

# Simplification Plan

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# 1 INTRODUCTION

- 1.1 The OFT is a non-ministerial government department whose mission is to make markets work well for consumers. We support the development of competitive, efficient, innovative markets where standards of consumer care are high, consumers are empowered in making choices, business is not disproportionately burdened by government regulations and firms are encouraged to offer benefits to consumers beyond the protection afforded by law. We recognise that not imposing unnecessary burdens is particularly important in a time of economic uncertainty.
- 1.2 This Simplification Plan should be read alongside the OFT's Annual Plan for 2009-10 - [www.offt.gov.uk/about/what/annual/](http://www.offt.gov.uk/about/what/annual/). While the two Plans share a common approach and common elements, this document focuses in particular on those areas of our work relevant to the Government's regulatory reform agenda. It sets out what we do to minimise unnecessary burdens for business.
- 1.3 This Plan is particularly intended to set out how we propose to meet new obligations under the Regulatory Enforcement and Sanctions Act 2008 (RES Act), which came into force on 1 October 2008. Part 4 of the RES Act creates a duty for the OFT and other bodies to keep performance of their regulatory functions under review and secure that they do not impose or maintain unnecessary burdens on business.<sup>1</sup>
- 1.4 This Plan also serves to give an indication of how the OFT will continue to address the government's better regulation agenda more generally, and specifically to:

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<sup>1</sup> Section 72(3) of the RES Act requires us to publish a statement of proposed compliance. Part 4 of Act is generally designed to be applied to regulators by secondary legislation, but has been applied directly to certain authorities (at their request) including the OFT.

- respond to the recommendations of the Hampton Implementation Review, which reported last year<sup>2</sup>
- comply with statutory principles of good regulation, and the Regulators' Compliance Code,<sup>3</sup> in force from 1 April 2008, and
- contribute, with other departmental Simplification Plans, to the government's ongoing administrative burdens reduction programme.

### Scope and content of the Plan

1.5 Part 4 of the RES Act and the Regulators' Compliance Code apply to the OFT's regulatory functions, apart from those performed under competition law which are expressly excluded. This broadly corresponds to the remit of the Hampton Review whose 2005 report helped launch the Government's better regulation agenda. The Simplification Plan will focus primarily on those OFT functions.

1.6 The OFT is not primarily a regulator, and the majority of our functions are outside the scope of Part 4 of the RES Act and the better regulation agenda. **Chapter 2** provides an analysis of the OFT's functions, which include:

- researching and publishing market studies
- making market investigation references to the Competition Commission
- advising Government and carrying out wider advocacy work
- enforcing competition law and merger control

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<sup>2</sup> Effective Inspection and Enforcement: Implementing the Hampton vision in the Office of Fair Trading [www.berr.gov.uk/files/file45359.pdf](http://www.berr.gov.uk/files/file45359.pdf).

<sup>3</sup> Five principles are set out in s.21 of the Legislative and Regulatory Reform Act 2006. They are the Principles of Good Regulation identified by the Better Regulation Commission. The Regulators' Compliance code was made under s.22 of the same Act.

- enforcing consumer law
- exercising a consumer credit licensing role
- supervising anti-money laundering compliance by consumer credit and estate agency businesses
- providing information to businesses and promoting consumer education
- supporting the provision of advice to consumers via Consumer Direct, and
- encouraging industry codes and self-regulation.

Of these functions, three - consumer law enforcement, credit licensing and anti-money laundering supervision - are regulatory and fall within the scope of Part 4. The table in **Chapter 3** lists our simplification initiatives in these areas (at sections 2-4).

- 1.7 However the scope of our Plan is not confined to these three areas. Many initiatives across our work reflect the principles of better regulation. So the table in Chapter 3 also includes (under Section 1) proposals which have a bearing on the OFT's work generally, including but not confined to our regulatory action. It only excludes initiatives that are of significance solely in competition and non-regulatory contexts. For completeness, **Annexe A** gives an indication of the indirect contribution we plan to make towards minimising burdens through our non-regulatory work, particularly advocacy within government, advice on legislation, carrying out market studies, developing alternatives to enforcement and building our relationships with local authority trading standards services.
- 1.8 Our Plan unlike other departmental Simplification plans, does not include commitments to remove specific quantified burdens. Chapter 2 provides an explanation of this. We do not make laws or enforceable rules and so do not generate significant burdens for business generally. In the main we take enforcement action against individual businesses suspected of breaches of the law. Such action imposes no measureable burden on

law-abiding businesses in general, as was recognised in the Governments recent regulatory budgeting proposals,<sup>4</sup> and the OFT has a strategic and highly selective approach to enforcement, targeted by reference to published Prioritisation Principles.<sup>5</sup> Our licensing and supervision functions have a more general impact, but these confer very limited discretion on the OFT, and our Hampton Implementation Review in 2007-08 found that we had been 'mindful of considering burdens on businesses' in setting up and running these schemes.

1.9 However, we recognise that the way we use our regulatory powers can have an impact on individual firms, and can be further improved so as to minimise unnecessary burdens. We are committed to doing this – by targeting our work where we believe the benefit to consumers and the economy from our intervention would be the greatest, by being transparent, accountable, proportionate, and consistent in carrying it out, and by engaging with businesses so as to be able to hear their concerns. This is not only to comply with the law and with Hampton review recommendations, but in order to reflect our primary goal of making markets work well for consumers. We have set out our commitment clearly in successive Annual Plans, and in our Prioritisation Principles and Statement of Consumer Protection Enforcement principles.<sup>6</sup> This Simplification Plan describes the recent progress we have made and the further relevant initiatives we are undertaking or planning in the coming year.

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<sup>4</sup> 'Regulatory Budgets – a consultation document' August 2008 [www.berr.gov.uk/files/file47129.pdf?bcsi\\_scan\\_A2018E0826464712=0&bcsi\\_scan\\_filename=file47129.pdf](http://www.berr.gov.uk/files/file47129.pdf?bcsi_scan_A2018E0826464712=0&bcsi_scan_filename=file47129.pdf) - proposes that individually targeted enforcement action should be excluded from control paragraph 4.3

<sup>5</sup> The Principles can be found at [www.offt.gov.uk/shared\\_offt/about\\_offt/oft953.pdf](http://www.offt.gov.uk/shared_offt/about_offt/oft953.pdf)

<sup>6</sup> [www.offt.gov.uk/shared\\_offt/reports/consumer\\_protection/oft964.pdf](http://www.offt.gov.uk/shared_offt/reports/consumer_protection/oft964.pdf). The OFT has also been committed to the Cabinet Office's Enforcement Concordat, the non-statutory predecessor of the Regulators' Compliance Code from its inception

## 2 THE OFT AND REGULATION

2.1 As the Introduction to this Plan indicates, it is designed to meet certain requirements of Part 4 of the RES Act (Part 4), and to indicate more generally how the OFT proposes to continue to address relevant aspects of the government's better regulation agenda. The following Chapter therefore sets out in general terms where the OFT's functions stand in relation to Part 4 and related legislation. The aim is to explain:

- the basis on which initiatives and plans have been selected for inclusion, and
- the Plan's focus on ways of minimising burdens on individual businesses, rather than on measuring and removing burdens on business generally.

2.2 Part 4 creates a duty not to impose or maintain unnecessary burdens in the exercise of regulatory functions. This duty is applied directly to the OFT and four other authorities by s.73(2) of the Act, and like the Regulators' Compliance Code covers regulatory functions other than those exercised under competition law.<sup>7</sup>

2.3 Regulatory functions are defined for the purposes of both Part 4 and the Compliance Code<sup>8</sup> as those which entail:

- imposing requirements, restrictions or conditions, or setting standards or giving guidance
- securing compliance with, or enforcement of, requirements, restrictions, conditions, standards or guidance.

2.4 The two kinds of function defined above differ greatly in their potential to impose burdens. Laws and regulatory rules are the source of most

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<sup>7</sup> RES Act s.73(2)

<sup>8</sup> RES Act s74, and the Legislative and Regulatory Reform Act 2006 s32(2)

costs and administrative inconvenience for business. Action to secure compliance with such requirements can, at most, only add to their impact, to an extent that depends on the powers and resources of the authority involved.

2.5 One particular subset of the second type of regulatory function defined above - individually targeted enforcement action - has minimal scope to impose additional burdens on lawful business activity in general, since only suspected wrongdoers are affected, and action against them is subject to judicial control, specifically in relation to costs. As already noted above, the government's recent proposals for regulatory budgets accept that such enforcement activity is not a source of regulatory burdens that can appropriately be subject to quantitative restriction.

2.6 The detail of the following analysis will show that:

- the OFT has relatively few functions within the scope of the regulatory reform agenda
- these are confined to the areas of consumer enforcement, licensing and market supervision
- they confer powers only or mainly to take individually targeted enforcement action
- the OFT has very limited scope to impose unnecessary burdens on businesses and we do not believe that we do so.

## **Functions falling outside the scope of Part 4**

### **General functions**

2.7 The OFT has a number of functions of a general nature, particularly under Part 1 of the Enterprise Act 2002<sup>9</sup> – for instance preparation of an

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<sup>9</sup> But s.1 of the Consumer Credit Act 1974, and relevant parts of other legislation, also confer certain general functions on the OFT, particularly in relation to provision of information.

Annual Plan, provision of information to the public and advice to Ministers, promoting good consumer practice, and responding to 'super complaints.'

- 2.8 Under these general powers the OFT carries out market studies (see below), engages in research and advocacy, provides input to government and the EU on proposed legislation, publishes information and guidance, promotes consumer education, supports the provision of advice to consumers via Consumer Direct, and approves self-regulatory consumer codes for adoption by businesses. These functions do not involve issuing or securing compliance with enforceable requirements, and raise no issue of the OFT itself imposing burdens on business.
- 2.9 This is true in particular of market studies, both as regards (a) the way they are carried out, via information demands etc, and (b) their outcome in terms of legislation. As regards (a), the OFT does not exercise compulsory powers in carrying out market studies (except when investigating a market for the purpose of making a reference to the Competition Commission, which is a competition function - see below). As regards (b), any OFT market study, whatever its purpose, can only make recommendations, which other parts of Government (or businesses) are free to take forward or not as they choose. The carrying out of market studies therefore does not involve either making, or enforcing, requirements, and is therefore not a regulatory function.
- 2.10 This does not, of course, mean that the OFT has no regard to the potential repercussions of its market study recommendations. On the contrary, the impact of any legislative options identified is carefully evaluated on the basis of an assumption that costs to business will be passed on to consumers. Our intention in carrying out market studies is to build certainty and public confidence in markets. The indirect contribution to simplification made by the OFT's market studies work, and of our use of our other non-regulatory powers is described in the Annexe to this Plan.

## **Competition functions**

2.11 The OFT is the UK's national competition authority. Functions under competition law are excluded from the scope of Part 4 and related legislation, including recent regulatory budgeting proposals. This exclusion is in line with the established legislative policy of ensuring the full independence of competition enforcement, embodied in the Competition Act 1998 and the Enterprise Act 2002. The OFT's functions under these Acts include:

- merger control
- making Market Investigation References to the Competition Commission
- prohibition of agreements preventing, restricting or distorting competition, including prosecution for cartel offences
- prohibition of abuse of a dominant position.

2.12 The OFT seeks to minimise unnecessary costs for business arising from its competition work, by ensuring through application of our Prioritisation Principles that it is risk-based, targeted and proportionate. When enforcement puts undue burdens on business, the costs are passed on to consumers. We believe that an approach that is properly focused on consumer welfare, such as the OFT's, will necessarily tend to ensure proportionality for that reason. The general purpose and effect of competition enforcement and advocacy is, in any case, to complement the regulatory reform agenda, not to cut across it, because it is focused on the objective of ensuring markets remain open and well-functioning.

## **Functions falling within the scope of Part 4**

### **Consumer enforcement functions**

2.13 The OFT has a leading role in the consumer area as it also has in competition work, although its consumer enforcement functions are shared rather more widely than its competition powers, in particular with

local authority trading standards services. These functions involve securing compliance with enforceable requirements, and as such fall within the scope of regulatory reform legislation. They involve powers to:

- seek injunctive remedies under a range of measures, particularly Part 8 of the Enterprise Act,<sup>10</sup> for breach by traders of specified laws aimed at protecting consumers
- prosecute traders criminally for unfair commercial practices, under the Consumer Protection from Unfair Trading Regulations 2007
- issue warning and prohibition orders to estate agents who have been found to have engaged in specified forms of wrongdoing or undesirable practice under the Estate Agents Act 1979.

2.14 These functions do not confer any power on the OFT to make rules or issue guidance that binds businesses generally, only to take proceedings before a court or tribunal against individual businesses on the basis of evidence. They thus come within the second limb of the statutory definition of regulatory functions. Furthermore they fall within the subset of those functions which have least potential to impose unnecessary burdens.

2.15 The OFT takes a strategic approach to consumer enforcement, working alongside and in cooperation with:

- local and sectoral enforcement partners with whom it has coordination arrangements and memoranda of understanding

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<sup>10</sup> The OFT also has injunctive powers under other more specific legislation including the Unfair Terms in Consumer Contracts Regulations 1999, the Consumer Protection (Distance Selling) Regulations 2000, and the Financial Services (Distance Marketing) Regulations 2004.

- other 'established means' of dealing with consumer problems, including self-regulatory bodies such as the Advertising Standards Authority.<sup>11</sup>

As a market-focused enforcer, committed to delivering outcomes of maximum benefit to consumers in partnership with others, our actions against individual businesses are necessarily few and highly selective, and are generally confined to cases of national importance.

- 2.16 Any action we take on the basis of enforceable requirements in the consumer area, including requests for information, is inherently open to challenge before an independent judicial decision-maker. An award of costs against the OFT is likely where any action is found by the court to be unfounded or disproportionate.
- 2.17 The OFT thus cannot be considered to be a significant source of burdens on UK businesses generally in its consumer enforcement work. Nevertheless we recognise that the way in which we carry out enforcement can have an impact on individual businesses carrying on lawful business, and that this needs to be kept to a minimum in line with the requirements of the Regulators' Compliance Code and of our Hampton Implementation Review, particularly through transparency, stakeholder engagement, and the use of intelligence to target our actions. Chapter 3 sets out the measures we propose to take over the coming financial year to keep any burdens to a minimum, particularly at section 2 of the table.

### **Consumer credit licensing functions**

- 2.18 Under the Consumer Credit Act 1974 (CCA), as amended, the OFT has the function of administering the licensing system set up by the Act.

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<sup>11</sup> Enforcers of the Consumer Protection from Unfair Trading Regulations 2007, including the OFT, are required in complying with their duty to enforce the Regulations (reg.19) to have regard to the desirability of encouraging self-regulatory control of unfair practices by other established means.

That system does not give the OFT powers to impose generally applicable requirements or restrictions comparable to the rule-making functions exercised by (for instance) the Financial Services Authority in the financial services sector as a whole. It is the Secretary of State, not the OFT, who has the power to make rules - for instance Conduct of Business Regulations under s.26. Guidance issued by the OFT is for information purposes, and is not enforceable. However the CCA does confer a limited discretion to take decisions affecting businesses generally, as well as enforcement powers for use against individual consumer credit businesses.

2.19 Any person who wishes to engage in consumer credit business must obtain a licence from the OFT, via:

- application in such form, and accompanied by such particulars, as the OFT may specify
- payment of a fee approved by the Secretary of State and the Treasury.

2.20 The Act thus gives the OFT the power to decide how much information must be provided by any business wishing to start lending money, engaging in a hire business or credit brokerage, offering debt advice, management and collection services, or acting as credit reference agency. That is a regulatory function within the first limb of the LRRRA definition. The CCA does not give the OFT the discretion unilaterally to decide the level of fees payable on application.

2.21 The OFT's approach to exercise of its credit licensing functions is designed to minimise costs and other burdens, within the constraints of the CCA as recently amended. It has been subject to a series of simplification initiatives starting with a complete redesign of documentation in 2005. Businesses in general are now required to fill in a single form, prepared and trialled with the cooperation of users, of which a shorter and simpler version is available for sole traders. Applicants are subjected to closer scrutiny only when they fall into in relatively small groups identified via an evidence-based risk model.

Licences are not normally time-limited, so that filling in one form and paying a fee is the full extent of the burden on 85-90% of credit businesses. Full guidance as to licensing requirements is available on and off-line, and applications can be made electronically. The OFT's compliance with Hampton principles in relation to its licensing work was noted in the course of the Hampton Implementation Review.<sup>12</sup>

2.22 Apart from requiring information on application from intending licensees, the principal role of the OFT is to secure compliance with basic requirements of good practice towards consumers, a function falling under the second limb of the definition of set out above. The OFT considers the fitness and competence of licence applicants and licensees, and, on the basis of evidence:

- decides what additional information is needed
- makes refusal or revocation decisions as appropriate taking into account that information
- imposes conditions and requirements on licensees where appropriate.

The OFT also makes certain kinds of decision under the Act, on application, for instance as to the validity of individual consumer credit agreements.

2.23 Functions under the CCA that involve action targeted at individual businesses are, like the OFT's general consumer enforcement powers, based on evidence. They similarly offer little scope for imposing unnecessary burdens on business generally. Lawful activity is largely unaffected, and proceedings are subject to the control of a tribunal. The OFT is nonetheless similarly committed to exercising them along with its other consumer enforcement powers in compliance with the Regulators'

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<sup>12</sup> [www.berr.gov.uk/files/file45359.pdf](http://www.berr.gov.uk/files/file45359.pdf) - see section on data requests, pp 24ff

Compliance Code, and to minimising any burdens that are involved, as described in Chapter 3, particularly at section 3 of the table.

### **Supervision of anti-money laundering compliance**

- 2.24 The OFT is one of the group of supervisory authorities required by the Money Laundering Regulations 2007 to oversee compliance with the Regulations.<sup>13</sup> The OFT has the duty to monitor effectively compliance by estate agents and consumer credit lenders who are not authorised by the FSA or supervised by the HMRC, and to take necessary measures for the purpose of securing compliance. Enforcement action can include imposition of civil financial penalties and prosecution.
- 2.25 The Regulations give the OFT a discretion as to how monitoring and securing compliance is to occur, but the arrangements involved are required to be effective and also to be self-funding. The OFT has a power to require businesses to register, but without provision for a fitness test (whereas authorities who supervise high-value dealers must operate registration systems and satisfy themselves that applicants are fit and proper persons). The Treasury has indicated its expectation that arrangements should be risk-based and in line with the recommendations of the Hampton Review.
- 2.26 The OFT gave extremely thorough consideration to the issue of whether to require registration, being very conscious of the need not to impose undue burdens on business. A decision taken by the Board in 2008 was that registration was necessary as a means of spreading the costs of the scheme fairly and ensuring that the OFT could operate it effectively. Without registration, a minority of businesses would have to pay disproportionately more, and there would be a real risk of the OFT not receiving the funds it needs to operate an effective system in line with

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<sup>13</sup> The group also includes the HMRC, the Financial Services Authority and regulatory bodies for solicitors and accountants. The Regulations implement the EU's third Money Laundering Directive. The UK's work to ensure compliance with the Directive is led by H M Treasury, which will report in 2009 to the Financial Action Task Force.

its statutory obligation, in particular targeting advice at high-risk businesses.

- 2.27 The OFT is planning to introduce registration in July 2009. Information requirements will be kept to a minimum, and fees thereby minimised also (the OFT can levy fees only so as to cover its reasonable costs). In designing and rolling out the system, the OFT will continue to work with representatives of business via industry working groups. This is in line with the approach on which the OFT's Hampton Implementation Review commented favourably in its report last year.<sup>14</sup>
- 2.28 The OFT's money laundering supervision role is thus comparable to its credit licensing role. Under the Regulations, as under the CCA, the OFT has no wider quasi-legislative function of issuing rules or generally binding determinations, but does require certain classes of businesses in general at a particular point in their lives to provide it with specified information, and to pay a specified fee. Again, the OFT aims to secure compliance with the law through targeted action against non-compliant businesses, gathering information where necessary for that purpose from, and in some cases undertaking inspections of, particular businesses. The scope to impose unnecessary burdens on legitimate businesses is strictly limited, but measures to minimise the risk of that happening are covered in the following chapter, particularly at section 4 of the table.

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<sup>14</sup> Paragraphs 58 and 63 - [www.berr.gov.uk/files/file45359.pdf](http://www.berr.gov.uk/files/file45359.pdf)

### 3 TABLE OF SIMPLIFICATION MEASURES

Work areas	Policy objectives	Actions in 2008/09	Proposed actions	Outcomes and benefits
SECTION 1 OVERARCHING INITIATIVES				
Working with business	To understand business views on policy developments, explain the OFT's activities and their rationale, and promote compliance with competition and consumer law.	<ul style="list-style-type: none"> <li>Working with business groups and major trade bodies, via regular senior level contact.</li> <li>Ongoing contact in a variety of forums with senior business people.</li> <li>Successful 'market studies' conference offered</li> </ul>	<ul style="list-style-type: none"> <li>Continuation of active programme of engagement with business, particularly via major business groups.</li> <li>Working through business groups' existing channels to increase awareness of competition and consumer law.</li> </ul>	<ul style="list-style-type: none"> <li>The OFT better aware of business priorities and concerns – including concerns about burdens.</li> <li>Businesses better aware of their obligations and rights under competition and consumer law and of the OFT's role and objectives.</li> </ul>

Work areas	Policy objectives	Actions in 2008/09	Proposed actions	Outcomes and benefits
		businesses an opportunity to engage in policy development.		
Stakeholder engagement	Improve two-way information flow between the OFT and businesses and other stakeholders touched by the OFT casework in line with recommendations of Hampton Implementation Review.	<ul style="list-style-type: none"> <li>Internal advice and guidance to ensure stakeholder engagement best practice is followed across the OFT casework.</li> <li>Best practice is embedded within Effective Project Delivery framework (below).</li> </ul>	<ul style="list-style-type: none"> <li>Continue to work with teams across the office to provide support and advice on how best to engage with stakeholders (ongoing).</li> </ul>	<ul style="list-style-type: none"> <li>Better quality engagement increases the OFT's understanding of stakeholders' perspectives in carrying out its work, as well as stakeholders' understanding of the OFT's processes and actions.</li> <li>Allows businesses to raise concerns about any burdens.</li> </ul>
Transparency Project	To increase transparency	<ul style="list-style-type: none"> <li>We have committed to build</li> </ul>	<ul style="list-style-type: none"> <li>We will meet our commitment through</li> </ul>	Will provide stakeholders with certainty in their dealings with

Work areas	Policy objectives	Actions in 2008/09	Proposed actions	Outcomes and benefits
	<p>about our work and processes.</p>	<p>on our business improvements through providing better information on: the work we do; what we are doing; how long it is likely to take; and how stakeholders can expect to be involved in the process.</p> <ul style="list-style-type: none"> <li>• We have completed initial external and internal consultations which have identified a</li> </ul>	<p>providing clearer guidance on how we operate, including, where possible, benchmark processes and timetables for the various types of projects that we undertake.</p> <ul style="list-style-type: none"> <li>• We intend to publish a consultation document during Spring 2009, setting out thinking on the issues identified as part of the project to date.</li> </ul>	<p>the OFT in terms of our processes for the various types of projects that we undertake and also the values and attitudes that we will adopt in dealing with our stakeholders, achieving enhanced accountability.</p>

Work areas	Policy objectives	Actions in 2008/09	Proposed actions	Outcomes and benefits
		number of areas for improvement.		
Effective Project Delivery <i>and</i> project performance management system	<ul style="list-style-type: none"> <li>To ensure consistency in the way we undertake and deliver projects.</li> <li>The EPD framework has been designed to help all involved in project delivery to perform their roles more effectively, both individually and</li> </ul>	Develop ongoing training and staff support strategy.	<ul style="list-style-type: none"> <li>We are setting up a network of project management experts to support application and development of the framework.</li> <li>We will consider the application of elements of the framework to programmatic work.</li> <li>We will update and supplement guidance materials in light of organisational developments, experience and</li> </ul>	Better management of cases will ensure improved engagement with stakeholders and greater transparency, thereby allowing businesses to raise any concerns they have about burdens.

Work areas	Policy objectives	Actions in 2008/09	Proposed actions	Outcomes and benefits
	collectively, as an efficient integrated team.		suggestions made by users.	

Work areas	Policy objectives	Actions in 2008/09	Proposed actions	Outcomes and benefits
<p>Prioritisation Principles</p>	<p>To clarify the basis on which the OFT will decide which projects or cases to take forward. The principles are a tool to structure and articulate the factors that are taken into account when making prioritisation decisions. They provide a consistent language for thinking about and explaining our choices.</p>	<p>The OFT published its prioritisation principles in October 2008, having consulted externally on its proposals.</p>	<ul style="list-style-type: none"> <li>• We will continue to embed the principles into our work across the Office to ensure consistency and clarity in our choices.</li> <li>• The principles will also be reviewed on a regular basis.</li> </ul>	<ul style="list-style-type: none"> <li>• Ensuring that the OFT's interventions are based on published principles reduces regulatory uncertainty by providing clarity for businesses and consumers on the OFT's approach to prioritisation.</li> <li>• Improving the targeting of interventions and making them risk-based ensures any burdens imposed are proportionate to benefits.</li> </ul>

Work areas	Policy objectives	Actions in 2008/09	Proposed actions	Outcomes and benefits
Impact Estimation Programme	To estimate the likely impact of our work on markets and consumers, and track these impacts through measurable performance indicators.	Impact estimation approach has been trialled internally and rolled out for all new projects.	Over the coming year, all key delivery projects will have to complete impact estimation plans and plans for post-project monitoring of outcomes.	<ul style="list-style-type: none"> <li>• The OFT will be able to estimate the likely impact of its interventions, which includes considering potential burdens on businesses. This information will feed into prioritisation decisions.</li> <li>• The OFT will also be better placed to monitor effectively the impact of its interventions.</li> <li>• By allocating resources internally to maximise benefits to consumers, the OFT ensures its interventions are risk based and well targeted.</li> </ul>

Work areas	Policy objectives	Actions in 2008/09	Proposed actions	Outcomes and benefits
Evaluation Programme	To evaluate the impact of previous OFT interventions.	<p>Evaluations published this year:</p> <ul style="list-style-type: none"> <li>on the impact of the Supply of Extended Warranties on Domestic Electrical Goods Order 2005.</li> <li>Evaluation of the Save Xmas awareness campaign.</li> </ul>	<p>Ongoing or planned for 2009/10, are evaluations:</p> <ul style="list-style-type: none"> <li>of Consumer Credit interventions</li> <li>of Consumer Protection interventions, and</li> <li>of the impact on consumers of the Consumer Codes Approval Scheme.</li> </ul> <p>Evaluation typically includes giving businesses the opportunity to feed back to the OFT on the impacts they have experienced.</p>	<p>Better understanding of impact, and learning lessons for similar projects in future, including refining and streamlining our approach to interventions, getting the most value for consumers from the work we choose to take forward, making better and more informed decisions as to which work we should prioritise, and minimising unnecessary burdens on business.</p>

Work areas	Policy objectives	Actions in 2008/09	Proposed actions	Outcomes and benefits
<b>SECTION 2 CONSUMER ENFORCEMENT</b>				
Statement of Consumer protection enforcement principles	Ensure that the OFT is able to consider the views of stakeholders as to whether the OFT's consumer enforcement work complies with the principles of better regulation.	Statement published in December 2008.	Consult on whether our enforcement practices correspond to our statement of principles and whether it needs a further refinement. We are looking to add a statement of the principles on which we use our prosecution powers specifically.	To ensure the OFT is not imposing unnecessary burdens in the course of consumer enforcement, and that its practice complies with the requirements of the Regulators Compliance Code and the principles of better regulation.

Work areas	Policy objectives	Actions in 2008/09	Proposed actions	Outcomes and benefits
Estate Agency Sector	To assist estate agents to comply with the requirements of the Estate Agents Act 1979.	Initiated programme of regional delivery of compliance seminars on changes to regulations and law to assist business to comply with their requirements.	Completion of seminar programme, evaluation of its impact, consideration of whether to repeat/extend it.	Estate Agents clearer about their regulatory requirements therefore reducing need for inspection and enforcement action.

Work areas	Policy objectives	Actions in 2008/09	Proposed actions	Outcomes and benefits
Partnership working between the OFT and local authority Trading Standards Services (TSS)	To improve overall outcomes of work carried out by the OFT and TSS addressing recommendations from the Hampton Review.	<ul style="list-style-type: none"> <li>• OFT / TSS Partnership Framework agreed January 2009, which clarifies the OFT role in providing strategic leadership to TSS.</li> <li>• Also agreed (December 2008) protocol for referral of cases from TSS to the OFT and requests for case support and training.</li> </ul>	<p>We will be implementing an intelligence management system that will facilitate the sharing of intelligence within the OFT and with key enforcement partners such as TSS. This will ensure the efficient targeting of those businesses causing greatest detriment to consumers, and minimise the likelihood of duplication of enforcement approaches.</p>	<ul style="list-style-type: none"> <li>• Making enforcement better coordinated and more risk-based at national and local level, ensuring that it is based on market intelligence and a common set of priorities.</li> <li>• A consistent approach to issues removes uncertainty, and a better targeted approach reduces unnecessary impacts on legitimate businesses.</li> </ul>

Work areas	Policy objectives	Actions in 2008/09	Proposed actions	Outcomes and benefits
National intelligence Model (NIM) for consumer protection enforcement	To improve the intelligence base on which to take enforcement action, and allow a more risk-based and targeted approach, in line with recommendations of Hampton Implementation Review.	Sources of intelligence widened and deepened and internal processes adopted that ensures management decisions on new cases and issues to tackle are based on better evidence of consumer harm and affect on markets.	Working closely with the Local Better Regulation Office (LBRO) and the Local Authority Coordinators of Regulatory Services (LACORS), we will improve the NIM level 3 (national) business planning process by ensuring wider capture of central government intelligence to inform better the prioritisation and targeting of enforcement at both national and local levels.	Better targeting of our interventions. More focussed and evidence-led interventions and targeting of resources against the most harmful trading practices and market-wide abuses reducing unnecessary impacts on legitimate business.
Compliance Partnerships	To produce a set of principles that	The OFT consulted on a draft set of	A response to the consultation and a final	The proposed policy encourages alternative ways of raising

Work areas	Policy objectives	Actions in 2008/09	Proposed actions	Outcomes and benefits
	the OFT will apply in working with partners to maximise the effectiveness of the Consumer Protection from Unfair Trading Regulations 2008 (CPRs) and Business Protection from Misleading Marketing Regulations 2008 (BPRs).	principles from December 2008 to March 2009.	set of principles will be published and the adopted policy implemented.	compliance levels through the development of partnerships with a wide range of bodies, including trade associations. The development of compliance partnerships will benefit consumers, business and the economy by expanding the reach of the CPRs and BPRs while minimising the need for formal enforcement action.
Consultation on self-regulation and industry-led	To assess whether there are opportunities for	Discussion document published in March, followed by an	<ul style="list-style-type: none"> <li>To issue a policy statement on the OFT's approach to self</li> </ul>	<ul style="list-style-type: none"> <li>To provide clarity for business and consumers about the circumstances</li> </ul>

Work areas	Policy objectives	Actions in 2008/09	Proposed actions	Outcomes and benefits
compliance	making greater use of self-regulatory and industry-led solutions in our consumer protection work.	external OFT Conference on 18 March.	regulation and industry-led compliance. <ul style="list-style-type: none"> <li>• To produce internal guidance for OFT staff.</li> </ul>	when the OFT will work with self regulation. <ul style="list-style-type: none"> <li>• Self regulation offers opportunities for working with business groups to find solutions to issues in markets without needing to bring enforcement cases.</li> <li>• The internal guidance will ensure a consistent approach to the way the OFT considers self regulatory and industry-led compliance as a possible policy solution to market problems.</li> </ul>

Work areas	Policy objectives	Actions in 2008/09	Proposed actions	Outcomes and benefits
SECTION 3 CONSUMER CREDIT LICENSING				
Consumer Credit specific stakeholder strategy	To increase transparency, and better understanding of the operation of the Consumer Credit Act 1974 (CCA) as amended, and the licensing system.	Completion of Stakeholder analysis and mapping project.	Preparation and implementation of a plan for coordinated engagement with stakeholders across the credit group.	A more coordinated stakeholder approach will increase the quality of dialogue between the credit group and stakeholders increasing their understanding and improving our intelligence gathering.

Work areas	Policy objectives	Actions in 2008/09	Proposed actions	Outcomes and benefits
Partnership working between the OFT and Financial Services Authority	Better understanding and collaboration given overlapping interests and jointly regulated businesses.	<ul style="list-style-type: none"> <li>A Joint Action Plan (JAP), published in April 2006, sets out in detail how the OFT and FSA intend to work together in order to maximise effectiveness in dealing with consumers and businesses. Updates, summarising progress are published - most recent is <a href="#">Delivering better regulatory</a></li> </ul>	<ul style="list-style-type: none"> <li>Joint working to ensure continuity of approach following the FSA proposals to bring in formal Conduct of Business Rules for retail banking (FSA08/19).</li> <li>Working together to ensure effective split of responsibilities in relation to actions against Unfair Terms in Consumer Contract Regulations 1999 in current accounts (jointly regulated debit/credit between the OFT and FSA).</li> </ul>	<ul style="list-style-type: none"> <li>Administrative burdens on jointly authorised firms reduced by streamlining processes where possible.</li> <li>Greater regulatory certainty on who does what.</li> <li>Better communication, advice and education for business and consumers.</li> </ul>

Work areas	Policy objectives	Actions in 2008/09	Proposed actions	Outcomes and benefits
		<p><a href="#">outcomes - May 2008 update.</a></p> <ul style="list-style-type: none"> <li>The OFT and FSA also developed a joint approach to enforcement of new consumer legislation in 2008 - <a href="#">The Consumer Protection from Unfair Trading Regulations 2008 (CPRs) and Enterprise Act 2002 (EA02) Concordat</a></li> <li>Shared guidance for advertising for dual regulated</li> </ul>	<ul style="list-style-type: none"> <li>Working in collaboration on irresponsible lending, to ensure a coherent approach between regulators.</li> <li>Joint working on the OFT second charge lending guidance and FSA mortgages thematic review.</li> </ul>	

Work areas	Policy objectives	Actions in 2008/09	Proposed actions	Outcomes and benefits
		firms.		

Work areas	Policy objectives	Actions in 2008/09	Proposed actions	Outcomes and benefits
Consumer Credit: extension of on-line application facilities	Reduce regulatory burdens by enabling business to complete the full application process for a consumer credit licence on-line.	Launched: <ul style="list-style-type: none"> <li>• new (simplified) application forms</li> <li>• on-line application forms, and</li> <li>• on-line public register.</li> </ul>	Removal of the need for 'wet signatures' and extension of on-line facilities to all forms required in connection with licensing, irrespective of risk of business activities.	Reduce regulatory burdens by enabling business to complete the full application process for a consumer credit licence on-line.
Consumer Credit irresponsible lending project.	To consult with stakeholders on the approach to the OFT's new duty to consider whether consumer credit businesses have engaged in irresponsible lending.	Initial consultation on the scope of the project itself, including bilateral meetings with all main stakeholders and presentations at five conferences on the subject.	Investigation and analysis, including a series of workshops and roundtable discussions with all stakeholder groups to get their views.  We will fully consult on the final guidance.	To take full account of stakeholders' views on what the OFT should consider to be irresponsible lending under the Consumer Credit Act, and how we should deal with it, and will be fully understood by the businesses whom it affects.

Work areas	Policy objectives	Actions in 2008/09	Proposed actions	Outcomes and benefits
SECTION 4  Anti Money Laundering Supervision				
Anti Money Laundering Supervision	<ul style="list-style-type: none"> <li>To assist the OFT's supervised population to comply with the requirements of the Money Laundering Regulations 2007 through advice and published guidance</li> </ul>	<p>Interim compliance team set up to:</p> <ul style="list-style-type: none"> <li>react to information received on non-compliance</li> <li>respond to enquiries/complaints</li> <li>raise awareness of the Regulations with business representatives and business through individual</li> </ul>	<ul style="list-style-type: none"> <li>To continue our interim compliance programme as for 2008/09</li> <li>Review the OFT's anti-money laundering core guidance for business consulting stakeholders as appropriate in line with Hampton principles.</li> <li>Review the AML section of the OFT website in order to</li> </ul>	<ul style="list-style-type: none"> <li>Businesses will be more aware and will be clearer about their regulatory requirements thereby reducing the need for inspection and enforcement action.</li> <li>Updated guidance will reduce the instances of non-compliance within fair trading businesses and reduce the need for them to seek legal advice.</li> </ul>

Work areas	Policy objectives	Actions in 2008/09	Proposed actions	Outcomes and benefits
	<ul style="list-style-type: none"> <li>to monitor compliance and take proportionate enforcement action in the event of on-going non-compliance in line with the Regulators Compliance Code and the principles of better regulation.</li> </ul>	<ul style="list-style-type: none"> <li>contact and conferences</li> <li>work with HMT, other supervisors and SOCA to develop a risk based approach to enforcement.</li> </ul>	<ul style="list-style-type: none"> <li>ensure that it provides clear advice and information for business.</li> <li>To publish the statement of anti-money laundering enforcement principles consulting stakeholders as appropriate in line with Hampton principles.</li> </ul>	<ul style="list-style-type: none"> <li>Outlining our approach to enforcement will provide transparency for businesses. It will ensure that the OFT is not imposing unnecessary burdens in the course of enforcement and that its practice complies with the requirements of the Regulators Compliance Code and the principles of better regulation.</li> </ul>

## **A THE OFT'S NON-REGULATORY CONTRIBUTION TO SIMPLIFICATION**

- A.1 As noted earlier, the OFT's functions are not exclusively, or even mainly, regulatory in character. This limits our ability to take action that directly reduces costs and administrative inconvenience for businesses but it means our work has broader potential to contribute to reducing the burdens and barriers that affect their operation. Our non-regulatory impact is achieved through leadership and influence, both on government and on business itself, rather than the exercise of compulsory powers, but it is no less important on that account. The purpose of this Annexe is to give some indication of the nature and extent of the indirect contribution to simplification that we expect to make in 2009-10.
- A.2 The use of our non-regulatory powers is covered in an Annexe rather than the main body of our Simplification Plan because it is provided for the purposes of transparency rather than to meet any legal or other requirement. As set out in Chapter 2, functions that do not involve making or securing compliance with enforceable rules fall outside statutory and administrative controls on regulatory activity, and in particular, outside the scope of Part 4 of the Regulatory Enforcement and Sanctions Act. Chapter 3 contains our listing of proposed measures designed to minimise burdens imposed in the exercise of our regulatory functions. This Annexe is designed to ensure that our Simplification Plan is not unduly narrow in coverage, reflects the wider role of the OFT, and gives an overview of the OFT's position in relation to simplification and regulatory reform issues.
- A.3 The approach taken is intended to be closely aligned with that in our 2009-10 Annual Plan, and the information on proposals for the coming year is largely the same as that in the Annual Plan. However additional material is supplied to put what is said in context, and the content is structured to bring out its relevance to simplification and the better regulation agenda. The information is set out under five headings, relating respectively to advice and advocacy, input to legislation, market studies, alternatives to enforcement, and partnership with trading standards.

## Providing advice to Government and engaging in advocacy

- A.4 Section 7 of the Enterprise Act 2002 gives the OFT the function of advising government and other public bodies on competition and consumer issues. The OFT has no direct powers to change regulations - the onus is on the Government to make whatever changes are needed. In 2009-10, we will continue to work with partners across government, including the devolved administrations, to influence current developments in competition, consumer and regulatory policies and to promote the benefits of competition and markets amongst policymakers and stakeholders.
- A.5 In the OFT's view, impacts on competition, particularly, should be a major concern for government in designing new regulations. Some degree of regulation is essential in order for markets to function, to protect consumers, and in some cases to deliver wider policy objectives. But regulation can also restrict competition, making markets less efficient, and leading to outcomes which are worse for consumers and limit economic growth. Regulations can have this effect, for example, by restricting entry to a market (say through introducing a licensing scheme or raising entry costs), or by limiting the scope for competition between firms (say by placing restrictions on prices).
- A.6 Competition policy complements better regulation, which typically focuses on overall burdens to business, in that concerns arise in the main where regulatory burdens impact differently on different businesses. In particular, in looking at competition effects we need to think about impacts on new entrants and innovative approaches as well as existing businesses. Concerns might also arise where a regulation imposes proportionately greater costs on smaller businesses which might have the potential to grow to challenge the larger incumbent businesses.
- A.7 The OFT's role as an advocate of a consistent and clear framework of competition and consumer protection has never been more important. In a downturn, it is vital that a strong competition regime protects consumers and legitimate businesses – uncompetitive markets and anti-

competitive behaviour can hurt other businesses just as much as, and sometimes more than, consumers.

**A.8** We are focusing our policy and strategy work on influencing the current debate about the role of the UK consumer and competition regimes through prioritising resources for our advocacy function, so that we can provide positive inputs to government policy on individual issues as well as helping to allow competition to deliver other governmental aims. We are also strengthening relationships with regime partners and government departments, and working with government on cross-cutting issues such as priority sectors for future growth and consumer credit.

**A.9 In 2009-10 we will**

- continue to monitor and advise on competition impact assessments, which departments must complete for all new policies which have potential to affect markets
- provide additional advice to government departments on specific issues relating to government involvement in markets – for example public sector procurement and regulation
- work with the Competition Commission and other regulators, through working groups and other arrangements as appropriate, to ensure that the UK's competition and consumer regimes are as strong as possible over the short and long-term
- continue to provide advice and guidance to, and liaise with, sectoral regulators in the UK via the Concurrency Working Party and other ongoing contact
- consider the opportunities and problems around concurrency across both consumer protection and competition issues, to improve co-ordination and sharing of knowledge between regulators
- improve and strengthen our relationships with international counterparts, building on cross-border projects and initiatives to

tackle international consumer problems such as mass-marketed scams

- continue to take a leading role on the European stage in advocating a coordinated and consistent approach to the global economic crisis across competition regimes.

## **Input to legislation**

- A.10 The OFT does not itself design legislation or regulations, but works closely with the Department of Business Enterprise and Regulatory Reform (BERR) when new legislation is being developed. We also contribute to the development of proposals at EU level. The input we provide can be understood as a specialised form of advice and advocacy.
- A.11 We have recently been and currently remain particularly active in this area of work because the amount of new consumer legislation originating in the EU, and requiring to be implemented in the UK. The development of the Consumer Credit Bill, which subsequently became the Consumer Credit Act 2006, is a good example of where the OFT was consulted extensively and input expertise to BERR during the development of the Bill. The BRE/NAO report, Effective inspection and enforcement recognised this contribution.
- A.12 The contribution made by the OFT to legislation does not come to an end when it passes into law. When new law reaches the stage of practical implementation, the OFT takes care to consult with business and other stakeholders on guidance and detailed arrangements. In preparing for implementation of the Consumer Protection from Unfair Trading Regulations 2008, a fundamental change in consumer protection law, we worked at European and domestic levels to build understanding of the likely legal meaning of the Unfair Commercial Practices Directive, and thus to explain and understand its likely impact on stakeholders. With BERR (then DTI) we engaged with a core stakeholder group on the production of illustrative guidance. The group included the Confederation of British Industry, British Retail Consortium, Advertising Association, Advertising Standards Authority and Federation of Small Businesses, as

well as other enforcers and consumer groups, and the Better Regulation Executive as an observer. We first discussed the scope, content and structure of the guidance document, and then went on to share draft versions at each subsequent meeting. A final session was held to agree as much of the text as possible. The guidance was published jointly by BERR and the OFT in draft form for a wider public consultation and then in final form on implementation in May 2008.

**A.13 In 2009-10, we will** work closely with BERR and key stakeholders on the task of ensuring the UK makes a full contribution to the EU's review of the Consumer Acquis and on implementation of two Directives - the Consumer Credit Directive, and the Services Directive:

- The European Commission is currently reviewing consumer legislation with the aim of simplifying the existing eight key directives, known as the Consumer Acquis. The review is intended to simplify and modernise consumer law, achieve better regulation, increase consumers' confidence in the single market, and reduce business reluctance to trade across borders. This review is fundamental to our work, since much of the consumer protection law that we enforce is drawn from these directives. We are working with BERR and the European Commission to take the review forward and to ensure that the Consumer Rights Directive achieves its aim of striking the right balance between consumer protection and competitiveness of enterprises. We will continue to do so throughout 2009/10
- The new EU Consumer Credit Directive, updated to address changes in consumer credit markets across Europe in the last two decades, was adopted in April 2008. The Directive focuses on transparency and consumer rights in consumer credit agreements, dealing with issues such as the information to be provided to consumers before entering into an agreement. Member states are required to implement the Directive by June 2010 and BERR are aiming to consult on draft legislation in April 2009. We are working closely with BERR to ensure that appropriate changes are made to consumer credit legislation in the light of the Directive

- The EU Services Directive, published in 2007, is designed to break down barriers to cross border trade in services between EU Member States. The Directive is due to be implemented by December 2009. As part of the implementation process the OFT has screened its areas of responsibility to ensure the Directive's requirements will be met, and to ensure the necessary procedures for effective co-operation with other member states will be in place. We will continue to work with BERR to ensure the successful implementation of the Directive.

## **Carrying out market studies and reviews of market remedies**

- A.14 Market studies and market investigation references can be used to solve problems affecting consumers and ensure and demonstrate that markets are publicly accountable. In this way the regime is capable of building certainty and public confidence in markets. For example, a market investigation reference in the groceries market<sup>15</sup> and a market study in the homebuilding market<sup>16</sup> have provided an independent review of the evidence and usefully set aside concerns that weak competition was a problem in these markets.
- A.15 The OFT has a duty to keep remedies under review and advise the Competition Commission and BERR whether by reason of any change in circumstances, the remedies can be removed or whether they need to be varied or superseded by new remedies. Since 2004, the OFT has completed thirteen reviews, covering a number of industry sectors. This includes the publication of the review of the National Newspapers Code of Practice ('the Code') in October 2008; that review provided advice to

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<sup>15</sup> Market Investigation into the Supply of Groceries in the UK, available at [www.competition-commission.org.uk/inquiries/ref2006/grocery/index.htm](http://www.competition-commission.org.uk/inquiries/ref2006/grocery/index.htm)

<sup>16</sup> Homebuilding in the UK available at [www.of.gov.uk/advice\\_and\\_resources/resource\\_base/market-studies/completed/home1](http://www.of.gov.uk/advice_and_resources/resource_base/market-studies/completed/home1)

BERR that the OFT considered that the Code, which regulates aspects of national newspaper wholesaling, was unnecessary and should be removed. In ten of these reviews the OFT provided advice which led to remedies being removed or partially removed because they were thought burdensome and unnecessary due to change in circumstances.

**A.16 In 2009/10, the OFT will:**

- use our market-wide tools to raise industry standards, increase business and consumer awareness and remedy generic issues of market failure. Where we identify structural defects within markets we will seek solutions to address these problems as quickly and efficiently as possible, such as market investigation references to the CC
- continue to scrutinise markets that have been identified as having consumer and competition problems in the past, for example by monitoring developments in the market for personal current accounts. We will work closely with the Competition Commission to develop, monitor, and review remedies in markets that we refer where necessary.

### **Developing alternatives to enforcement**

A.17 Preventing harm in the first place is better for consumers than taking enforcement action afterwards. It is also less burdensome for business, provided it is achieved by cooperation rather than compulsion. Alongside our statutory consumer enforcement powers, we also employ a number of tools which promote self regulation and stronger consumer confidence and empowerment. We provide incentives to improved trading practice: we rely, where appropriate on 'established means'<sup>17</sup> as a way of dealing

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<sup>17</sup> Established means are bodies able to act in place of OFT in encouraging compliance with the consumer protection Regulations. We are consulting on ways in which we can extend the reach of established means to aid compliance with the CPRs see [www.of.gov.uk/shared\\_of/consultations/oft1043con.pdf](http://www.of.gov.uk/shared_of/consultations/oft1043con.pdf)

with consumer complaints about, for example, misleading advertising and have consulted about how to extend our network of 'Compliance Partnerships'. We target enforcement activity in line with our Prioritisation Principles towards cases of high detriment. Under the prioritisation framework we have first to consider whether the OFT is the most appropriate body to deal with the issue. Implicitly, this requires us to think about what else might be done to address the issue and this includes consideration of what other body might be able to take speedy, effective action to stop the harm to consumers.

A.18 We promote the voluntary adoption of good trading practice through our Consumer Codes Approval Scheme (CCAS).<sup>18</sup> Where appropriate we encourage higher standards when using tools other than enforcement such as guidance and training, and in particular through our Codes scheme. The CCAS represents a means of giving businesses an incentive to go beyond the basic requirements of the law. It rewards those who adopt best practice, giving them a competitive edge in attracting and retaining customers. However, when providing advice and guidance, we distinguish between what is necessary to meet statutory obligations and what is desirable for the purposes of achieving improvements above the minimum required by law.

A.19 We also work to achieve compliance through equipping businesses and consumers with knowledge about their legal obligations and rights. We undertake awareness programmes with businesses and consumers and coordinate an alliance of consumer education partners.

A.20 **In 2009-10 we will:**

- seek to work with business where possible to resolve and prevent competition and consumer problems, and to increase compliance with the law

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<sup>18</sup> [www.offt.gov.uk/oft\\_at\\_work/consumer\\_initiatives/codes/publications/#named3](http://www.offt.gov.uk/oft_at_work/consumer_initiatives/codes/publications/#named3)

- work with business to increase effective self-regulation and to develop better enforcement solutions under self-regulation through the Consumer Codes Approval Scheme, and where other appropriate opportunities to do so arise
- work in partnership with a wide range of other organisations to inform and empower consumers to enable them to make informed decisions that are right for them, and also thus ensuring they can act as a positive stimulus to competition between businesses, and obtain better outcomes from markets
- provide information, guidance and advice, especially via Consumer Direct, to empower consumers to address competition and consumer problems themselves
- develop consumer skills and knowledge through providing education and resources, including via the Consumer Education Alliance.

### **Partnership with Local Authority Trading Standards Services**

- A.21 Under our CSR07 Performance Framework Agreement, the OFT has agreed to deliver and extend the joint implementation plan with Local Authority Trading Standards Services (TSS), with a view to being able to 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.
- A.22 The OFT has no statutory powers or functions in this area of its work and so is taking forward this objective through cooperation and partnership. We are working with TSS to encourage best practice in line with the recommendations of the Hampton review.
- A.23 An OFT/ TSS Partnership Framework was agreed January 2009, which clarifies the OFT's role in providing strategic leadership to TSS. Also agreed (December 2008) was a protocol for referral of cases from TSS to the OFT and requests for case support and training. The OFT continues to support TSS adoption of the National Intelligence Model in

prioritising and targeting resources through production of national threat assessment for TSS, and coordinating all central government contributions.

A.24 Considerable work continues on encouraging use of injunctive remedies under Part 8 of the Enterprise Act 2002, and ensuring that best practice in enforcement is communicated widely and shared through training and similar events. The OFT's Coordination Support and Intelligence unit has developed complete court bundles which promote consistency in enforcement for both the English and Scottish jurisdictions. Further work is being done to engage with local authority lawyers in order that they too can take advantage of the resources available.

A.25 **In 2009-10, we will:**

- continue to develop our strategic and operational partnership with local authority Trading Standards Services (TSS), building on the results we are already delivering together
- concentrate on developing our intelligence capabilities, delivering high impact joint enforcement work, and demonstrating clear benefits to consumers
- support the Local Better Regulation Office (LBRO) on the delivery of better local regulation as it affects TSS, in those areas where interventions are likely to have a significant impact on consumers' economic welfare.