoke and Romford areas. Since undertakings offered by the parties did not fully address these, the merger was referred to the CC in September 2005.

William Hill – Stanley/Hilton – Jack Brown

Two separate mergers of licensed betting office (LBO) owners raised competition concerns at a local level, but were not referred to the CC after satisfactory divestment undertakings were given.

We found that customers tend to place bets at betting shops within walking distance of their home or work. For this reason, both William Hill plc's completed acquisition of the LBO business of Stanley plc and Hilton plc's completed acquisition – through its Ladbroke subsidiary – of Jack Brown (Bookmaker) Ltd reduced or eliminated choice in certain local areas.

William Hill, which owns 1,613 LBOs in the UK, acquired Stanley's 561 LBOs in June 2005. The following month, Jack Brown's 141 LBOs, which are mostly in South Wales, were taken over by the 1,973-strong Ladbroke chain. Our investigation found that the William Hill acquisition raised competition concerns in around 80 local areas and the Ladbroke acquisition in four.

To address these, William Hill and Hilton offered to divest LBOs in each of these areas. Both undertakings were accepted by the OFT instead of a CC reference in February 2006.

Heinz – HP Foods Group

The completed acquisition by H J Heinz Company (Heinz) of the HP Foods Group raised the prospect of a substantial lessening of competition in the supply of branded sauces, baked beans and tinned pasta, and should be investigated further by the CC, we decided in October 2005.

Heinz is a US-based company with global operations in the branded foods sector. Its UK activities include the manufacture and marketing of sauces – including Heinz tomato ketchup – along with condiments, frozen foods, soups, beans and pasta, infant foods and seafood. Prior to the merger, the HP Foods Group was owned by Danone, a French company. In the UK, it was mainly involved in the manufacture and marketing of sauces – including HP brown sauce – plus condiments, herbs, spices and seasonings, food oils and dry side dishes.

The acquisition reduced the number of suppliers of branded ketchup to retail customers from two to one, and brought together the two leading suppliers of branded barbecue sauces to retail customers and the two biggest brands of tinned baked beans and pasta products. In each of these product categories, we concluded that the merger might lead to a substantial lessening of competition, resulting in higher prices for consumers.

The CC ruled that the merger had not resulted, and might not be expected to result, in a substantial lessening of competition in any of the relevant markets.

HMV – Ottakar's

In September 2005, HMV Group plc announced its intention to make a public offer through its book-selling subsidiary Waterstone's plc for Ottakar's plc, a rival book chain.

In assessing the anticipated merger, we received an unusually large number of complaints from consumers. These lent weight to our view that the parties were close competitors and competed at a local level by stocking a large range of books, by developing a brand for being an 'authority' in books, and through pre-sales service.

Moreover, our analysis showed that Ottakar's branches went to extra lengths to serve their customers in areas where a Waterstone's was nearby. We concluded that UK book buyers valued this competition, which HMV's acquisition of Ottakar's would eliminate.

However, we found no evidence to support the publishers' arguments that the parties would hold significant buyer power, or that the merger might be expected to lead to a reduction in the number of titles published.

We did not believe that the loss of close competition would be offset by constraints posed by other book retailers, either now or in the future. HMV's offer of undertakings was not sufficient to address all of the competition concerns identified. We therefore referred the merger to the CC for further investigation in December 2005.

Rail franchise applications

The Railways Act 1993 provides for the award of a rail franchise to be treated as a merger under competition legislation. As a result, we considered a number of bids for rail franchises during the year.

In August 2005, we referred the anticipated acquisition by National Express Group plc (NEG) of the Thameslink and Great Northern (TGN) franchise to the CC. We were concerned that if NEG, which already operated the Gatwick Express franchise, were successful an important competitive constraint might be lost. NEG would control two of the three rail services operating between central London and Gatwick, accounting for almost 90 per cent of passenger volumes on this flow. We thought the CC should examine further whether the merger might lessen competition to the detriment of passengers.

The CC subsequently concluded that NEG would be unlikely to raise fares or reduce services on these routes if awarded the franchise, and cleared the acquisition.

In September 2005, bids for the Greater Western Rail franchise (GWF) from NEG, FirstGroup plc (First) and Stagecoach plc (Stagecoach) were also referred by us to the CC.

Passengers in the GWF region, which covers the South West of England and parts of Wales, can often choose between a GWF rail service and either a First or Stagecoach bus service or an NEG coach service. On many routes there are no other public transport options; so if any of the bidders were awarded the franchise, an element of competition could be lost.

Each of the bidders for the GWF had different road networks which raised different competition issues. However, in relation to each bid we concluded it was not possible at the OFT stage of a merger review to determine if competition would be lessened to the detriment of passengers. We therefore asked the CC to conduct a more detailed assessment.

In December 2005, the Secretary of State for Transport awarded both the GWF and TGN franchises to First. The CC cleared the acquisition of the GWF franchise by First in March 2006.

Exeter and Devon Airport – Macquarie Airports and Ferrovial Aeropuertos

In June 2005, Macquarie Airports Ltd (MAG), a global private equity fund, and Ferrovial Aeropuertos SA (FASA), part of a major Spanish construction firm, announced a joint bid to acquire a majority stake in Exeter and Devon Airport Ltd (EDAL), owned by Devon County Council. MAG and FASA already controlled Bristol International Airport on a 50/50 basis, and had interests in a number of other airports internationally.

The transaction was referred from the European Commission to the UK following our request under Article 9 of the EC Merger Regulation (ECMR) (see 'EC casework' on this page).

We considered the impact of lost competition between Exeter and Bristol international airports, in light of concerns from low-cost and charter airline users. In October 2005, we concluded that the risks to customers and consumers in the South West were sufficient to warrant a reference to the CC. The proposed acquisition was subsequently abandoned.

EC casework

The EC Merger Regulation gives the European Commission exclusive jurisdiction over mergers that exceed certain turnover thresholds.

As the competent authority in the UK, we examined significant cases and provided the UK's views to the European Commission. We also represented the UK at all hearings and Advisory Committee meetings at which the Commission's draft decisions and policy notices were considered by member states.

We made one request under Article 9 of the ECMR to refer to the UK competition authorities a merger previously notified to the European Commission. This related to the proposed acquisition by Macquarie Airports Ltd and Ferrovial Aeropuertos SA of a majority stake in Exeter and Devon Airport Ltd (see case study on this page).

We referred to the European Commission under Article 22 the anticipated acquisition by the Dow Chemical Company of the divinylbenzene business of Total Petrochemicals France SA.

We considered a number of requests for pre-notification referral of a merger either from the UK to the European Commission (under Article 4(5)) or from the European Commission to the UK (under Article 4(4)). We agreed to the referral to the UK under Article 4(4) of the following cases:

- the anticipated acquisition by Boots plc of Alliance UniChem plc (see page 54).
- the completed acquisition by Southern Cross Healthcare Group Ltd of Cannon Capital Ventures Ltd, concerning the supply of care home services to the elderly
- the anticipated acquisition by London and South Eastern Railway of Integrated Kent rail franchise, concerning passenger rail services.

Informal advice and confidential guidance
In November 2005 we announced that, until further notice, confidential guidance on prospective mergers which are not in the public domain would no longer be provided, and that informal advice would only be given in exceptional cases.

This OFT Notice on the provision of informal advice and confidential guidance was further updated in April 2006.

We will consult publicly on the long-term provision of informal advice and confidential guidance as part of a wider revision of our merger enforcement procedures after three years' experience under the Enterprise Act regime. The new guidance will be published, at the latest, by March 2007.

During this interim period, we will deal with informal advice applications for good faith confidential transactions when presented with a case where our duty to refer is a genuine issue. We believe that, where these conditions are met, our advice may assist business in a way that the parties' legal and economic advisers cannot. We do not consider that public resources can be devoted to advice on transactions without apparent issues and which may never become 'live' public cases.

Performance against our annual plan

Objective

We will keep markets open and competitive through merger control.

Our commitment	Our performance
We will make references to the Competition Commission or accept undertakings in lieu in all mergers which we believe may substantially lessen competition. We expect to:	
• consider between 180 and 230 public mergers, of which between 30 to 50 are likely to raise more complex issues	• Investigated 209 public mergers, of which 34 were considered by a case review meeting.
• refer to the Competition Commission (or accept undertakings in lieu of a reference) between 10 and 25 mergers each year.	• Referred 17 mergers to the CC. • Accepted undertakings in lieu of reference in four cases.

During 2005–06, the OFT spent £1.87m on achieving this objective. This money was allocated as follows:

Staff costs	£1.79m
Administration costs	£0.08m

studying

We actively investigated markets which did not appear to be working well, as a result of consumer conduct, business practices or the effect of government regulation. Our work highlighted the need for a one-stop-shop for information on care home provision and for reform of the property search market. It also gave us fresh insights into the way government interacts with markets as a buyer, seller, regulator and subsidiser. We responded to a super-complaint from Citizens Advice by announcing our intention to carry out a market study into payment protection insurance. We also signalled our intention to refer the grocery market to the Competition Commission and made two further market investigation references during the year.

Objective 5
studying markets

COMPLETED MARKET STUDIES

Care homes

The £8bn care home market forms an important part of the healthcare sector, which is one of our priority areas. Our 10-month study of the market, launched in response to a super-complaint from *Which*?, concluded that a one-stop-shop for information is needed to help older people choose the right home. There should also be better access to complaints procedures, greater price transparency and fairer contract terms for care home residents.

Over 400,000 older people currently receive residential and nursing care in the UK's 15,700 private, voluntary and local authority care homes. The decision to enter a home is often made under distressing circumstances – in around half of cases following a period of hospitalisation – and can involve a large financial commitment. Once in a home, residents are unlikely to move, even if they are dissatisfied.

All this makes choosing a care home difficult. Yet we found significant gaps in the information provided at almost every stage of the process. There is also a lack of consistency in local authority advice and support, especially for those who do not qualify for authority-funded care.

To help older people or their family/representatives make the right choice, we recommended that a national gateway for care home information be set up. Local authorities should also publish directories of homes in their areas, including details of the services they provide and the prices charged.

While levels of satisfaction with care homes were generally high, there was low awareness of complaints procedures and a lack of support for aggrieved residents. We recommended clearer information on complaint mechanisms and the piloting of advocacy schemes, allowing an independent party to act on a complainant's behalf.

Our analysis of care home contracts found that two-thirds contained fee-related terms which were either unfair or unclear, and almost half did not plainly specify who should pay what amount. We are encouraging care home providers to draw up model contracts based on our existing guidance, and will continue to take enforcement action against unfair terms where appropriate.

In August 2005, the Government announced that it broadly accepted our recommended solutions to the problems identified.

Property searches

Property information held by local authorities in England and Wales should be made more readily available to homebuyers, sellers and their agents, we concluded in a report published in September 2005.

We found that the price of property searches provided by local authorities varied greatly – from £55 to £269 – and that some consumers were probably paying too much. There were over 1.5 million property transactions in England, Wales and Scotland in 2004, and we estimate that the market for property searches is worth £190m a year.

To improve competition and choice, we called for local authorities to make their property information available on terms which do not disadvantage rival providers, and to agree revised targets to ensure that information is provided quickly. Our report also recommended action to liberalise the electronic provision of property searches compiled by local authorities in England and Wales, and to improve consumer awareness and understanding of the market.

The Government accepted all of the report's recommendations in December 2005.

Public subsidies (phase II)

A failure to assess fully the competition risk posed by certain public subsidies means that their true cost to the economy is not being recognised. That was the key finding of a study undertaken on our behalf by NERA Economic Consulting as part of an ongoing examination of government interaction with markets – one of the OFT's priority areas.

The UK spent more than £6bn on subsidies to private firms in 2003, including free advice, training, cash grants and tax credits. While subsidies can be used to address market failures and achieve social objectives, they can also induce market problems, for example by blunting companies' incentives to become more efficient.

The report, published in January 2006, sets out a practical framework by which UK government departments and agencies can identify the costs and benefits of a proposed subsidy, including its potential impact on competition. We have recommended that this be used alongside the Treasury's guidance on subsidy appraisals, the Green Book.

Earlier, we presented proposals to the European Commission for reforming state aid controls to avoid distorting competition. We suggested a two-stage assessment process which examines the characteristics of the subsidies and the markets involved. We also recommended a formal advisory role for national competition authorities in helping the Commission decide whether or not to approve state aid.

Liability insurance follow-up

In a follow-up to our 2003 study of UK liability insurance markets, we found that the situation for policyholders had improved, with premiums rising at a much slower rate and fewer businesses being denied cover.

Average premium rises, while still ahead of inflation, fell to seven per cent for employer's liability (compared with 50 per cent in 2002) and four per cent for public liability and professional indemnity insurance (compared with 30 and 60 per cent in 2002).

Furthermore, the availability of cover had risen: in the case of employer's liability insurance, the number of businesses denied cover fell by two-thirds to three per cent.

ONGOING MARKET STUDIES

Pharmaceutical Price Regulation Scheme

The method by which government seeks to control the price of drugs supplied to the NHS is the subject of a market study launched in September 2005.

The Pharmaceutical Price Regulation Scheme (PPRS) sets a range of price controls and a cap (and floor) on the profits that drug companies can earn on their annual sales of branded medicine to GPs and hospitals. It is a voluntary scheme negotiated every five years between the UK Departments of Health and the Association of the British Pharmaceutical Industry. The current scheme runs from 2005 to 2010.

We are examining whether the PPRS meets its stated aims, which are to secure the provision of safe and effective medicines at a reasonable price, to offer pharmaceutical companies appropriate rewards for investing in new and improved drugs, and to encourage competition in the market.

We enjoyed positive cooperation from the Government and industry and announced in March 2006 that we would continue with the study, with a final report due in 2007.

Commercial use of public sector information

In July 2005, we launched a study into the commercial use of information supplied by public sector information holders (PSIHs).

Examples of PSIHs include HM Land Registry, which maintains a database of 20 million properties in England and Wales, and the UK Hydrographic Office, which holds information relating to marine navigation.

While a lot of public information is made freely available, some PSIHs compete with private sector companies in the sale of value added information products, while at the same time supplying and charging for the underlying raw data on a monopoly basis. In 2003–04, the combined turnover of the larger PSIHs was estimated at around £1bn.

The study will examine if these supply arrangements work well for businesses and, ultimately, for consumers.

PROGRESS ON EARLIER MARKET STUDIES

Private dentistry

In October 2005, the Department of Trade and Industry announced the completion of key actions in a government action plan issued in response to our 2003 report on private dentistry.

Among the steps taken, the General Dental Council (GDC) issued new ethical guidance requiring dentists to take steps to ensure patients can make an informed choice, and made advanced preparations for the introduction of a private patient complaints scheme. In addition, the Department of Health changed its regulations to allow the GDC to introduce a new fitness-to-practise regime, and removed unnecessary restrictions on the supply of dentistry services.

Taxis

In August 2005, the Department for Transport published draft best practice guidance on the setting of quality standards for taxis and private hire vehicles. This was one of the recommendations of our November 2003 report on taxi services, and will help ensure that this essential protection is applied proportionately and consistently across the country.

Consumer IT

We published guidance on selling IT goods and services at a distance (for example, on the internet or by phone) and how to make IT contracts fairer for consumers generally. This reflects changes to the distance selling laws in April 2005 and follows a recommendation in our consumer IT report published in December 2002.

SUPER-COMPLAINTS

Payment protection insurance

In December 2005 we announced our intention to carry out a market study into payment protection insurance (PPI) following a super-complaint from Citizens Advice.

PPI is applied to a number of credit products including mortgages, loans and credit and store cards. It protects a borrower's ability to pay back the loan in the event of accident, sickness or unemployment. Around 6.5 to 7.5 million policies are taken out each year, generating an estimated £5.4bn in premiums.

Our response to the super-complaint identified a number of issues which suggested the sector was not working well for consumers and should be examined in more detail. These included difficulties in gaining clear information on alternative suppliers; high costs or other barriers to entry for stand-alone PPI providers; a wide degree of variation in pricing; and apparently high gross profit margins.

We expect to conclude our study by the end of 2006.

MARKET INVESTIGATION REFERENCES

Under the Enterprise Act, we have the power to refer a market to the Competition Commission for further investigation where we have reasonable grounds to suspect that a feature, or combination of features, of the market is preventing, restricting, or distorting competition.

During the year, we consulted on changes to our published guidance, which clarified our approach to making references concerning the effects of government regulation on competition. Revised guidance was published in February 2006.

Grocery retailing

In March 2006, we signalled our intention to refer the UK market for the supply of groceries by retailers to the CC for more detailed investigation, and published our analysis of the market for consultation prior to a final decision.

Our latest investigation followed the withdrawal of our decision not to refer the UK grocery market to the CC, which was appealed to the Competition Appeal Tribunal by the Association of Convenience Stores in November 2005.

Groceries account for nearly half of all retail sales. Total grocery sales in 2005 were around £95bn, representing around 13 per cent of all household spending in the UK.

The evidence built up by the OFT presents a mixed picture regarding competition in the market. It suggests that prices are falling and that consumers have benefited both from strong competition between supermarkets and from the entry of the supermarkets into the convenience sector.

However, there are features of the market which, when considered in the context of increased consolidation and the move by supermarkets into the convenience sector, could reasonably be suspected to distort competition and harm consumers.

For example, we found evidence that the planning regime, coupled with the significant ownership of development sites by the big four supermarkets, could be used to prevent new stores from opening and competing with those already in the market, with likely adverse consequences for local competition and consumer choice.

Classified directory advertising

The market for classified directory advertising services is not working effectively and should be investigated by the CC, we concluded in April 2005.

The reference followed a seven-month study of the market and the effect of undertakings given to the Secretary of State for Trade and Industry by Yell Ltd in 2001. These placed a cap on advertising rates in Yellow Pages and stopped the publication of regional and local Yellow Pages in areas where a rival local directory existed.

Despite these measures, we were concerned about the market's competitiveness. The structure of the market remained highly concentrated, with Yellow Pages and Thomson Local directories accounting for over 90 per cent of UK supply. Barriers to entry were high, due to strong branding and network effects. Even the re-emergence in the market of BT, which used to own Yellow Pages, had not strengthened competition to a material degree, we noted.

Northern Ireland personal current account banking

Following our analysis of a super-complaint from *Which*?, we referred the market for personal current account banking services in Northern Ireland to the CC in May 2005.

We believe there are questions about the effectiveness of competition between the four leading banks that provide personal current accounts in Northern Ireland. There is a low level of switching by customers, both between rival banks and to alternative accounts within the same bank. We also found evidence of parallel pricing behaviour and of price leadership, where one firm in the market sets a price which others follow.

REVIEW OF REMEDIES

The OFT is required to keep under review the actions taken in compliance with CC remedies, and to advise the CC if these are having their intended effect of making markets work better.

Postal franking machines

In June 2005, we accepted undertakings to open up the market for the supply, maintenance and inspection of postal franking machines and the supply of ink cartridges in lieu of a reference to the CC.

The undertakings were given by the two leading suppliers, Pitney Bowes and Neopost, and by Royal Mail, which licenses machines and inspectors.

The new undertakings are designed to provide better price information for customers about the cost of franking machines and their maintenance, encourage the supply of third-party maintenance services, increase the scope for independent suppliers of new and second-hand machines, and remove some restrictions on the independent supply of ink cartridges. The OFT is actively monitoring the parties' compliance with the undertakings.

Opium derivatives

We called on the Government to reconsider the way it licenses the supply and distribution of opium derivatives after our review of undertakings given by the UK's principal supplier, MacFarlan Smith Ltd (MSL), raised fresh competition concerns.

Opium derivatives are used in the manufacture of a wide range of medicines, including over-the-counter painkillers and cough medicines. The market has grown rapidly over the past few years, and is currently worth over £31m.

We found that the present licensing policy, which seeks to protect UK production by limiting imports, has allowed MSL to discriminate on price and earn high levels of profit, driving up costs for the NHS. We estimate that the detriment to consumers arising from the policy is around £3m a year.

The Government announced it would respond to our recommendations by the end of May 2006. If the restriction on competition we identified remains unchecked, further action, including a market investigation reference to the CC, cannot be ruled out.

SME banking services

In January 2006, we launched a review of undertakings relating to the supply of banking services to small and medium-sized enterprises (SMEs) in the UK.

The undertakings followed a 2002 report by the CC which found that the largest clearing banks in England and Wales made excessive profits of over £700m a year on SME accounts between 1998 and 2000.

In response to the CC's findings, the four main clearing banks in England and Wales – Barclays, HSBC, Lloyds TSB and the Royal Bank of Scotland Group – undertook to offer free banking services or pay interest on business current accounts. Also, nine clearing banks undertook to improve their information on SME accounts, to promote price competition by reducing barriers to entry and to encourage switching by SME customers.

We aim to report our findings to the CC at the end of 2006.

Animal waste rendering

A 1993 report by the CC's predecessor, the Monopolies and Mergers Commission (MMC), identified anti-competitive pricing policies by two companies involved in animal waste rendering (the process of turning offal, bones and other animal waste into substances that can be used for making products such as soap).

The two companies, Prosper De Mulder and William Forrest & Son, gave a series of undertakings to the MMC, including a commitment not to engage in discriminatory pricing.

These undertakings are the subject of an OFT review, due to conclude later in 2006.

Condom distribution

Undertakings given to prevent restrictions on competition in the supply of condoms in the UK are no longer needed and should be revoked, we advised the CC in December 2005.

Following an MMC report in 1994, LRC Products Ltd, now a subsidiary of SSL International plc, undertook not to enter into exclusive distribution agreements with wholesalers or retailers. LRC, which makes the Durex brand of condoms, was the largest condom supplier in the UK at the time, and still has around 80 per cent of the retail market.

The MMC had concluded that the agreements, which offered retailers financial incentives for not stocking competing products, weakened competition and reduced consumer choice. However, our review found that the retail distribution channels through which condoms are sold had changed noticeably, with many more condoms and brands now being sold in supermarkets. The shift in buyer power towards these retailers had lowered prices, making the undertakings unnecessary, we advised.

The CC provisionally accepted our advice to revoke the undertakings in March 2006.

Other reviews

We advised the Secretary of State for Trade and Industry in August 2005 that orders relating to the markets for dental goods, imported timber and estate agents (dating from 1951, 1960 and 1970 respectively) were no longer necessary and could be revoked.

These orders were put in place after MMC reports identified agreements which restricted effective competition in these markets.

In each case we found that the market had changed considerably since the orders were put in place and that the Competition Act was likely to address the anti-competitive practices prohibited by the orders.

The Secretary of State accepted our advice and the orders were revoked in December 2005.

Performance against our annual plan

Objective

We will study markets proactively to see whether they are working well and refer markets to the Competition Commission for investigation where appropriate.

Our commitment	Our performance
We will respond to super-complaints from designated consumer bodies within 90 days of receipt.	• Received one super-complaint from Citizens Advice relating to payment protection insurance. Within the 90-day response period we announced our intention to launch a market study.
We expect to initiate up to 10 market studies or market investigation references to the Competition Commission (or accept undertakings in lieu of a reference). At least two of the studies or references will look at the effects on the market of government regulations.	• Three market studies launched: – public subsidies (phase II) – commercial use of public sector information – pharmaceutical Price Regulation Scheme. • Reported on four market studies: – care homes – liability insurance follow-up – property searches – public subsidies (phase II). • Two market investigation references made to the CC: – classified directory advertising – Northern Ireland personal current account banking. • Accepted new undertakings on postal franking machines. • Signalled our intention to refer the market for the supply of groceries by retailers in the UK to the CC.
We will commission independent reviews of selected studies, to assess their effectiveness in delivering improvements to consumers, broader benefits to the economy and the quality of analysis.	• Commissioned an independent review of our 2003 market study on new car warranties.
We will also keep under review undertakings given following inquiries by the Competition Commission.	• Commissioned an independent review of our 2003 market study on new car warranties.

During 2005–06, the OFT spent £3.87m on achieving this objective. This money was allocated as follows:

Staff costs	£3.08m
Miscellaneous administration	£0.79m

communicating

Through consumer education, we empowered consumers to make informed buying decisions. And by publishing guidance and publicising enforcement action, we encouraged and helped businesses to abide by the law. Our key campaigns sought to warn consumers of scams, encourage young people to shop around for credit, promote OFT-approved codes of practice, and convince businesses to comply with competition law. We looked to reinforce our communication through stronger partnerships with consumer and business organisations. This helped increase the impact of our messages and campaigns.

Objective 6
communicating

EMPOWERING CONSUMERS

We aim to help consumers acquire the knowledge, confidence and skills to get good deals and avoid being conned.

Scams awareness month

As part of our bid to stamp out mass-marketed scams (see page 27), we ran a month-long campaign in February 2006 to arm consumers with the knowledge and skills they need to recognise and report scams.

Our key message to consumers was that there's a scam out there for everyone and, if you let down your guard and think you won't be fooled, you too could become a victim.

Senior OFT staff gave television and radio interviews and we issued a video news release and ran advertisements on national and local radio supported by OFT-sponsored features and competitions. As a result, the campaign reached about 10 million television viewers and a radio audience of 9.6 million. Press releases and consumer alerts generated further coverage in nearly every national newspaper and in most major regional titles.

On our website, we provided consumers with audio clips, interactive quizzes and games to provide tips on how to recognise internet scams. Television actress Claire King helped us host a live webchat to answer scam-related queries from the public. During scams awareness month, average weekly visits to our website were up 43 per cent on the average for the year.

We distributed more than 25,000 leaflets containing advice on how to spot a scam and a more detailed guide to the techniques used by scammers. These were sent out with the help of TSDs, Citizens Advice Bureaux, libraries, consumer groups, voluntary sector organisations, police stations and Neighbourhood Watch groups.

Our partners in the International Consumer Protection Enforcement Network (ICPEN) ran similar campaigns in their jurisdictions.

ICPEN: page 34

Credit

In the run-up to Christmas 2005, we launched an education drive to persuade consumers to shop around for credit to get the best deal. The interactive web-based campaign was aimed at 18 to 24-year-olds who are the most likely age group to rush in to credit agreements.

'Be Choosy About Credit' started with internet and radio advertising which reached an estimated audience of 11.5 million. Our partners in the consumer education Alliance supported this with a direct mailing of leaflets. Consumers were directed to the OFT's website for online budget planners and interest calculators, an interactive quiz and comprehensive advice. We also ran a live webchat.

Consumer Codes Approval Scheme

We carried out our biggest-ever marketing campaign in October 2005 to promote the Consumer Codes Approval Scheme and the 'OFT Approved code' logo. We also undertook publicity activities to promote approved codes to consumers in those sectors.

Our codes scheme and related marketing campaigns: page 23

Consumer education coordination

We began to work in earnest to implement the national consumer education strategy drawn up in late 2004. Through coordinated consumer education, the strategy aims to give consumers the skills and knowledge they need when buying goods and services.

The OFT-led consumer education Alliance of public, private and voluntary-sector organisations was bolstered by the recruitment of 25 new members. The Alliance had 75 members at the end of the year.

In November 2005, we brought members together at a conference attended by more than 100 delegates. The event gave attendees the chance to discuss priorities, share ideas and take initial steps to coordinate their work.

The strategic planning group, which leads the implementation of the strategy, met regularly throughout the year. The group includes representatives of the OFT, the Department of Trade and Industry, the Financial Services Authority, the Department for Education and Skills, the National Consumer Council and major businesses.

Working groups set up by the planning group to look at consumer credit and scams were instrumental in helping us devise our major education campaigns on these issues, which were then executed in partnership with Alliance members.

Our research into the provision of consumer education in the UK revealed a lack of strategic focus among organisations involved in consumer education and considerable duplication of effort. We will use the findings of the research to help us coordinate future activity and ensure more effective use is made of the resources available.

During the year, we continued to develop the consumer education content on the OFT website. It includes news about the Alliance and the progress of the working groups, a library of text for consumer bodies to use in their educational materials and examples of consumer education best practice.

On the road

As part of our regional roadshow programme (see page 69), we visited large shopping centres to distribute information on shoppers' rights and promote the Consumer Direct telephone advice service. Staff from local TSDs joined us to answer consumers' queries.

In partnership with Ealing and Hounslow TSDs, we participated for the first time in the London Mela, a festival of South Asian music, art and culture. OFT staff were on hand to answer queries and warn people about common mass-marketed scams. We also distributed versions of our shoppers' rights leaflet translated into Punjabi, Hindi, Urdu, Bengali and Gujarati. This was a first step towards more effectively reaching ethnic minority groups.

Communicating with business

We kept businesses informed of their rights and responsibilities under competition and consumer law. This supplemented our publication of guidance on the application of specific laws (for example, for landlords on the use of unfair terms in tenancy contracts and on leniency provisions for those blowing the whistle on cartels), which is covered elsewhere in this report.

Championing competition

Small and medium-sized enterprises were the targets of our ongoing work to champion competition. We sought to encourage SMEs to comply with competition law and report anti-competitive behaviour by customers, suppliers or competitors.

The campaign was prompted by research we carried out in April 2005 that showed that just 49 per cent of organisations employing between 10 and 19 people were aware of the Competition Act compared with 80 per cent of organisations with more than 200 employees.

We began by commissioning and publishing research into the views of SMEs on competition in their markets. The headline findings were that one in three SMEs was aware of anti-competitive activities in their industries and one in five felt they had been a victim of anti-competitive behaviour.

To help SMEs recognise anti-competitive practices and to encourage them to work with the OFT, we hosted a well-attended conference for SMEs. We also announced a 'Come clean on cartels' month to raise awareness of the OFT's leniency programme, which allows firms to blow the whistle on cartels and receive partial or even total immunity from fines.

The campaign received good coverage in publications serving the construction and healthcare sectors, two of the OFT's priority areas. The Confederation of British Industry and the Federation of Small Businesses supported our work by reinforcing the key messages of the campaign in their communication with their members.

Research at the end of the campaign found that awareness of the Competition Act among businesses employing between 10 and 19 people had risen from 49 per cent in 2005 to 54 per cent in 2006.

Roadshows

We brought the OFT roadshow to eight towns and cities across the UK: Dundee, Sheffield, Dudley, Ipswich, Oxford, the London Borough of Newham, Swansea and Londonderry/Derry. Our Chairman and Chief Executive each came to two of these events.

The roadshows included a seminar for businesses to promote compliance and explain our work, a workshop for trading standards officers to strengthen our links with them, and an exhibition stand at a shopping centre in the region (see page 68).

Since the programme was launched in 2002, we have conducted 33 roadshows and visited Scotland, Wales and Northern Ireland at least three times each, and every English region.

Open days

We took part in 13 business advice open days run by HM Revenue & Customs. At the open days, we gave presentations to explain our work, provided informal advice and distributed publications. The open days attracted around 8,000 business representatives.

MEDIA RELATIONS

Through our media relations work, we secured a high profile for our consumer education messages and raised awareness of our competition and consumer regulation enforcement action.

Scams awareness month garnered a great deal of coverage, particularly in regional newspapers and on local radio, and the launch of the 'OFT Approved code logo', fronted by actress Amanda Holden, was reported widely by national media outlets.

We secured significant publicity in the mainstream national media for our enforcement action. Coverage of our work was boosted by our efforts to develop new and better relationships with regional and trade publications and online news services.

In total, we issued 242 press releases and our Chairman, Chief Executive and other OFT staff gave 250 interviews and media briefings. Our press office dealt with more than 2,000 media enquiries.

WEBSITE

We developed our website to support our consumer education campaigns, particularly those on scams and the use of credit. Innovative features such as webchats, downloadable audio clips and interactive calculators and quizzes helped consumers develop their knowledge and skills.

The campaign areas of the website proved popular and helped drive use of the site to record levels. In 2005–06, the average number of weekly visits rose by 72 per cent. During the final week of scams awareness month, a record number of people visited the site.

As well as enhancing our communication with consumers, our website gives us a direct route to reach businesses, enforcement partners, the media and other stakeholders. During the year, we added a new section to the site to support our work to coordinate consumer education in the UK.

EVENTS

We formed a new in-house events team to provide a cost-effective resource for managing the wide range of events we run for consumers, businesses, enforcement partners and other stakeholders. Events managed by the team during the year included the first European Competition and Consumer Day (see page 74), consultations with stakeholders on our annual plan and regional roadshows for consumers, businesses and TSDs.

MEASUREMENT

We determine the effectiveness of our communication by carrying out research among businesses and consumers to measure their awareness of key competition and consumer laws and their understanding of their rights and responsibilities. We use the findings to help shape our communication programmes. The findings of our 2006 research are summarised below.

Consumers

Consumers feel better informed about their rights than they did a year ago – 63 per cent say they are very or fairly well informed compared with 59 per cent in 2005. In addition, one in four consumers claim their knowledge of consumer rights has increased over the preceding 12 months. Meanwhile, consumers continue to feel well protected (74 per cent) and confident in using their rights (78 per cent).

According to the research, our scams warnings reached 22 per cent of consumers, and awareness of a wide range of different scams increased significantly on the previous year. In total, 72 per cent of consumers say they know enough not to get taken in by a scam compared with 65 per cent in 2005.

The proportion of consumers who have heard of the Consumer Codes Approval Scheme stands at eight per cent – a drop of one per cent on 2005. However, 17 per cent say they have seen the OFT Approved code logo compared with 14 per cent the year before.

Overall consumer awareness of the OFT is up four per cent on 2005 to 80 per cent.

Business

For the first time, more than half (51 per cent) of businesses of all sizes are aware of the Competition Act compared with 44 per cent in 2005. Awareness of the Enterprise Act among businesses also continues to rise; it now stands at 41 per cent – a jump of six per cent on 2005.

Levels of knowledge of criminal penalties under competition legislation are higher than in previous years, and the proportion of businesses who say their organisation takes appropriate action to ensure compliance has risen from 37 per cent to 42 per cent.

Awareness of the OFT among businesses of all sizes is 95 per cent.

Performance against our annual plan

Objective

We will empower consumers through campaigns, advice and education and inform consumers and business about their rights and responsibilities under competition and consumer laws, and give law-abiding businesses the opportunity to complain about the anti-competitive behaviour of others.

Our commitment	Our performance
Run a programme of eight regional roadshows across the UK in order to explain our work to businesses and consumers region by region, improve our understanding of how local markets are working in practice and enhance our profile at a regional level.	• Held eight regional roadshows that each included a seminar for businesses, a workshop for trading standards officers, and an information stand at a major shopping centre.
Run specific, targeted campaigns to improve awareness among consumers of their rights and among businesses of their responsibilities, including: • two main consumer campaigns • promotion of consumer codes of practice to business and consumers • initiative to improve understanding of consumer rights among ethnic minority groups • campaign to continue championing competition to consumers and businesses.	• Ran major consumer campaigns on scams and credit. • Ran largest-ever campaign to raise awareness of Consumer Codes Approval Scheme. • Took part in the London Mela and launched new multi-language leaflet on shoppers' rights. • Launched campaign to champion competition to SMEs.
Maintain the annual tracking research programme to enable us to measure public awareness of fair trading issues.	• Carried out awareness research.
Develop the OFT website further.	• Developed website to support consumer education campaign, and saw usage rise.
Provide in-house events management.	• Managed wide range of successful events through new cost-effective internal resource.
Implement our consumer education strategy by working in concert with the public and private sector to give consumers the confidence and lifelong skills to get the best from the marketplace.	• Implemented strategy, including recruiting 25 new members to consumer education Alliance.

During 2005–06, the OFT spent £3.63m on achieving this objective. This money was allocated as follows:

Publicity	£2.27m
Business information	£0.34m
Press office	£0.35m
Library	£0.46m
Other costs	£0.21m

intelligence

An OFT-led Task Force on payment systems secured a landmark agreement on faster clearing times for internet and telephone payments. We also worked to promote a pro-competition and pro-consumer culture in the public sector, and provided advice and guidance on Regulatory Impact Assessments to government departments. Through our UK and international liaison activities, we engaged with a broad range of stakeholders to share best practice and identify issues to inform our work. We also handled a large number of public enquiries, which generated valuable market intelligence.

Objective 7
information, liaison and market intelligence

REGULATORY IMPACT ASSESSMENTS

When government departments want to introduce new regulations they must carry out a competition assessment as part of the Regulatory Impact Assessment process. This will identify and assess potential competition concerns or benefits.

We provided drafting advice and guidance for officials and helped departments conduct detailed assessments where competition issues were identified. During 2005–06, we responded to over 100 requests for help via email and our dedicated telephone helpline.

We liaised with the Cabinet Office's Better Regulation Executive to raise the overall quality of competition assessments. Following an OFT review, changes are being made to the competition filter – a series of questions which determine if a policy is at risk of impacting materially on the competition process – to make it easier for policymakers to use. Once this work is finished, we will revise our guidance for competition assessments.

Our activity over the year led to improved dialogue with a number of bodies – including other government departments' Better Regulation Units, the DTI's Small Business Service and the National Audit Office – on competition advocacy and the development of the RIA process.

INFLUENCING POLICY

We provided a wide range of policy advice to individual government departments on competition matters. In particular, we worked closely with the Office of Government Commerce to:

- examine how public procurement can affect competition and capacity in the municipal waste management sector. We are seeking to identify how public sector bodies can make the most of competition when procuring waste management services, including the collection, recovery and disposal of waste and street cleaning
- commission a practical guide for public procurers of construction services on effective tendering and how to combat anti-competitive practices such as bid-rigging (see also page 42).

In response to a consultation by the European Commission's Directorate-General for Energy and Transport (DG Tren), we produced a joint paper with the Civil Aviation Authority on competition issues associated with the trading of airport slots. We broadly welcomed DG Tren's proposal to allow airlines to buy, sell and lease slots. In our view, this would loosen current rigidities in the system and provide an incentive for slots to be sold to airlines which will use them more efficiently. It would also increase the ability of new airlines to launch downstream services, and for existing second-tier airlines to expand and challenge their larger rivals. In each case, consumers would benefit.

We continued to support the work of the Competition Forum, a cross-government body set up to promote awareness of competition issues among policymakers, and its sub-group of economists. During the year, the forum held meetings on public service reform, Competition Commission market investigations, health and education and the OFT's priority area of government interaction with markets.

As an adjunct to this activity, we joined with the Department of Trade and Industry and the CC to commission research on market-based approaches to public policy. Carried out by consultants LECG, this examined how alternatives to traditional policy design can be used to promote competition between service providers and allow individuals greater choice over the services they receive. The findings were published in a DTI report in September 2005.

DTI report, Public policy: using market-based approaches: www.dti.gov.uk/ccp/publications.htm

UK LIAISON STRATEGY

We strengthened our links with key stakeholders in business and consumer organisations across the UK to explain our work and provide an open door for them to raise issues and concerns with us.

During the year, we organised 52 stakeholder events, covering a broad range of consumer and competition issues. We liaised particularly closely with the UK's national consumer councils and devolved administrations on changes in the regulatory framework arising from the Hampton review, the new strategic partnership between the OFT and local authorities' Trading Standards Services and the future development of Consumer Direct (see page 18).

Through our representative in Scotland, we maintained a single point of contact for our Scottish enforcement partners and those affected by our decisions, and kept the OFT board and officials in touch with Scottish markets and legal issues. We worked with Scottish members of the OFT-led consumer education Alliance to identify local opportunities for collaboration. We also participated in the launch of a new body, the Scottish Competition Law Forum, which brings us into close contact with lawyers, academics and economists, and will help to raise awareness of competition issues among Scottish businesses.

We commissioned external consultants to conduct a wide-ranging review of our liaison work and are considering new strategies for engaging with stakeholders which can be applied across the OFT.

INTERNATIONAL ISSUES

We participated in international forums to develop best practice approaches to competition and consumer regulation enforcement and provide a UK perspective in policy discussions.

In September 2005, around 350 delegates from 34 countries attended the first joint European Competition and Consumer Day, organised by the OFT as part of the UK's presidency of the European Union.

The event emphasised the value of competition and consumer policies working well together to promote choice for consumers and businesses in markets. This theme was explored through sessions on retail financial services and private healthcare markets and the future of competition and consumer policy. The conference also provided an opportunity to reflect on major developments in the EU legal framework and how increasing globalisation of markets will influence the regulatory debate over the next few years.

Keynote speakers at the event included Neelie Kroes, European Competition Commissioner, Deborah Majoras, Chair of the US Federal Trade Commission and Alan Johnson, then Secretary of State for Trade and Industry.

In April 2005, we hosted the annual meeting of the European Competition Authorities. Heads of competition authorities from the European Economic Area and the European Free Trade Association Surveillance Authority, together with the European Commission's Director General for Competition, convened in London to discuss the working of the EU's Modernisation regime and specific initiatives relating to payment systems and the trading of airport slots. To encourage a dialogue between competition authorities and the courts, the event also included a session with senior members of the Association of European Competition Law Judges.

As part of our membership of the International Competition Network (ICN), we co-chaired (with the Irish Competition Authority) a subgroup developing an analytical framework for the competition assessment of mergers. A preliminary draft of a mergers 'workbook' – providing authorities with step-by-step guidance on determining issues such as market definition and unilateral and coordinated effects – was presented to the ICN's annual conference in Bonn in June 2005. Since then, comments received from various ICN members have been incorporated so that a final document can be compiled in time for the 2006 ICN gathering in South Africa.

The OFT handed over the presidency of the International Consumer Protection and Enforcement Network (ICPEN) to the Republic of Korea's consumer authority in August 2005, following a year of significant progress in promoting practical cooperation between enforcement agencies in tackling cross-border fraud.

We continued our active participation in the European Competition Network and maintained strong working relationships with other international bodies. We acted as joint lead examiners for the first ever peer review by the United Nations Conference on Trade and Development (UNCTAD) of a competition policy system (that of Jamaica). In addition, we developed our bilateral links with counterpart authorities around the world and contributed further to the work of the Organisation for Economic Co-operation and Development's Competition and Consumer Policy Committees. We received over 30 overseas delegations during the year and provided technical assistance to authorities in a range of countries, including India, Singapore, Turkey and the new EU member states.

ENQUIRIES UNIT

The Enquiries Unit is the public's main point of contact with the OFT and a key source of information and intelligence for our market studies and enforcement teams.

The Unit handled 75,656 telephone calls, 20,076 emails and 2,931 letters in 2005–06. The success of OFT publicity campaigns on approved consumer codes and mass-marketed scams contributed to an overall rise in the number of enquiries to the OFT during the year.

We completed a project to integrate our call handling system with Consumer Direct, the national consumer advice service which came under OFT control in April 2006 (see page 18). Callers to the Enquiries Unit can now select a Consumer Direct option from our automated menu, allowing the speedy redirection of consumer advice calls to regional Consumer Direct offices.

Work is currently under way to ensure we make the best use of the valuable information which consumers provide. We are developing data-mining tools to analyse consumer complaints by region, trading practice and sector; this will allow us to identify issues at an earlier stage and improve our understanding of both local and national markets.

Performance against our annual plan

Objective

We will play an active role in shaping policy and proposed legislation to facilitate competitive markets and maintain and develop consumer protection, manage OFT's relations with stakeholders, provide information to the public and produce market intelligence.

Our commitment	Our performance
Promote continuing improvement in quality of other government departments (OGD) competition assessments by scrutinising regulatory impact assessments, providing drafting advice and educating OGDs on assessing competition impacts.	• Provided advice on 81 RIAs. • Liaised with the Cabinet Office's Better Regulation Executive on developing and improving competition assessments.
Provide advice on new policy initiatives and impact on the legislative and regulatory debate, coordinate input into new legislation that directly impacts on OFT enforcement and casework activity, and provide advice on wider policy initiatives.	• Participated in the Competition Forum and, with the DTI and CC, commissioned research on market-based approaches to public policy. • Worked with the OGC to examine the impact of competition on procurement of municipal waste services and on a guide for procurers of construction services. • Produced a joint paper with the CAA on competition in the trading of European airport slots.
Work with stakeholders through the Payment Systems Task Force to address competition concerns and their downstream effects on consumers, reporting on progress early in 2005–06.	• Agreement reached on faster clearing times for internet and telephone payments. • Reports published on access and governance arrangements of BACS Payment Systems Ltd and of LINK. • First annual progress report of the Task Force published in May 2005. • Working group set up to examine cheque clearing.

Our commitment	Our performance
Develop, coordinate and maintain relationships with stakeholders in all nations of the UK, and internationally.	• Commissioned an independent review of our UK stakeholder liaison strategy. • Worked closely with devolved administrations on a new regulatory framework for consumer protection. • Participated actively in a range of European and international forums, including the ECA, ICN, OECD, ICPEN and UNCTAD.
Provide speedy and effective responses to public enquiries and gather intelligence for referral to casework divisions and Markets and Policy Initiatives division.	• OFT Enquiries Unit handled 75,656 phone calls, 20,076 emails and 2,931 letters.

During 2005–06, the OFT spent £1.36m on achieving this objective. This money was allocated as follows:

Staff costs	£1.23m
Miscellaneous administration	£0.13m

people

We put into action a new performance management system that encourages staff to strive to achieve the OFT's goals. This was a key part of our efforts to build a high-performing workforce. We also took significant strides towards making the OFT more efficient, including through better use of IT.

Objective 8
managing our people and infrastructure

MANAGING OUR PEOPLE

Learning and development
We continued to develop and deliver high-quality learning and development programmes for OFT staff. This work included:

- training all staff in the new performance management system (see below)
- a comprehensive programme of leadership and management development for middle and senior managers
- the provision of project management training.

Our commitment to supporting staff development is reflected in our accreditation to the Investors in People (IiP) standard. An IiP review in January 2006 confirmed we have a strategic and highly professional approach to the provision of learning and development.

Performance management
The OFT's new performance management system was fully rolled out across the organisation by February 2006. The system cuts down on paperwork and improves dialogue between employees and their managers so they can agree challenging and fulfilling personal objectives and development plans that support the goals of the organisation. Additionally, it enables pay negotiations to be completed more quickly and efficiently.

Recruitment
During 2005–06, we successfully recruited 65 new staff. At the end of the year, the OFT had 610 permanent staff (31 March 2005: 673).

We adhere to the Civil Service recruitment principles of open and fair competition and selection on merit, and we follow the Civil Service Commissioners' Recruitment Code. No candidates were recruited during the year under the arrangements for permitted exceptions to the code.

Diversity
We are committed to promoting diversity among OFT staff through our equal opportunities policy.

To support our work on diversity, in 2005–06 we:

- trained all new staff in diversity awareness
- began developing a disability equality scheme to sit alongside our existing race equality scheme
- placed two of our employees on the Cabinet Office Pathways programme, which offers fast-track development to talented ethnic minority staff
- were recognised by Business in the Community, the corporate responsibility charity, as the 'best newcomer' in its Race for Opportunity annual benchmarking of more than 100 UK organisations
- were recognised as one of the UK's top 100 employers of gay staff in Stonewall's Equality Index, signalling our commitment to workplace equality for lesbian, gay and bisexual people.

	Women	From ethnic minorities	With disabilities
All staff	49%	24%[1]	2%
Senior civil servants	13%	6%[2]	3%
Senior managers	47%	9%[3]	1%
Executive staff	49%	24%[4]	1%
Clerical and support staff	64%	53%[5]	4%

[1] 50 staff did not state their ethnic background
[2] two senior civil servants did not state their ethnic background
[3] 11 senior managers did not state their ethnic background
[4] 20 executive staff did not state their ethnic background
[5] 11 clerical and support staff did not state their ethnic background

Diversity of staff recruited during 2005–06

Women	48%
People from ethnic minorities	14%[1]
People with disabilities	0%

[1] Two recruits did not state their ethnic background

MANAGING OUR INFRASTRUCTURE

Funding

The activities of the OFT are funded by Parliamentary Vote.

A full set of the audited resource accounts are available at www.oft.gov.uk/News/Annual+report/index.htm

Efficiency savings

We decided not to seek additional funding for the Spending Review 2004 (SR04) period April 2005 to March 2008, relying in part on achieving efficiency savings of around £6.5m over this period.

In 2005/06, we achieved our target of making efficiency savings of £1.5m on our total budget of approximately £57m.These savings came mainly from reducing staff numbers and consequent costs. We were also able to reduce expenditure on consultants and agency staff in some of our areas of activity.

Capital investment

We make capital investments that will enable us to deliver our objectives. They are based on the need to accommodate our staff and provide effective IT systems.

The primary processes of the OFT concern the handling of information. During the year, we invested in a large change project to replace our 25-year-old IT system for handling credit licences (see 'IT systems'). We spent £1.8m on this and £0.4m on other IT capital expenditure during 2005/06.

IT systems

Our IT development centred on a major new system for our consumer credit licensing work. Early in the year, we appointed LogicaCMG as our strategic IT partner for the project (as well as for other major IT developments and the support of existing systems).

Throughout the year, we continued work to develop the new system. It will make licensing administration more efficient by introducing greater automation and will facilitate improved checks of information supplied by licence applicants against other data, for example from Companies House and the Insolvency Service. It will also enable us to administer the new licensing regime proposed in the Consumer Credit Bill. The system will go live in late summer 2006.

Our other IT work included:

- preparing to take over the Consumer Direct IT system
- upgrading network hardware and data storage capacity and resilience
- securing efficiency gains by cutting the costs of supporting key systems.

Facilities

We began work to relocate staff from our Consumer Credit Licensing Bureau in Ealing to our main office in London. The relocation is expected to be complete by September 2006. Our drive to make efficiency gains involved reviewing our contracts with suppliers of facilities management and related services.

Performance against our annual plan

Objective

We will develop our human resource capability and corporate infrastructure.

Our commitment	Our performance
Complete the introduction of improved performance management and pay systems.	• Completed implementation of new performance management system.
Work to provide a more economic, efficient and effective delivery of services.	• Worked to secure efficiency savings, for example achieving a £1.5m reduction in our administration budget.
Ensure that we are well placed to make efficiency gains by the intelligent application of IT.	• Developed IT system that will make credit licensing process more efficient and effective.

During 2005–06, the OFT spent £17.75m on achieving this objective. This money was allocated as follows:

Human resources	£1.70m
Learning and development	£0.52m
Finance	£0.93m
IT	£4.47m
Accommodation and office support*	£8.73m
Other costs**	£1.40m

* Includes fixed costs such as rental payments on Fleetbank House and Craven House

** Includes £0.11m in respect of due diligence relating to Consumer Direct, £0.65m relates to a provision in respect of the relocation of our operations at Craven House to Fleetbank House and £0.33m relates to the Hampton Review

Annexe A

COMPETITION ACT INVESTIGATIONS – ESTIMATE OF CONSUMER DETRIMENT

UOP

The OFT issued a decision in November 2004 which concluded that UOP Ltd (UOP), Thermoseal Supplies Ltd (Thermoseal), Double Quick Supplyline Ltd (DQS), UKae Ltd and Double Glazing Supplies Group plc (DGS) were involved in an overall agreement and/or concerted practice designed to fix and/or maintain minimum resale prices for desiccant manufactured by UOP.

The agreement raised prices by a relatively modest amount, but appeared to be long lasting. As such we have assumed a price rise less than the default 10 per cent, but a greater duration than the default six years. We estimated that timely OFT action averted at least £1.2m of consumer detriment.

Replica kit

At the start of Euro 2000, before the OFT began its investigation into allegations of price-fixing of replica kit in June 2001, it was very difficult to buy an adult short-sleeved England shirt for less than £39.99. The OFT issued its decision in August 2003, and by the time of Euro 2004, England shirts were widely available for as little as £25.

We estimated that timely OFT action averted at least £58m of consumer detriment. This is based upon the assumptions that, despite some firms seeking to destabilise the price-fixing arrangements and lower prices, the price-fixing arrangements would have continued without OFT intervention and, as a result, fans would have seen prices rise by in excess of 10 per cent over the medium term.

Argos/Littlewoods

During the period of the price-fixing agreements a game of Monopoly, for example, cost £17.99 in the spring/summer catalogues of both companies. Following the OFT's decision the game was sold by Argos for £13.99 and for £13.49 by Littlewoods. Argos further lowered the price of the game in April 2005 to £13.49. We therefore estimated that timely OFT action averted at least £40m of consumer detriment.

Roofing

We have conducted five separate investigations into bid-rigging in the construction industry between March 2002 and February 2006. The total turnover of the infringing firms in the relevant market was £45m. Assuming a 10 per cent price increase (consistent with a conservative analysis of known side-payments) and a five-year future duration, we estimated that timely OFT action averted at least £20m of consumer detriment.

Annexe B

COMPETITION ACT INVESTIGATIONS – INVESTIGATIONS COMPLETED

Case title	Date opened	Date closed	Priority area
Infringement decision			
Collusive tendering for felt and single ply roofing contracts in Western-Central Scotland	20/08/2003	12/07/2005	Construction
MasterCard UK Members Forum Limited	02/03/2000	06/09/2005	Credit
Collusive tendering for flat roof and car park surfacing contracts in England and Scotland	14/07/2003	23/02/2006	Construction
Stock check pads	17/12/2003	31/03/2006	–
Commitment decision			
TV Eye	05/03/2003	24/05/2005	–
Associated Newspapers Limited	14/02/2003	02/03/2006	–
Other			
Allegation of retail price maintenance against Brintons Carpets	06/01/2003	14/04/2005	–
Rules of a professional body	04/12/2003	15/04/2005	–
Loyalty rebates in the market for underlay of carpets	04/04/2003	15/04/2005	–
Alleged price-fixing and market sharing of waste disposal services	11/01/2005	17/02/2005	Healthcare
Professional indemnity insurance arrangements	11/03/2004	22/04/2005	–
Complaint regarding the exclusivity of the licensing of published music by the MCPS	27/05/2002	13/05/2005	–
Alleged retail price maintenance in retail market for electronic vehicle accessories	15/12/2004	16/05/2005	–
SSL International plc: suspected excessive pricing in the supply of contraceptive sheaths	09/01/2002	16/05/2005	Healthcare
British School of Motoring (BSM)	07/03/2005	29/07/2005	–
Complaint about licensing practices covering software in schools	12/12/2002	26/09/2005	–
Alleged price-fixing in the supply of polyurethane foam	31/07/2002	21/10/2005	–

Case title	Date opened	Date closed	Priority area
Other continued			
Alleged price-fixing by National Veterinary Supplies Ltd	14/04/2005	04/11/2005	–
The Law Society of Northern Ireland	28/06/2004	18/11/2005	–
Alleged predation by Arriva in the Luton and Dunstable area	27/03/2003	25/11/2005	–
Price competition between panel solicitors	18/10/2004	06/01/2006	–
The British Horseracing Board and The Jockey Club	28/06/2000	08/02/2006	–
Allegation of collective boycott in the market for celebrity merchandise	04/01/2005	20/02/2006	–
Novartis Pharmaceuticals Ltd	20/05/2004	20/03/2006	Healthcare

Printed in the UK for The Stationery Office Limited
on behalf of the Controller of Her Majesty's Stationery Office
07/06,5379058

If you would like to find out more

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

Switchboard number **020 7211 8000**
General fax number **020 7211 8800**
Enquiries unit **08457 22 44 99**
Publications order line **0800 389 3158**
Website **www.oft.gov.uk**

OFT Consumer Credit Licensing Bureau
Craven House, 40 Uxbridge Road
Ealing, London W5 2BS

If you require this report in other formats
please contact **0800 389 3158**

Printed in the UK on paper comprising
80% post-consumer waste and 20% ECF pulp.

Published by TSO (The Stationery Office) and available from:

Online
www.tso.co.uk/bookshop

Mail, Telephone, Fax & E-mail
TSO
PO Box 29, Norwich NR3 1GN
Telephone orders/General enquiries 0870 600 5522
Fax orders 0870 600 5533
Order through the Parliamentary Hotline Lo-call 0845 7 023474
E-mail book.orders@tso.co.uk
Textphone 0870 240 3701

TSO Shops
123 Kingsway, London WC2B 6PQ
020 7242 6393 Fax 020 7242 6394
68-69 Bull Street, Birmingham B4 6AD
0121 236 9696 Fax 0121 236 9699
9-21 Princess Street, Manchester M60 8AS
0161 834 7201 Fax 0161 833 0634
16 Arthur Street, Belfast BT1 4GD
028 9023 8451 Fax 028 9023 5401
18-19 High Street, Cardiff CF10 1PT
029 2039 5548 Fax 029 2038 4347
71 Lothian Road, Edinburgh EH3 9AZ
0870 606 5566 Fax 0870 606 5588

The Parliamentary Bookshop
12 Bridge Street, Parliament Square,
London SW1A 2JX
Telephone orders/General enquiries 020 7219 3890
Fax orders 020 7219 3866

TSO Accredited Agents
(see Yellow Pages)

and through good booksellers

ISBN 0-10-293845-8

9 780102 938456