

Simplification plan

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CONTENTS

<i>Chapter/Annexe</i>	<i>Page</i>
1 Introduction	4
2 The OFT's regulatory roles	6
A Table of simplification measures	9

1 INTRODUCTION

- 1.1 This is the OFT's first regulatory simplification plan. It describes the initiatives we are currently undertaking and plan to carry out over the coming year to ensure we do not impose unnecessary burdens on business in our regulatory activities.
- 1.2 This simplification plan fits within a wider cross-government initiative. The Government's response to the Better Regulation Task Force report, *Less is More*, committed all Government departments to publish rolling programmes of simplification, committed to reducing administrative burdens on businesses, stakeholders and the public sector. This plan supports that already published by the Department for Business, Enterprise and Regulatory Reform (BERR, formerly the DTI), particularly in relation to the OFT's consumer credit licensing functions.
- 1.3 The OFT is not, for the most part, a regulator. It is a strategic body, making targeted interventions in markets. It does not carry out inspections or in general other routine interventions to ensure that particular businesses or sectors comply with particular sets of rules and standards. The bulk of the OFT's work consists of analysing and studying markets, enforcing competition and consumer protection law, undertaking advocacy, and working with partners to raise standards and to deliver relevant education programmes to businesses and consumers.
- 1.4 Relevant areas of work in which the OFT is applying better regulation principles can be grouped under six headings:
- our overall approach to targeting and organising our work
 - intervention to secure compliance with competition and consumer law
 - our approach to consumer credit licensing
 - working in partnership with others
 - encouraging compliance and self-regulation, and

- the OFT's work to reduce burdens on business through market study recommendations, competition advocacy and reviews of previous competition remedies.
- 1.5 This simplification plan focuses on the OFT's direct regulatory activities – particularly in relation to consumer credit licensing and anti-money laundering – where the OFT activities lead to administrative cost for businesses.
- 1.6 More broadly, the OFT is committed to applying the government's five principles of better regulation – transparency, accountability, proportionality, consistency and targeted intervention – as guiding principles across its work. The OFT's overall approach, with rigorous prioritisation and evaluation of its market interventions, is closely aligned with these better regulation principles. Burdens on business will typically be passed on to consumers in the form of higher prices, lower quality, or reduced choice. Therefore, achieving our overall mission of making markets work well for consumers also means ensuring that our interventions do not impose unnecessary costs on business. And it means identifying and, where possible, addressing regulatory burdens imposed by government, where these reduce the efficiency of markets and create costs for businesses and consumers.
- 1.7 The table at Annexe A sets out our initiatives for the coming year.

2 THE OFT'S REGULATORY ROLES

Consumer credit licensing

2.1 The OFT has direct regulatory responsibility for licensing in the consumer credit sector. It decides, subject to appropriate rights to make representations and to appeal, whether businesses are fit to carry on a consumer credit business. The Consumer Credit Act 2006 Act (the 2006 Act), which comes into force in April 2008, makes significant changes to the licensing system. Key changes are:

- The fitness test is broadened to give the OFT the explicit power to assess the competence of a business to provide credit services, looking ahead to likely future behaviour as well as checking for past misconduct. It is also made explicit that evidence of irresponsible lending is relevant to fitness as an unfair business practice.
- Standard licences are to be issued on an indefinite basis,¹ and the OFT will be able to issue licences restricted to specified credit-related activities. This will save businesses from having to reapply for licences periodically, and enable the OFT to target its monitoring and investigation more effectively.
- Introduction of a power for the OFT to apply intermediate sanctions to tackle behaviour which causes detriment but does not render a licensee unfit. Hitherto the only effective sanction normally available to the OFT has been the right to refuse or revoke a licence. We will be able, in appropriate circumstances, and after carrying out a fair process involving adjudication and a right to appeal, to require

¹ Maintenance charges will be payable on the fifth anniversary of the date the licence was granted from 6 April 2008 onwards, the first being payable on 6 April 2013. It is too early to decide on the level of these charges.

behavioural changes through the giving of undertakings breach of which would expose the business concerned to a financial penalty.

- The OFT's powers to obtain information necessary to enable it do its job effectively are enhanced in certain respects and we will be able to involve the Local Authority Trading Standards Services (TSS) to act on our behalf in the use of these powers on the ground.

2.2 Revised guidance on fitness and requirements for consumer credit licence holders and applicants, as well as a statement of policy on civil penalties for failure to comply with requirements is available at www.offt.gov.uk/news/press/2008/2-08

2.3 In implementing the new regime, the OFT will continue to ensure that administrative burdens on business are minimised. The OFT has invested in a major modernisation programme, PROMOD. This is particularly focused on enhancing and supporting a risk based approach to the issue of consumer credit licences. Other benefits flowing from the modernisation programme are:

- businesses will be able to apply and pay on-line for consumer credit licences and for some other licence related services, and
- information on the public register, which ensures transparency in the licensing process, will be accessible on-line

Money Laundering Regulations 2007

2.4 From 15 December 2007, the OFT has been given a supervisory role for consumer credit providers and estate agents under the Money Laundering Regulations 2007.² The OFT will be required for the first time to take on a supervisory role for approximately 10-14,500 estate agency

² The Money Laundering Regulations require businesses to keep certain records and to put in place anti-money laundering controls in order to anticipate and prevent such businesses being used by its clients to launder money.

firms and approximately 22,000 consumer credit financial institutions. Both the OFT and the Trading Standards Service have compliance monitoring and enforcement powers in relation to the new regulations.³

- 2.5 The function will require inspection of business records and we are developing a risk-based regime (based on the risk posed by the business model) of inspections based on intelligence (and including a small number of random visits), rather than a planned programme of inspections which could potentially be burdensome for affected businesses. Inspections will also include providing guidance, especially to smaller firms. We issued guidance in November 2007 on how businesses can comply with their obligations under the Money Laundering Regulations 2007.⁴

³ The OFT has the power to require firms to register and pay fees to OFT to cover OFT and trading standards services reasonable costs.

⁴ Guidance available at www.offt.gov.uk/shared_offt/business_leaflets/general/oft954.pdf

A TABLE OF SIMPLIFICATION MEASURES

A.1

Work areas impacting on reducing burdens	Policy objectives	Action	Outcomes and benefits
OFT APPROACH			
Consultation on prioritisation principles	To clarify the basis on which the OFT will decide which projects or cases to take forward, ensuring our interventions are targeted and risk-based.	Draft prioritisation principles were published for consultation in September 2007. The OFT expects to publish final principles in the second quarter of 2008, taking on responses to the public consultation.	The prioritisation principles ensure that the OFT's interventions are based on published principles, targeted and risk-based. This will reduce regulatory uncertainty by providing clarity for businesses and consumers on the OFT's approach to prioritisation.
Impact estimation programme	To estimate the likely impact of our work on markets, and track	Impact estimation approach has been trialled internally and	The OFT will be able to monitor the impact of its interventions. Approach includes considering likely burdens on businesses.

Work areas impacting on reducing burdens	Policy objectives	Action	Outcomes and benefits
	these impacts through measurable performance indicators.	rolled out for all new projects. Over the coming year, all projects will have to complete impact estimation plans and put in place post-project monitoring of outcomes.	This demonstrates the OFT's commitment to delivering benefits to consumers and making markets work well. By allocating resources internally to maximise benefits to consumers the OFT ensures its interventions are risk based and well targeted.
Evaluation programme	To evaluate the impact of previous OFT interventions.	<p>Evaluations published this year:</p> <ul style="list-style-type: none"> • evaluation of taxi market study • the deterrent effect of competition enforcement by the OFT. <p>Planned for 2008/9, evaluations:</p>	Better understanding of impact, and learning lessons for similar projects in future, including how to minimise unnecessary burdens on business.

Work areas impacting on reducing burdens	Policy objectives	Action	Outcomes and benefits
		<ul style="list-style-type: none"> • cartel work in construction • the extended warranties market investigation reference 	
Effective project delivery	To ensure consistency in the way we undertake and deliver projects.	<p>Rollout effective project delivery framework.</p> <p>Provide ongoing training and staff support as required.</p>	<p>This will align the OFT's projects with EPD processes.</p> <p>EPD framework has been designed to help all involved in project delivery to perform their roles more effectively, both individually and collectively, as an efficient integrated team.</p> <p>Will achieve consistent delivery of high quality timely outputs designed to achieve high impact outcomes in the market.</p> <p>Better management of cases will remove duplication and adverse impact on business.</p>

Work areas impacting on reducing burdens	Policy objectives	Action	Outcomes and benefits
ENSURING COMPLIANCE			
Statement of consumer protection enforcement principles	To publicise principles that govern our approach to enforcement and making markets work better for consumers.	Statement of consumer protection enforcement principles published in November 2007.	Outlines our approach to enforcement and therefore provides clarity for businesses.
National intelligence model for consumer protection enforcement	To improve the intelligence base on which to take enforcement action, and allow a more risk-based and targeted approach.	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.	More focussed and evidence-led interventions and targeting of resources against the most harmful trading practices and market-wide abuses.

Work areas impacting on reducing burdens	Policy objectives	Action	Outcomes and benefits
LICENSING			
Consumer credit: new application forms	Reduce regulatory burdens for businesses requiring a licence under the Consumer Credit Act.	Revised and trialled consumer credit licensing application forms devised in consultation with the Better Regulation Executive to ensure compliance with the wider government agenda of reducing regulatory burdens on businesses.	<p>Tailored forms for sole traders and others. Improved information capture will assist in risk assessment and speed up processing for some categories of licences.</p> <p>Businesses likely to save time in the application process and see speedier processing for some categories of licences.</p>
Consumer Credit Act modernisation programme (PROMOD): launch of online forms and a number of other services	<p>To improve existing businesses processes and reduce burdens on businesses.</p> <p>To improve fitness</p>	<p>Launched a suite of on-line application forms and services.</p> <p>Information sharing with enforcement</p>	<p>Online application for:</p> <ul style="list-style-type: none"> • consumer credit licences • variations and renewals <p>Payments for applications, renewals and variations can be made online.</p>

Work areas impacting on reducing burdens	Policy objectives	Action	Outcomes and benefits
	assessments.	partners.	<p>On-line access to the public register.</p> <p>Publicly available information on credit licence applicants and licensees available online via the Consumer Regulation website.</p> <p>Information in the Consumer Credit Act bulletin also available on-line.</p> <p>Businesses expected to:</p> <ul style="list-style-type: none"> • save time and costs when making use of services previously not available on-line • save time and costs from expected reduction in requests for information already held by the OFT or other relevant partners.
PARTNERSHIP WORKING			
Programme of joint	To address Hampton	Agreed and	Making regulation more risk-based at national

Work areas impacting on reducing burdens	Policy objectives	Action	Outcomes and benefits
action plan with Trading Standards Services, and Programme for Partnership	issues and improve overall outcomes of work carried out by the OFT and TSS.	implemented programme of joint action with TSS ending March 2008. Putting in place Programme for Partnership to March 2009 covering outcomes at strategic and operational levels.	<p>and local level, addressing Hampton issues and ensuring that enforcement is based on market intelligence and a common set of priorities.</p> <p>Consistent approach to issues – therefore removes uncertainty.</p> <p>A more consistent and coordinated approach reduces burdens for businesses and clarifies expectations.</p>
Communication strategy	To provide advice and guidance to business (on their obligations) and consumers on their rights.	<p>Advice provided in a number of ways:</p> <ul style="list-style-type: none"> • through the OFT's website • via leaflets or web based guidance • at events around the country aimed 	<p>Businesses better aware of their obligations.</p> <p>Consumers better aware of their right and can approach Consumer Direct for advice on specific consumer related problems.</p>

Work areas impacting on reducing burdens	Policy objectives	Action	Outcomes and benefits
		<p>at raising awareness of our work and promoting an understanding of consumer and competition law.</p> <p>OFT also provides advice to businesses via its role as champions of Trading Standards Services.</p> <p>Advice to consumers is provided through Consumer Direct.</p>	<p>Raising awareness contributes to markets working better for consumers.</p>
Partnership working between the OFT and FSA	Better understanding and collaboration given overlapping interests and jointly	A joint action plan, published in April 2006, sets out in detail how the OFT and FSA intend to work	<p>Administrative burdens on jointly authorised firms reduced by streamlining processes where possible.</p> <p>Greater regulatory certainty on who does</p>

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	regulated businesses	<p>together in order to maximise effectiveness in dealing with consumers and businesses. Updates, summarising progress, were published in November 2006 and July 2007. Relevant links are below.</p> <p>Delivering better regulatory outcomes (pdf 292 kb)</p> <p>Delivering better regulatory outcomes - an update (pdf 170 kb)</p> <p>Unfair Terms OFT / FSA Concordat</p>	<p>what.</p> <p>Better communication, advice and education for business and consumers.</p>

Work areas impacting on reducing burdens	Policy objectives	Action	Outcomes and benefits
		<p>Memorandum of understanding with the Financial Ombudsman Service</p> <p>Wider implications process</p> <p>Delivering better regulatory outcomes - July 2007 update (pdf 329 kb)</p> <p>The roles and responsibilities of the Office of Fair Trading and the Financial Services Authority (pdf 109 kb)</p> <p>Memorandum of understanding in</p>	

Work areas impacting on reducing burdens	Policy objectives	Action	Outcomes and benefits
		relation to Consumer Protection from Unfair Trading Regulations being drafted.	
REMOVING AND IMPROVING REGULATIONS			
Competition advice on new regulation	Under the Enterprise Act the OFT advises government departments on how competition impacts of proposed regulations and other government activities can be minimised.	OFT has engaged on around 50 policies and initiatives at a number of stages, including impact assessment. We have provided training to four departments and training materials to National School of Government and Government Economic Service trainers.	<p>The Home Office revised their conditions for permitting companies to access fraud information.</p> <p>Several BERR business supports were revised significantly.</p> <p>HSE have taken our advice for tendering out CORGI standard.</p> <p>Audit Commission research on commissioning by local authorities reflects competition issues.</p>

Work areas impacting on reducing burdens	Policy objectives	Action	Outcomes and benefits
			Such interventions ensure that competition has been preserved in a market. This minimises barriers to (and thus costs of) entering the markets involved for businesses not already established in them.
Reviews of market remedies	The OFT has a duty to keep remedies under review and advise the Competition Commission (CC)/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 12 reviews, covering a number of industry sectors; recent examples of these are reviews into SME banking and animal waste (further details are below).	In 10 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.

Work areas impacting on reducing burdens	Policy objectives	Action	Outcomes and benefits
Animal waste rendering review	To review the previous regulations put in place by the Monopolies and Mergers Commission following its 1993 report into animal waste rendering.	Following the OFT's advice, the CC has significantly reduced regulation on the largest UK animal waste rendering company which required it to provide a significant amount of financial information to the OFT.	Reduced time and cost to party concerned by reducing administrative burdens.
SME banking review	To review the previous regulations put in place by the CC following its 2002 report into SME banking.	Following the OFT's advice, the CC has lifted price restrictions on banking services to SMEs, while retaining other behavioural remedies.	Encourage competition and innovation in banking services.
Legal services reform	To reduce the restrictions on the way	OFT has been advocating changes to	Innovation in the way legal services are delivered, better meeting the needs of

Work areas impacting on reducing burdens	Policy objectives	Action	Outcomes and benefits
	in which legal services are provided.	the regulation of legal services in Scotland which would enable providers of these services to adopt a much wider range of business structures.	customers – thus providing flexibility for businesses and choice for consumers.
Market study into Pharmaceutical Price Regulation Scheme (PPRS)	To examine the government's approach to negotiating prices for pharmaceuticals purchased by the NHS.	Conducted detailed market study. Published recommendations to Government in February 2007 recommending that the PPRS be reformed to deliver better value for money from NHS expenditure on medicines and to focus business investment on drugs that have	The OFT recommendations designed to reduce unnecessary costs both for the NHS and the pharmaceutical industry. Alongside benefits to the NHS, value-based pricing would lighten business burdens by removing incentives for some companies to over-market drugs. Current incentives raise costs and barriers to entry throughout the industry. NHS over-spend in some areas leads to innovative medicines being rationed, harming manufacturers as well as patients. A government response is expected mid

Work areas impacting on reducing burdens	Policy objectives	Action	Outcomes and benefits
		greatest benefits for patients.	2008.