

Annual Plan 2008-09

Consultation document

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November 2007

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1 FOREWORD

The Office of Fair Trading (OFT) is conducting a public consultation on the draft Annual Plan for 2008-09. Section 3 (2) of the Enterprise Act 2002 sets out that the OFT shall, for the purposes of public consultation, publish a document containing proposals for its annual plan at least two months before publishing the annual plan for any year. This consultation document fulfils this criterion as well as following the criteria set out in the Cabinet Office's Code of Practice on Consultation (available at www.cabinetoffice.gov.uk/regulation/consultation/consultation_guidance/the_code_and_consultation/index.asp). The criteria set out in that code are in Annexe C of this document.

Responding to this consultation

Consultees responding to this consultation are asked to supply a brief summary of the interests or organisations they represent, where appropriate. We ask that any suggested changes or comments on the documents be submitted in writing (by email, or alternatively by letter or fax, as indicated below).

The consultation period

The consultation period began on 26 November 2007 and will run until 18 February 2008. This period of 12 weeks is in accordance with the criteria set out in the Cabinet Office's Code of Practice.

Next steps

We will collate responses to the consultation and publish a formal summary of these, along with a final version of the amended Annual Plan 2008-09 in March 2008, taking into consideration comments made in response to the consultation. All responses and comments should be sent no later than 18 February to:

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Data use statement for responses

Please note that we may choose to refer to comments received in response to this consultation in future publications. In deciding whether to do so, we will have regard to the need for excluding from publication, as far as that is practicable, any information relating to the private affairs of an individual or any commercial information relating to a business which, if published, would or might, in our opinion, significantly harm the individual's interests, or, as the case may be, the legitimate business interests of that business ('confidential information'). If you consider that your response contains such information, that information should be marked 'confidential information' and an explanation given as to why you consider it is confidential. All information received is subject to Part 9 of the Enterprise Act 2002.

If you are replying by email, these provisions override any standard confidentiality disclaimer that is generated by your organisation's IT system.

Neil Smart

OFT Strategy and Planning Team

2 ABOUT THE OFT

The OFT mission

- 2.1 Our mission is to make markets work well for consumers. Markets work well for consumers and contribute to the health of the wider economy when they are efficient and productive. Where markets are not working well for consumers, the problems may often be resolved without the need for intervention by the OFT, for example by the actions of the market players themselves or by new entrants, through the impact of external factors or as a result of innovation. Where the problems cannot or are unlikely to be resolved naturally, then intervention by the OFT using one or more of the available tools may be necessary. Intervention by the OFT is designed to support the development of competitive, efficient, innovative markets where standards of consumer care are high, consumers have choice and are empowered and confident about making choices, and where businesses are not disproportionately burdened by Government regulations and are encouraged to offer benefits to consumers beyond the protection afforded by law.
- 2.2 The tools to achieve this goal are found within the competition and consumer law regimes which lie at the heart of UK economic policy. These tools enable us to look at all aspects of markets to ensure that they are working well for consumers. We use the competition regime to ensure that consumers benefit from competitive and innovative markets which are not constrained, for instance by price fixing, by market sharing and other anti-competitive behaviour, by unnecessary or inappropriate regulations or by anti-competitive mergers. We use the consumer law regime to ensure that consumers are able to make informed and rational selections of products and services and that their choices are unimpeded by artificial constraints such as deceptive practices, misleading advertising, unfair contract terms or the withholding of material information.

2.3 Our view is that it is essential to look at the demand and supply sides of markets together. The competition and consumer regimes are complementary to each other. Empowered and well-informed consumers act as a positive stimulus to competition between businesses. Where consumers are able to make informed decisions, businesses are more likely to innovate, reduce inefficiencies in production and supply and compete in ways which make markets work well for consumers and the wider economy.

OFT vision

2.4 Our vision is to:

- **Deliver high-impact outcomes** that have significant benefits for consumers and the economy, improve legal certainty, support wider compliance and deterrence, and foster efficient, competitive and pro-consumer market conduct using the entire range of our policy instruments.
- **Be a centre of excellence** in consumer and competition policy and enforcement – linking international best practice and national economic understanding with national and local delivery, and engaging in critical self-examination and open evaluation and improvement in how we work.
- **Be a centre of intelligence** using economic data and feedback from Consumer Direct, partners, and stakeholders to inform our own and others' work, to identify markets that are not working well, to empower consumers, and to inform business, Government and the public about consumer and competition issues.
- **Achieve our objectives in partnership** with others including sector regulators, Government, the courts, the Competition Commission, the European Commission, Local Authority Trading Standards Services and businesses and consumers and their representatives.
- **Develop, promote and attract the best talent providing a supportive environment** in which staff can learn and develop to reach their potential.

The OFT – a brief overview

The OFT is a non-ministerial government department. We have a broad remit and a diverse set of tools available to us. We are not, for the most part, a regulator; indeed our direct regulatory powers are limited – for example, to the operation of the consumer credit and merger control regimes, which are statutory functions. The majority of our work consists of analysing and studying markets, enforcing competition and consumer law, undertaking advocacy and working with partners to deliver relevant education programmes to businesses and consumers. We also strive towards intellectual leadership in competition and consumer policy in order to exert maximum impact on decision-takers, opinion formers and influencers across the UK economy and internationally in the most efficient manner possible

The OFT approach

2.5 Our approach is founded on the principle that consumer welfare is optimised through vibrant competition in open and well-functioning markets. In pursuing this approach, we strive, through focused advocacy and education, and directed and effective enforcement when necessary, to promote open competition and to encourage the unfettered availability of products and services and the provision of accurate, non-deceptive information between businesses and consumers. We focus our interventions on those areas which pose the greatest threat to consumer welfare, such as cartel behaviour (price-fixing, market sharing and bid-rigging), the abuse of market power, the use of unfair contract terms and unfair commercial practices, deceptive or misleading advertising, mass-marketed scams and the actions of 'rogue' traders. We employ an increasingly sophisticated, systematic and rigorous approach to identifying the scale and causes of consumer harm and pay special attention to harm arising in key industries and markets and to the needs of vulnerable consumers.

- 2.6 We aim to take a market-informed approach, focusing on outcomes which support productivity growth and the prosperity of the UK economy. We believe that this approach is in the best interests of businesses, consumers, the UK economy and society. We have a wide range of tools at our disposal, from self-regulation in the form of OFT approved Codes of Practice and business education to merger control and the direct enforcement of competition and consumer legislation, including the criminal offences for cartels and unfair commercial practices.
- 2.7 Our methods include enforcement (civil and criminal), market studies, consultation and workshops, advocacy to help to formulate government policy and to address new or developing competition and consumer issues, and educating businesses and consumers. Beyond the immediate goal of stopping a particular bad practice or promoting a beneficial one, our activities improve the institutions and processes through which competition and consumer policies are formulated and applied.
- 2.8 Acting to prevent harm in the first place is better for consumers than taking enforcement action afterwards. One of the ways to achieve this is to equip both businesses and consumers with the necessary knowledge about their legal obligations and rights so that businesses understand and comply with the law and consumers can exercise their rights to protect themselves. We undertake powerful awareness and education programmes with business and consumers and co-ordinate an alliance of consumer education partners. Our aim is to increase consumer and business knowledge and to deal rapidly with complaints from those parties who are affected by unlawful activity and market failure. However, intervention should be the last, not the first, resort, and we encourage businesses and representative organisations to play an important role by raising compliance levels and by stopping unlawful, unfair and deceptive practices

The OFT: supporting business

By monitoring, addressing and remedying all aspects of markets we protect the fundamental framework in which business can operate in a climate of fairness and freedom to innovate. We protect business when it acts as a buyer and a seller by taking action against cartels, misuse of market power, and government restrictions which distort markets and harm competition. We also seek to protect the reputation of legitimate business and the UK markets as a whole by dealing with scams, rogue traders, cartels and other negative influences on consumer confidence across all markets. We aim, through our actions, to reduce burdens on business in order to reduce the regulatory costs which are in turn passed on to consumers.

- 2.9 We are committed to acting in a manner which is proportionate to the matter in hand. We will also consider carefully, and at an early stage, what remedies (including voluntary resolution) might be most appropriate. Both the choice of the intervention tool and the most appropriate remedy will be kept under review during our investigations to ensure that we remain focused on obtaining proportionate and effective outcomes.
- 2.10 In our work we aim to ensure that we conduct ourselves in a transparent manner and that parties are regularly informed of the status and anticipated time frame of the inquiries in which they are involved.

Making markets work well – competition and consumer law regimes

Competition stimulates businesses to improve their price and quality offering. They do this to win customers. In competitive markets, when buyers dislike the products or practices of one supplier, they can switch to others. This incentivises each supplier to satisfy customer preferences.

However, competition does more than simply improve the choices available for customers. It increases the motivation for suppliers to provide truthful, useful information about products and to fulfil promises concerning price, quality, and other terms of sale. Consumers can punish a seller's poor service or failure to fulfil a promise by voting with their feet - and their wallets. This punishment is usually swift, particularly for sellers of products which people frequently buy and where they can readily judge quality.

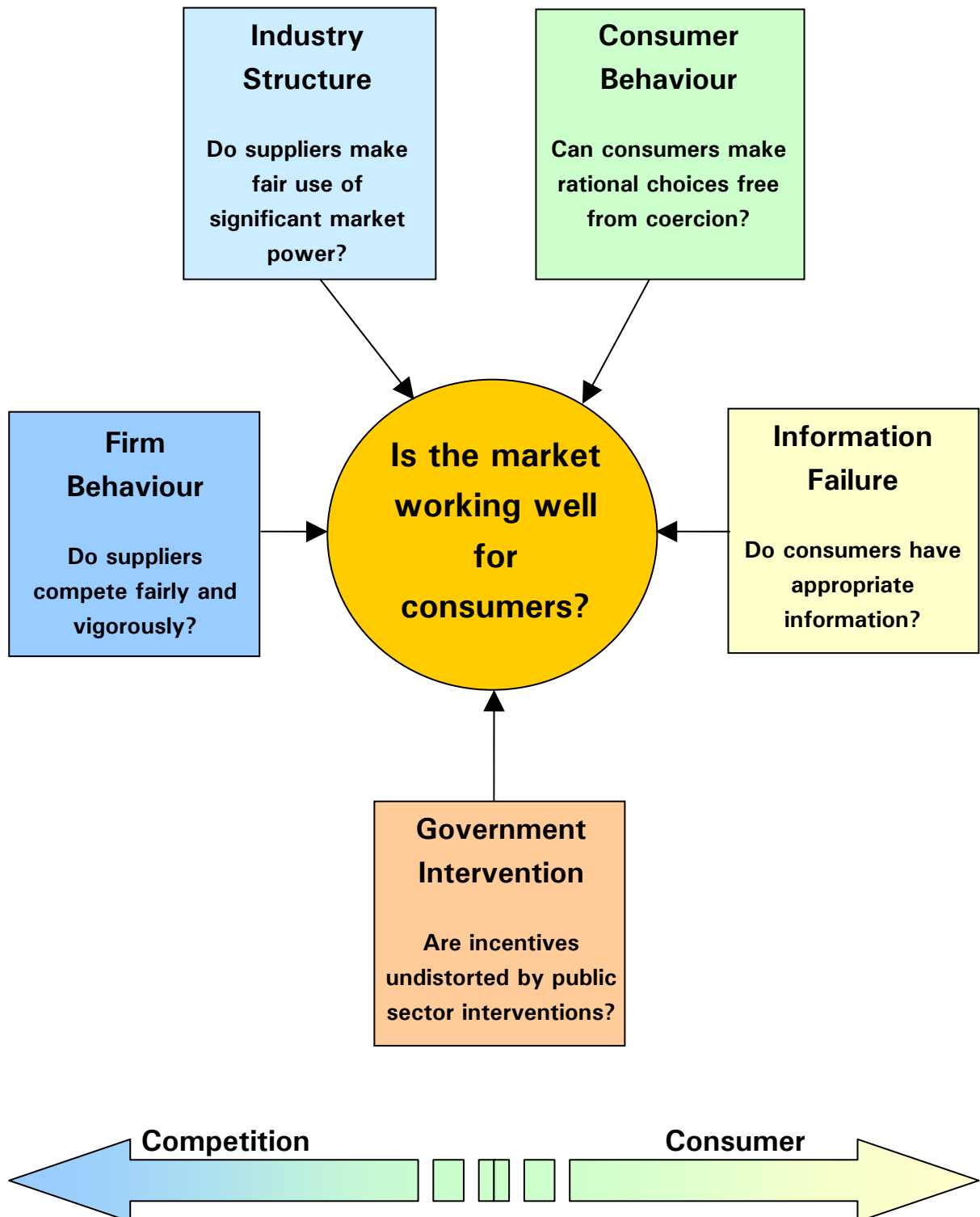
The 'informed and empowered consumer' stands on the common ground between the goal of competition policy – the maintenance of an efficient, innovative competitive economy – and the goal of consumer laws – confident consumers operating free from deception or ignorance concerning the material features of products and services and the terms of supply. If consumers have access to good information, and act upon this information, then normal market forces are likely to compel sellers to improve their products or services in ways that are most important to the consumer.

Reputable businesses care about how consumers see them. They count on reputation and consumer satisfaction to retain custom and increase sales. By contrast, disreputable businesses have no such concerns. They cheat consumers, take the revenues, and disappear from sight, often to re-emerge in another guise to steal again. Likewise, cartelists conspire to deny consumers the benefits of competition and usually seek to cover up their actions in order to deprive consumers of lower prices and/or greater choice.

When market forces cannot overcome such threats to consumer welfare, for example, because some sellers are unconcerned about repeat business and reputation, where there are structural or behavioural barriers to free competition, or where consumers and harmed businesses are unable to gain redress themselves, then OFT action may be required.

The diagram below shows the key factors underlying markets which work well for consumers.

Key factors underlying markets that work well for consumers



Our tools

Where one or more of these factors contribute to market failure, we have a range of tools at our disposal to address such failures and make the market work well for consumers. In many cases, it will be appropriate for us to use a combination of these tools to address such failures in a holistic way. In many cases we will work in partnership with other organisations which have complementary powers or influence in relation to markets.

Preventative tools including the Consumer Codes Approval Scheme, OFT guidance to consumers and business and consumer education programmes.

Diagnostic tools including research, market studies, investigating and responding to super-complaints, references to the Competition Commission and our investigation and intelligence gathering functions.

Advocacy tools including our international work where we use our influence to promote the interests of UK consumers, advice to Government, business and consumers on competition and consumer issues and encouraging private actions and redress for breaches of consumer and competition law.

Enforcement tools including accepting and reviewing undertakings, applying financial penalties and imposing directions under competition law, taking criminal actions for a range of unfair commercial practices, seeking court injunctions, refusing and revoking consumer credit licences and warning and banning estate agents. Our current powers under competition and consumer law are explained in more detail on the OFT website.

In addition, our **statutory remit** includes obligations on us to operate the consumer credit licensing and merger control regimes, to act as a supervisory authority under the Money Laundering Regulations, to respond to super-complaints and to assist the European Commission to carry out any inspections in the UK under Articles 81 and 82 of the EC Treaty.

The diagram below highlights which tools are available to us when addressing a variety of market failures.

Making markets work well for consumers					
	Industry Structure	Firm Behaviour	Consumer Behaviour	Information Failure	Government Intervention
Competition regime	Cartels and anti-comp agreements	✓			
	Abuse of dominance	✓	✓	✓	✓
	Merger control	✓			
Consumer regime	EA02 Part 8	✓			
	CPRs	✓			
	UTCCRs	✓		✓	
	Credit licensing	✓		✓	
	Estate agents	✓		✓	
	AML/D	✓		✓	
Markets regime	Market references	✓	✓	✓	✓
	Super-complaints	✓	✓	✓	✓
	Codes of practice	✓	✓	✓	
Market studies		✓	✓	✓	✓
	Research work	✓	✓	✓	✓
Advocacy	Advice to government				✓
	International policy work	✓	✓	✓	✓
Advice and guidance	Consumer Direct		✓	✓	
	Consumer education		✓	✓	
	Business education	✓	✓	✓	✓

3 KEY THEMES FOR THE OFT IN 2008-09

- 3.1 The OFT will face a number of new challenges in 2008-09. In this section we set out some of the key focus areas for us in the coming year.

Prioritisation

- 3.2 We are currently consulting stakeholders for their views on the OFT's proposed prioritisation principles, asking them which principles should underline the OFT's future priorities.¹ We will consider all responses and decide how to best reflect these in the final version of the principles which we expect to issue in spring 2008. Having done so, we intend to embed these into our project delivery framework over the course of 2008. How we prioritise our work is a crucial element of our operating strategy. Together with our focus on effective project delivery, we have developed a framework which, with our partners, will enable us to do the right things for consumers and the wider economy in the most effective and efficient way.

Transparency

- 3.3 We recognise the importance of being transparent with stakeholders, including the businesses involved in our enforcement action, about the work that we do: what we are doing, how long it is likely to take and how we will engage them in the process. In 2008-09, we want to build on our business practice improvements by increasing the public transparency of our work further. In particular, we plan to publish a Guide to OFT Business Practice, which will set out benchmark processes and timetables for projects of various types.

¹ The consultation can be found at:
www.oft.gov.uk/advice_and_resources/resource_base/consultations/Prioritisation

Evaluation

- 3.4 As part of our ongoing commitment to evaluating our work, in 2008-09, we will conduct a wide ranging programme to measure our impact in markets. This will include in-depth ex-post evaluations of OFT projects and procedural support in helping to estimate the impact of our work at the moment that we do it.²
- 3.5 We are currently consulting stakeholders on our proposal to assess performance against our target to deliver direct financial benefits to consumers of at least five times the amount the OFT costs the Exchequer over the CSR07 period (2008-2011).³
- 3.6 Other benefits of OFT work, such as deterring future anti-competitive behaviour or increasing confidence in markets are not included in this target but we will evaluate these through the wider programme of evaluation.

² Further information on the OFT's evaluation work to date can be found at:
www.offt.gov.uk/about/benefits/evaluation/publications

³ www.offt.gov.uk/advice_and_resources/resource_base/consultations/Calculating-benefits

4 POLICY CHANGE FOR THE OFT IN 2008-09

New criminal powers in consumer law

- 4.1 In May 2007, the Department for Business, Enterprise and Regulatory Reform (BERR) published its draft proposals to implement in UK law the Unfair Commercial Practices Directive (UCPD). The new law, the Consumer Protection from Unfair Trading Regulations 2007 (CPRs), will, from April 2008, replace key elements of the Trade Descriptions Act 1968, the Consumer Protection Act 1987 Part 3 and various other mainstream consumer protection laws which have been enforceable by Local Authority Trading Standards Services (TSS) using criminal sanctions. BERR has always stated that the UCPD will not lead to a reduction in the level of consumer protection. Accordingly, the CPRs, as well as being enforceable by the civil injunctive route available under Part 8 Enterprise Act will, with very minor exceptions, be enforceable by criminal prosecution.
- 4.2 OFT and TSS will be given a duty to enforce the CPRs. The OFT already has some criminal powers in the consumer law sphere and the Enterprise Act 2002 gave OFT criminal powers in relation to cartels. In order to fulfil this duty, the OFT will gain new criminal prosecution powers in other areas of our remit.
- 4.3 We welcome this expansion of our toolkit. We believe that it will enable us to tailor our enforcement response to tackle different market problems in the most appropriate ways. We are currently developing new policies, procedures and operational arrangements to enable us to enforce effectively the new criminal provisions in appropriate cases. We will continue to develop our approach in conjunction with our stakeholders and we intend to consult on a statement of policy in relation to the use of the new powers.

Private Actions in competition law

- 4.4 In April 2007 the OFT published a discussion paper, Private Actions in Competition Law: Effective Redress for Consumers and Business (OFT916) on the issue of how to make redress for consumers and business for breaches of competition law more effective. The discussion paper was welcomed by a wide range of stakeholders and was

successful in stimulating a lively debate. Around 60 written submissions were made to the OFT from, amongst others, consumer organisations, business representative groups, law firms and chambers, members of the judiciary, legal organisations, academic experts, other Government departments and enforcement agencies from other Member States.

- 4.5 Following publication of the discussion paper, a public hearing was held in September 2007 to allow respondents and other interested parties to expand upon their submissions and make further, oral comments to the OFT.
- 4.6 Based on the outcomes of the consultation on OFT916, the OFT intends to take action itself, within the limits of the legal framework in which it must operate, to make private actions in competition law more effective.
- 4.7 As a result of this work and informal discussions with HM Government, in October 2007 the Pre-Budget Report included an announcement of a full public consultation by the end of 2007. The OFT intends to finalise and publish by the end of November 2007 its recommendations to Government as to the steps which, in its view, should be taken at the domestic level to make private actions in competition law more effective.
- 4.8 The OFT continues to engage in discussions at the EU level in anticipation of the European Commission's White Paper on damages actions for breach of the EC competition rules and intends formally respond to the White Paper when it is published in 2008.

New consumer credit regime

- 4.9 In April 2008 the Consumer Credit Act 2006 will come into force amending the Consumer Credit Act 1974 to include new provisions to improve and strengthen the licensing regime administered by the OFT.

- 4.10 These reforms reflect a recognition that more needs to be done to raise standards of performance in the consumer credit market, particularly by raising the standard of those considered fit to provide consumer credit and taking action against irresponsible lending to protect consumers. The new powers provided to the OFT are a substantial up-rating of the licensing regime, to make it more effective and better focused on high risk activities and providers.
- 4.11 The reforms will grant the OFT power to impose requirements on consumer credit licensees to address matters that cause the OFT to be dissatisfied and to impose new obligations on licensees to update specified information they have provided to the OFT. The reforms will also give power to the OFT to impose financial penalties on licensees where they fail to comply with certain requirements and where they fail to provide relevant information to the OFT. We may also consider revoking a licence or taking other licensing action where there is a serious failure to comply with requirements.
- 4.12 In line with our overarching approach to enforcement, we will decide whether to impose a penalty, and how much it should be, according to all the circumstances of the case and taking account of any representations made to us.

5 PERFORMANCE FRAMEWORK AND OBJECTIVES

5.1 Our plans for the next three years are underpinned by a new performance framework (see Annexe A) agreed with Government setting out our commitments to the Government, consumers and businesses; and the high-level performance indicators that we will use to measure our success. As such our proposed objectives below for 2008-09 work towards achieving this performance framework.

Objective 1: To deliver high-impact outcomes

5.2 Make markets work well for consumers by delivering high impact work efficiently, focused on priorities, and spanning the OFT's enforcement and non-enforcement functions.

Our target is to deliver direct financial benefits of at least five times that of our cost to the taxpayer.

5.3 All our work is focused on ensuring the best outcomes in markets for consumers. Our commitment to measuring directly the benefits we are having to consumers compared with our cost to the taxpayer is a clear signal of this focus on outcomes.

5.4 In order to achieve the highest possible impact on consumers, we need to make use of all our tools – competition, consumer and market-focused – in a clear way; to prioritise our work effectively; and to ensure we are excellent in delivering work across the range of our remit. Specific commitments in each of these areas are set out in the performance framework.

5.5 The OFT's procedural framework will allow us to deliver high impact outcomes for consumers as we continue to use the principles set out for prioritisation and will report on the progress. We will provide transparent information on all our ongoing cases, including progress against timescales set out at the start of each project. Specifically:

- We will publish a Guide to OFT Business Practice, which will set out benchmark processes and timetables for projects of various types.
- We will keep parties informed on progress against project timescales.

- We will apply prioritisation principles in deciding which new work to carry out and report transparently on this in the Annual Report.

5.6 In our enforcement work we will concentrate our action on areas where we believe the benefit to consumers and the economy from our intervention would be greatest. We aim to focus on preventing and ending serious misconduct and increasing overall compliance levels, either as a direct consequence of our action or through wider deterrence or educational effects. Specifically:

- We will handle mergers notified to us in an efficient and timely manner, trying to remedy any problems without reference to the Competition Commission (CC).
- Where mergers are not notified to us we will investigate where we believe consumers may be at risk of adverse consequences flowing from the merger.
- We will continue to root out hard core cartel activity across the whole economy. We will use our criminal powers where possible. We will also continue to identify, investigate and challenge misuses of market power.
- We will take preventative, deterrent and disruptive action to prevent mass marketing scams reaching consumers, both through direct enforcement and increasing consumer empowerment to identify and protect themselves from scams.

5.7 We will use our market-wide tools to raise industry standards, increase business and consumer awareness and remedy generic issues of market failure. We will focus on empowering consumers, increasing effective self regulation, and dealing with structural defects in markets.

- We will assess the performance of the UK payments council against its objectives of setting a strategic vision across the payments industry and the increasing transparency and innovation.
- We will continue to work closely with the CC to develop, monitor and review remedies in markets which we refer, where this is appropriate to their findings.

- We will undertake a review of The Supply of Extended Warranties on Domestic Electrical Goods Order 2005.
- We will review the Contracts Rights Renewal undertakings agreed during the merger of Carlton and Granada to form ITV plc.
- We will work to ensure the successful operation of that part of the anti-money laundering compliance regime for which the OFT is responsible.
- We will work with new applicants to the Consumer Codes Approval Scheme to achieve stage one completion and also work with those that are at stage two to full code approval. We will aim to send an initial assessment letter to code sponsors within one month of receipt of a stage 1 application.
- We will continue our work in the banking sector with our ongoing market study into Personal Current Accounts and we will publish our view on the fairness of unauthorised overdraft charges.
- We will continue to provide informal assistance in merger cases which raise genuine competition issues and where our involvement will assist business in ways their advisers cannot. Consumers will benefit if pro-competitive mergers are encouraged and where business can build merger remedies advice into their transaction planning early on.

5.8 In our advocacy and policy work we will focus our attention on markets where we believe that regulations may be harmful and unnecessary or market structures hinder competition. We will use our market expertise and experience to influence and educate policy makers, representative organisations and other interested parties in order to ensure that they are aware of issues relating to supply and demand, and that they take account of competition and consumer concerns when they are relevant to their work. Specifically:

- We will work to establish legal precedent and in dealings with professions will continue with our approach of using advocacy combined with enforcement to bring about change.

- We will continue to engage proactively with other government departments, including the devolved administrations, to ensure that forthcoming legislation is no more restrictive of competition than necessary. We will respond to requests for such advice from government departments in an effective and timely manner.

Objective 2: To be a centre of intelligence and excellence

5.9 Monitor markets proactively, systematically and transparently. Evaluate the impact of our work, and use this evaluation to inform strategy and future work. Provide effective education and advice for consumers, including through Consumer Direct. Promote innovative approaches in our work.

Our target is to be acknowledged as a thought leader, developing innovative approaches to our work, using intelligence effectively, and having a wider impact on markets through our advocacy of competition.

5.10 The OFT is committed to being a world-class competition and consumer authority. We can only achieve the benefits for consumers that we desire by becoming more intelligent, continually assessing and monitoring our performance and coming up with innovative approaches to tackling market problems. We are also committed to providing advice to businesses and consumers so that they can help themselves wherever possible, including through the Consumer Direct helpline service.

5.11 We will monitor markets proactively, taking account of all market aspects. We will publish objective criteria for undertaking and terminating market studies. Specifically:

- We will carry out impact evaluations of at least three market interventions (including one market study) and publish the results. We will evaluate the specific impact of a consumer campaign and report on the results.

- We will review our policy and practice on market studies, including the various situations where market studies are appropriate, the processes we use and issues such as interaction with the interested parties and transparency. In light of this review, we will hold a conference reviewing the market studies regime five years after implementation and will then amend our market studies guidance.
- We will develop our use of productivity analysis to identify areas of detriment and build a consistent analytical framework for identifying possible future investigations.

5.12 We will ensure that we are aware of, and able to influence, the latest developments, innovations and research in policy and enforcement best-practice, including through engaging with national and international fora. Specifically:

- We will continue to work closely with BERR and the European Commission on the development and formation of competition and consumer protection legal and policy regimes.
- We will continue to work on developing relationships with overseas consumer and competition agencies via our participation in variety of fora such as the International Consumer Protection and Enforcement Network, Organisation for Economic Co-operation and Development, European Commission and the International Competition Network.

5.13 We will undertake critical and transparent analysis of our work, and use the results to inform our work and overall strategy going forward. Specifically:

- We will consult on and publish an Enforcement policy, having regard to statutory Better Regulation requirements.
- We will hold a conference focusing on our continued work to integrate our consumer and competition work.
- We will seek to develop our capacity to carry out criminal prosecutions in relation to consumer protection legislation and where we identify serious infringements of the Consumer Protection from Unfair Trading Regulations 2007 (CPRs) we will not hesitate to take criminal prosecutions.

- We will work to develop and increase understanding among market participants and other interested parties of the concept of 'fairness' in principled-based regulation and of the concept of 'vulnerable consumer' in various markets, circumstances and conditions.
- We will review, in light of recent changes to our internal and external environment, our guidance on Part 8 of the EA02 and consult on and publish revised guidance.
- We will work to develop policy on the effective and practical use of director's disqualification powers.
- We will issue revised procedural guidance on how the OFT deals with mergers.

5.14 We will inform and educate our partners and stakeholders. Specifically:

- We will publish guidance on the application of competition law in the public sector.

Objective 3: To work in partnership

5.15 Work with our partners to better achieve our other objectives. This will include: working with TSS to pursue a risk-based, intelligence-led approach to delivery at local level of coordinated and consistent services to businesses and consumers; co-operating with other UK regulators, the European Commission, the Competition Commission and other National Competition Authorities to ensure effective enforcement of the competition regime in the UK; and working with government to influence competition, regulation and consumer policy, and reduce the potential for government actions to adversely affect markets.

Our target is to demonstrate increased effectiveness of OFT work by engaging the strengths of other bodies and organisations, and by increasing mutual awareness and understanding.

5.16 We realise that we can only achieve the impacts we desire by working effectively with a range of other organisations, businesses and individuals. As well as a general commitment to working with our stakeholders, we also have specific commitments relating to Local

Authority Trading Standards Services (TSS), and to our work with central government.

5.17 We will work with our partners, and influence others, to make markets work well for consumers, including: reducing the distortions of markets created by government actions; working with TSS to ensure a risk-based, proportionate and coordinated approach to their work; and co-operating with sectoral regulators, the European Commission and other National Competition Authorities to ensure effective enforcement of the competition regime in the UK. Specifically:

- We will develop a multi level contact programme for Westminster and Whitehall stakeholders to improve our liaison with government. We will also develop a programme to increase wider engagement with the policy community.
- We will work with other enforcers to coordinate enforcement action against business to business misleading indications under the Business Protection from Misleading Marketing Regulations 2007 (BPRs) and consider and consult on the need for guidance on their operation.
- We will consult on and publish principles for established means under both the Consumer Protection from Unfair Trading Regulations 2007 (CPRs) and BPRs.
- We will continue to provide advice and guidance to, and liaison, with UK sectoral regulators, via the Concurrence working party and on going contact.
- We will continue to work in partnership with TSS and will agree a partnership framework. We will also devise a robust methodology for assessing the impact of the work of TSS and complete the first national assessment of their economic impact.
- We will continue to establish the joint OFT/TSS Regional Intelligence Network and support it with an IT based intelligence system, subject to a robust evaluation of the benefits of doing so.

- We will continue to provide case support and training to enforcement partners focusing on the successful use of the CPRs, and we will facilitate the sharing of best practice across traditional (enforcers) boundaries'.
- We will continue to develop the Local Authority Assured Trader Scheme Network (LAATSN) and develop criteria to enable an assessment of the impact of local trader schemes and LAATSN.

5.18 We will provide effective education and advice for consumers and businesses, including through Consumer Direct. Specifically:

- We will work to ensure the successful integration of Energywatch and Postwatch contacts into Consumer Direct providing appropriate funding has been secured.
- We will continue to work with our international enforcement counterparts to raise awareness of scams.
- We will seek to empower consumers via improvements in consumer skills and knowledge by communicating directly with consumers and developing education work through the Consumer Education Alliance.

5.19 We will ensure OFT external services such as Consumer Credit Licensing and Consumer Direct continue to provide efficient and effective services to stakeholders.

- We will operate the consumer credit licensing regime in order to minimise the impact on business and will seek to process 90 per cent of applications within 25 working days. When undertaking credit enforcement cases and investigations into credit fitness we will complete 75 per cent of cases within 6 months.
- Our enquiries team will respond to 90 per cent of public enquiries and complaints within 10 working days.
- We will aim for a satisfaction rate of 85 per cent of Consumer Direct customers and through its advice we will seek to empower consumers to resolve 45 per cent of their consumer problems.

Objective 4: To develop the OFT as an organisation

Our target is to have a comprehensive career and knowledge development programme for our people.

- 5.20 The OFT's key asset is the diversity of the skills, expertise and experience of its staff. Our ability to change markets and deliver excellent outcomes for the UK economy relies on investing in the skills and talent of our staff.
- 5.21 In 2008-09, we will continue to invest in our people by developing their skills and ensuring that they have the appropriate tools to do their jobs effectively and that we contribute skills to the economy. We will particularly focus our learning and development programme in 2008-09 on the skills and behaviours required to meet new challenges.
- 5.22 We will, for example invest in recruitment, training and development to ensure that we have both the capability and the capacity to undertake the full range of our work (including the exercise of criminal powers) and to deliver high quality projects which provide substantial benefits to consumers and to the economy on time and within budget.

6 RESOURCES

6.1 2008/09 will be the first year of a new three year HM Treasury (HMT) funding cycle covering the financial years 2008-09, 2009-10 and 2010-11. OFT achieved an early settlement agreement with HMT therefore avoiding protracted discussion and uncertainty on funding levels. As with all Government bodies OFT has been subject to rigorous scrutiny of our financial position and has had to bear the effect of a 5 per cent efficiency saving year on year over the CSR period.

6.2 There are two significant changes from the 2006/07 settlement. Firstly funding for Consumer Direct is no longer ring fenced and has been subject to the same efficiency saving as the rest of OFT. Secondly Consumer Credit Licensing Bureau (CCLB) will be self financing from the 1st April 2008, and therefore OFT no longer receives any central funding for this activity.

6.3 For the CSR07 period the OFT Settlement has been fixed at:

2008-09	2009-10	2010-11
£65.7m	£64.1m	£62.6m

6.4 For the financial year 2008-09 this may be broken down into the following areas:

Running Costs	£62.4
Capital	£1.4m
Litigation costs (ring fenced)	£1.9m

6.5 In meeting what is a challenging financial target while at the same time at the very least meeting the operational objectives placed upon the organisation, we will continue to review our staffing levels and mix ensuring the right people are in place at the right time. We will continue with a policy of using specialists and temporary resource where it is most effective to do so, consider novel and innovative ways of delivering the required objectives and undertake an on-going review of the organisational structure to ensure it reflects the most effective way of both supporting and delivering the challenging objectives for 2008/09.

- 6.6 During 2008/09 we will continue to develop our outcome approach to business planning and reporting. This will allow us to be flexible and proactive in our approach to planning and to meet those additional and unexpected activities that arise during the year.

7 FURTHER INFORMATION

7.1 More information about the Office of Fair Trading and our work can be found on the website at www.offt.gov.uk

7.2 Please send your comments by no later than 18 February via email to neil.smart@oft.gsi.gov.uk or by post to:

Neil Smart
Room 3E/011
Office of Fair Trading
Fleetbank House
2-6 Salisbury Square
London
EC4Y 8JX

7.3 Responses will be made public at the end of this consultation unless you tell us that you do not agree to this.

ANNEXES

A CSR07 PERFORMANCE FRAMEWORK AGREEMENT (FOR 2008-11)

The OFT is responsible for making markets work well for consumers. We achieve this by promoting and protecting consumer interests throughout the UK, while ensuring that businesses are fair and competitive.

Objective 1: Make markets work well for consumers by delivering high impact work efficiently, focused on priority areas, and spanning the OFT's enforcement and non-enforcement functions.

1. In each annual report provide quantitative evidence of how the OFT delivers direct financial benefits to consumers of at least five times that of its cost to the taxpayer across the spending review period.⁴
2. In each annual report estimate the additional wider benefits of OFT'S work, e.g. increasing consumer and business confidence in markets and deterring future anti-competitive behaviour.
3. Publish annually statistics and information on all the OFT'S enforcement and non-enforcement outcomes, including comparisons with previous year's statistics and, where applicable, other leading NCAs.
4. Publish a project performance management system, including anticipated timeframes for the completion of principal types of projects, and report annually on performance against this framework and the proportion of projects delivered within the anticipated timeframes (with explanations for projects not completed in time).

⁴ The approach to calculating benefits will be consulted on and published.

5. Publish and continue to develop a framework for prioritising work, drawing on information from complaints to OFT and Consumer Direct, proactive market monitoring and project evaluation work. Report annually on how the framework has been reflected in projects carried out.
6. Publish detailed performance monitoring arrangements for Consumer Direct and report annually on success against these targets. Demonstrate that Consumer Direct is generating benefits of at least three and a half times its operating costs.
7. Ensure that investigations are conducted in a transparent manner, with parties frequently informed of the status and anticipated time frame of the investigations in which they are involved.

Objective 2: Be a centre of intelligence and excellence. Monitor markets proactively, systematically and transparently. Evaluate the impact of our work, and use this evaluation to inform strategy and future work. Provide effective education and advice for consumers, including through Consumer Direct. Promote innovative approaches in our work.

8. Systematically monitor markets, with the aim of progressively increasing impact from the proactive market studies, investigations and advocacy programme, as measured by increases in consumer welfare or other relevant indicators of impact.
9. Publish objective criteria for undertaking and terminating market studies.
10. Evaluate the impact of at least two market interventions (including at least one market study) annually and publish the results. Evaluate the specific impact of consumer campaigns on at least two markets per year, and report on the results.
11. Demonstrate an increasing awareness of OFT'S work and role, through measures such as survey evidence and number of website hits
12. Take action to drive up the average quality of complaints received, and respond to 90 per cent of public enquiries within 10 days.
13. Demonstrate the use of innovative and appropriate approaches to market problems, recording in the annual plan examples such as direct settlement, third party interventions and new types of study.

14. Maintain or improve OFT'S rating as one of the top consumer and competition authorities in the world as measured by DTI's peer review, Global Competition Review and other appropriate measures.
15. Monitor and increase the number of OFT decisions cited favourably in international competition and consumer policy debate (e.g. through Lexus Nexus citations).

Objective 3: Work with our partners, to better achieve objectives 1 and 2 above. This will include: working with trading standards to pursue a risk-based approach to local regulation of businesses; co-operating with other UK regulators, the European Commission, the Competition Commission and other NCAs to ensure effective enforcement of the competition regime in the UK; and working with government to influence competition, regulation, and consumer policy, and reduce the potential for government actions to adversely affect markets.

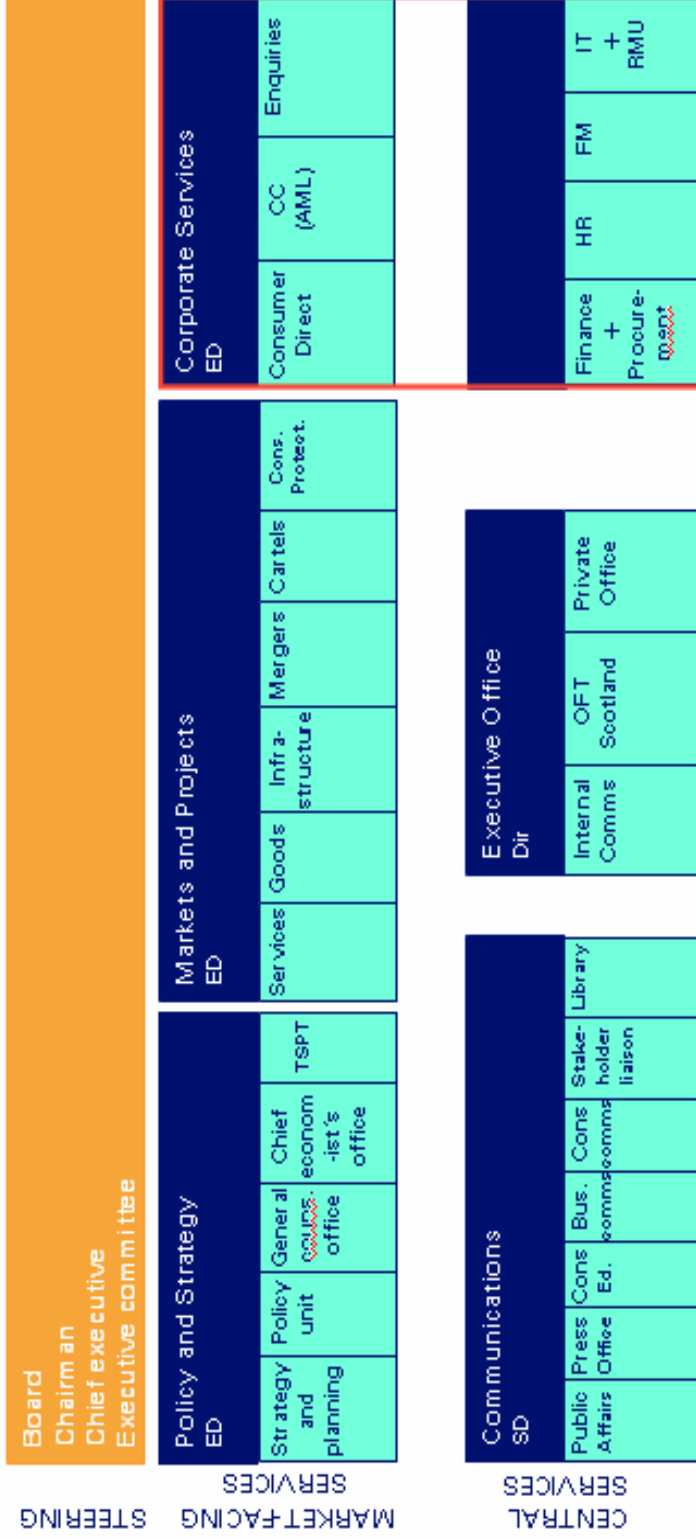
16. Deliver and extend the joint implementation plan with local authority Trading Standards Services. Demonstrate a more consistent, better-coordinated service delivery, and a more risk-based approach, leading to reduction in the administrative burdens placed on fair-trading businesses, promotion of the well being of local communities, and improved economic productivity and efficiency.
17. Have an increasing impact on government policy through RIA assessments, regulatory reviews and wider advocacy work, and monitor and improve the feedback we receive from OGDs through our advocacy work.

Objective 4: Develop the skills and talent of OFT staff to deliver high quality outcomes and add skills to the economy.

18. Identify the skills profiles required to deliver the OFT'S strategic goals; actively shape the staff profile to match these. Publish annually information on the skills of existing staff and new joiners.
19. Provide an environment that rewards talent, and with structures and culture that enable staff to develop as far and as fast as they are able.
20. Monitor and report on the destination of staff leaving the OFT and use this information to inform work towards achieving targets 18 and 19.

B OFT ORGANAGRAM

OFT organisation chart



C THE SIX CRITERIA FOR CONSULTATIONS BY PUBLIC BODIES

Public bodies are required to perform consultations in accordance with the following criteria wherever possible

- C.1 Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
- C.2 Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
- C.3 Ensure that your consultation is clear, concise and widely accessible.
- C.4 Give feedback regarding the responses received and how the consultation process influenced the policy.
- C.5 Monitor your Department's effectiveness at consultation, including through the use of a designated Consultation Co-ordinator.
- C.6 Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.
- C.7 Further information on the Code can be found on the Cabinet Office's website:
www.cabinetoffice.gov.uk/regulation/consultation/consultation_guidance/the_code_and_consultation/index.asp

D COMMENTS OR COMPLAINTS ABOUT THE CONSULTATION PROCESS

- D.1 If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to:

Catherine Mason
OFT Consultation Co-ordinator
Room 5C/O29
Office of Fair Trading
Fleetbank House
2-6 Salisbury Square
London
EC4Y 8JX

Phone: 020 7211 8890
Email: catherine.mason@oft.gsi.gov.uk

- D.2 Responses and comments regarding the consultation document should be sent no later than 18 February 2008 to:

Neil Smart
Room 3E/O11
Office of Fair Trading
Fleetbank House
2-6 Salisbury Square
London
EC4Y 8JX

Email: neil.smart@oft.gsi.gov.uk

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