

# Positive influence

Influencing business, consumers and Government  
to make markets work well for consumers

# Office of Fair Trading Annual Plan 2010-11

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# Chairman's introduction

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**The recession has had, and will continue to have, a profound effect on consumers, business and markets in the UK. The OFT's combined competition and consumer role is more vital than ever at this time in protecting consumers and responsible business, and in restoring consumer confidence in markets. We take a holistic view of market problems which allows us to tailor proportionate interventions and deliver effective outcomes for consumers and for the UK economy.**

This year we will focus on taking high-impact cases, influencing and changing the behaviour of consumers, industry and government, improving our overall efficiency and minimising burdens for business.

We prioritise our work so as to tackle the areas of greatest consumer harm. This plan is focused on high-level outcomes rather than individual projects in order to allow us the flexibility to adapt our work programme as new issues arise during the year and to ensure the best return for consumers on our resources.

## The past year

Responding to the challenges posed by the recession and credit crunch has been a key theme for the OFT over the last year. We have taken enforcement action against unfair business practices in the debt management and debt collection sectors, brought criminal charges in a suspected pyramid scam and secured undertakings from retirement home providers on the use of 'exit fees'. We also successfully took legal action on estate agency contract terms under the Unfair Terms in Consumer Contracts Regulations and secured

changes to terms and conditions from companies in both the airline and ticketing sectors. While we were ultimately unsuccessful in our test case against unauthorised bank charges, our work with the banks has already led to a number of changes in the current accounts markets which have benefited consumers. Additionally, banks have recently agreed to industry wide initiatives which help address our concerns in the market, and we expect further changes by individual banks.

We have also used our competition and market investigation tools to analyse markets that may not be working well for consumers. In addition to our market study on personal current accounts we have published studies on local bus services and Isle of Wight ferries, and launched studies into high cost credit, corporate insolvency, second hand cars, consumer contracts, and advertising and pricing practices.

We continued to use high-impact enforcement to deter businesses from engaging in anti-competitive activity and made it clear that competition law continues to apply and to be enforced in difficult economic circumstances. In one of the largest and most complex competition investigations ever taken by any national agency in the world, we fined 103 construction firms £129.2 million. We also imposed fines totalling £39.27 million on six recruitment agencies for price-fixing and the collective boycott of another company in the supply of candidates to the construction industry. Equally, we have demonstrated the ability of the regime to adapt its application to the economic circumstances by applying 'failing firm' analysis to takeovers of troubled firms.

The past year has also seen notable successes in our advocacy and

partnership work. *Government in Markets*, our guide for policy-makers on why competition matters, was well received by policy makers and the business community alike. We have worked with industry to drive compliance and with consumer groups and local authority Trading Standards Services to focus enforcement activity, and we engaged with a wide range of partners to deliver hard-hitting, effective consumer education and awareness campaigns.

## The coming year

The uncertain economic climate may persist through the next year. Many industries have seen considerable structural change and public confidence in markets is only just beginning to recover. Competitive, well-functioning markets delivering real benefits to consumers, and providing protection for them where necessary, are crucial to sustain the economic recovery.

We will continue to target our enforcement activity at areas that pose the most risk to consumers. Credit and debt issues will remain a priority for us and we will take action against any business trying to take advantage of consumer vulnerabilities created by the recession. We have already identified that consumers'

increasingly complex relationships with business over the internet require us to build on our existing expertise and develop a specific strategy for addressing online consumer protection issues.

Our consumer-facing activity will focus on encouraging or creating conditions which prevent harm occurring in the first place. Skilled, confident and well-informed consumers are essential if markets are to work well. We will seek to engage businesses as well, combining help and guidance and seeking voluntary change with the 'stick' of deterrence to encourage compliance with both competition and consumer legislation.

We have made improvements to the transparency of our work and how we go about it, and we plan to do more in the coming year. We have a role demonstrating to government the virtues of competition and the pitfalls of short-term policy fixes which cause longer-term damage to consumers as well as to markets and the economy. We will build upon the good advocacy work carried out last year to ensure that competition implications and market-based solutions are fully considered where appropriate in policy development.

The tough economic conditions have also imposed obligations on

the OFT. As a taxpayer-funded organisation, the pressure is on us to continue to improve efficiency and use of public funds, as we have done over the last three years. We are committed to doing more for less and improving our value for money with a number of initiatives underway or planned to address this. These include improving decision-making to support faster and more effective delivery of cases and projects, strengthening our leadership, looking at how we can improve the effectiveness of our consumer work and increasing the efficiency of competition enforcement. We will also continue to work with regime partners – for example the Competition Commission, to deliver improvements to the competition regime.

We must also continue to minimise burdens on business by reducing any unnecessary costs of our interventions. The wide range of remedies at our disposal means we can tailor proportionate interventions, always with the aim of helping markets serve consumers and promote the growth of the UK economy.

During the past year we have made a number of new senior appointments with people both from within the OFT and from outside filling the roles. This policy of attracting and retaining highly talented people from the private and public sectors is central to our objective of taking high-impact cases and delivering real benefits to consumers.

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**Philip Collins**  
Chairman

# About the OFT

**The OFT is a non-ministerial government department. Our mission is to make markets work well for consumers.**

**We play a leading role in the promotion and protection of consumer interests throughout the UK, while ensuring that businesses are fair and competitive. Good consumer outcomes rely on competitive markets to provide choice and value, while vibrant competition relies on consumers confidently shopping around.**

When markets work well businesses thrive by providing what consumers want, better and more cost-effectively than their competitors. As such, effective competition provides significant benefits for consumers through greater choice, lower prices and better quality goods and services. Competition also provides strong incentives for firms to be more efficient and innovative, helping raise productivity growth across the economy.

Competition and consumer policy together provide a framework for markets to deliver maximum benefits for consumer welfare and productivity growth, and by raising economic growth, to increase total welfare.

## Our approach

The fundamental strength of the UK's market regime is the integration of competition and consumer tools. Our dual competition and consumer remit allows us to take a holistic approach to our work and the wide range of remedies at our disposal allow us to act in a flexible and proportionate manner.

What begins as a competition issue may turn out to be more susceptible to consumer remedies, and vice versa. For example, our work on personal bank accounts included a market study which showed the value of competition thinking for consumer cases. The research examined the characteristics of the

main business models and revealed serious problems with transparency and switching, and real limitations on the ability of customers to control the charges they incur. Our market study of home building began with concerns around barriers to competition. The study showed, however, that there were few competition problems in that sector – the real problems were much further downstream, mainly focused on delays in finishing off and poor handling of faults once customers had moved into their new homes. We gave the industry the opportunity to establish a customer code of practice, with the threat of a recommendation for statutory regulation if that failed to happen.

The majority of our work consists of:

- Analysing markets.
- Enforcing consumer and competition law.
- Merger control.
- Licensing and supervisory work in the consumer credit and estate agency markets, including anti-money laundering supervision.
- Advocacy.
- Working with partners to deliver information and education programmes to businesses and consumers.
- Delivering advice to consumers through Consumer Direct.

The tools we have at our disposal are considered in detail below. In many cases we use a combination of those tools to address market failures in a holistic way.

We are committed to acting in a manner which is proportionate across all our work. We consider carefully what intervention tools and remedies (including voluntary resolution) might be

most appropriate to ensure we obtain proportionate and effective outcomes. We recognise the importance of being transparent in the work we do.

In many cases we work in partnership with other organisations which have complementary powers or influence in relation to markets. We work on the principle that, where powers are shared between separate authorities, action should always be taken by the most appropriate body.

## Our tools in detail

### Enforcement interventions including:

- Taking criminal action against those involved in serious unfair commercial practices or engaged dishonestly in cartel activity.
- Applying for Competition Disqualification Orders against directors of companies that have infringed competition law.
- Applying financial penalties against companies and imposing directions under competition law for anti-competitive agreements and abusing a dominant position.
- Refusing and revoking consumer credit licences, and imposing requirements on licensees.

- Warning and banning estate agents.
- Applying for civil court orders restraining businesses from future breaches of consumer legislation.

### Market tools and analysis, including:

- Actively studying markets that may not be working well for consumers through market studies, or in response to super-complaints from designated bodies.
- Referring a market to the Competition Commission for investigation where we have reasonable grounds for suspecting that any feature, or a combination of features, of the market is preventing, restricting, or distorting competition in the UK.
- Monitoring, enforcing and updating orders and undertakings put in place in the context of a market investigation reference.

### Advocacy, advice and education

- Raising awareness of competition issues and advising policy makers where wider government policies affect competition and markets.
- Informing consumers through education and awareness campaigns, and through our main source of advice, Consumer Direct.

- Carrying out business education and encouraging business compliance.
- UK and international policy work, using our influence to promote the economic interests of UK consumers.

In addition, **our statutory remit** includes obligations on us to:

- Operate merger control and consumer credit licensing regimes.
- Act as a supervisory authority under the Money Laundering Regulations 2007.
- Assist the European Commission to carry out inspections in the UK into suspected infringements of European competition law.
- Act as a Competent Authority under the Consumer Protection Cooperation Regulations tackling cross border infringements of European Consumer law.

As noted above, in many cases we **work in partnership** with other organisations which have complementary powers or influence in relation to markets. More information on how we will work strategically with our partners to achieve our objectives can be found in *Key themes for 2010-11*.

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**Competition and consumer policy together provide a framework for markets to deliver maximum benefits for consumer welfare and productivity growth, and by raising economic growth, to increase total welfare.**

## Prioritisation

We focus our interventions on areas which pose the greatest threat to competitive, open and well-functioning markets. Our Prioritisation Principles<sup>1</sup> describe the factors we consider and balance when we make decisions on our priorities. The principles are:

- **Impact:** what would be the likely direct and indirect effect on consumer welfare, and what would be the expected additional economic impact on efficiency/productivity?
- **Strategic significance:** does the work fit with OFT's strategy and objectives, is the OFT best placed to act and what would be the impact of the new work on the balance of the OFT's current portfolio of work?
- **Risks:** what is the likelihood of a successful outcome?
- **Resources:** what are the resource implications of doing the work, including are the resource requirements proportionate to the benefits and are any savings created for the OFT by enabling us to meet our objectives more efficiently?

Prioritisation decisions are made on a case-by-case basis, according to the circumstances of the case in question, and how it compares to the alternative possible use of resources.

## Accountability

The OFT is a corporate body established by the Enterprise Act 2002. The decisions we make - in terms of case selection and case determination - are made on the merits, independently of Government and without regard to political considerations. This reflects the Government's vision set out in the White Paper 'A World Class Competition Regime' for strong, proactive and independent competition authorities.

The OFT is accountable for the delivery of its objectives to Parliament via the presentation of our Annual Report pursuant to section 4 of the Enterprise Act 2002. Under section 5 of the Government Resources and Accounts Act 2000 the OFT is required to prepare resource accounts for each financial year, which are audited by the National Audit Office.

Ultimately the OFT is accountable to the public through Parliamentary scrutiny both in Westminster and the devolved administrations, for example through investigations by select committees. We are also specifically accountable to Government and Parliament for our use of public money via our performance framework with HM Treasury. OFT's decisions under competition law, including those made under the CA98 and decisions on Competition

Commission references of mergers or markets, are subject to appeal to the specialist Competition Appeal Tribunal, an independent body established under the Enterprise Act. The OFT's licensing decisions under the Consumer Credit Act are subject to appeal heard by an independent tribunal. Where the OFT enforces consumer protection law through the courts, its actions can be appealed there.

The OFT is accountable more generally through the public having the rights to seek judicial review of administrative action and to complain to the Ombudsman (the Parliamentary Commissioner for Administration).

## Risk management

Managing risks well is crucial to improving the effectiveness of OFT in delivering outcomes for consumers. Not only does it help in preventing or mitigating harm to the organisation, but it also helps us maximise our impact on markets by intervening in a targeted way. The OFT's approach to risk management is based on assessing risks that might impact adversely on our mission of making markets work well for consumers, and acting on opportunities to advance that mission.

The Board keeps under review key corporate risks, identifying opportunities and assessing the

1. OFT Prioritisation principles, October 2008 (OFT953): [www.offt.gov.uk/shared\\_offt/about\\_offt/offt953.pdf](http://www.offt.gov.uk/shared_offt/about_offt/offt953.pdf)

adequacy of risk management controls. The Board also ensures that responsibility for risk management is appropriately handled throughout OFT, with managers and individual members of staff taking responsibility for managing those specific risks which could affect the achievement of their objectives and targets, and for identifying opportunities which would enhance those objectives and targets.

## **Review of performance and value for money**

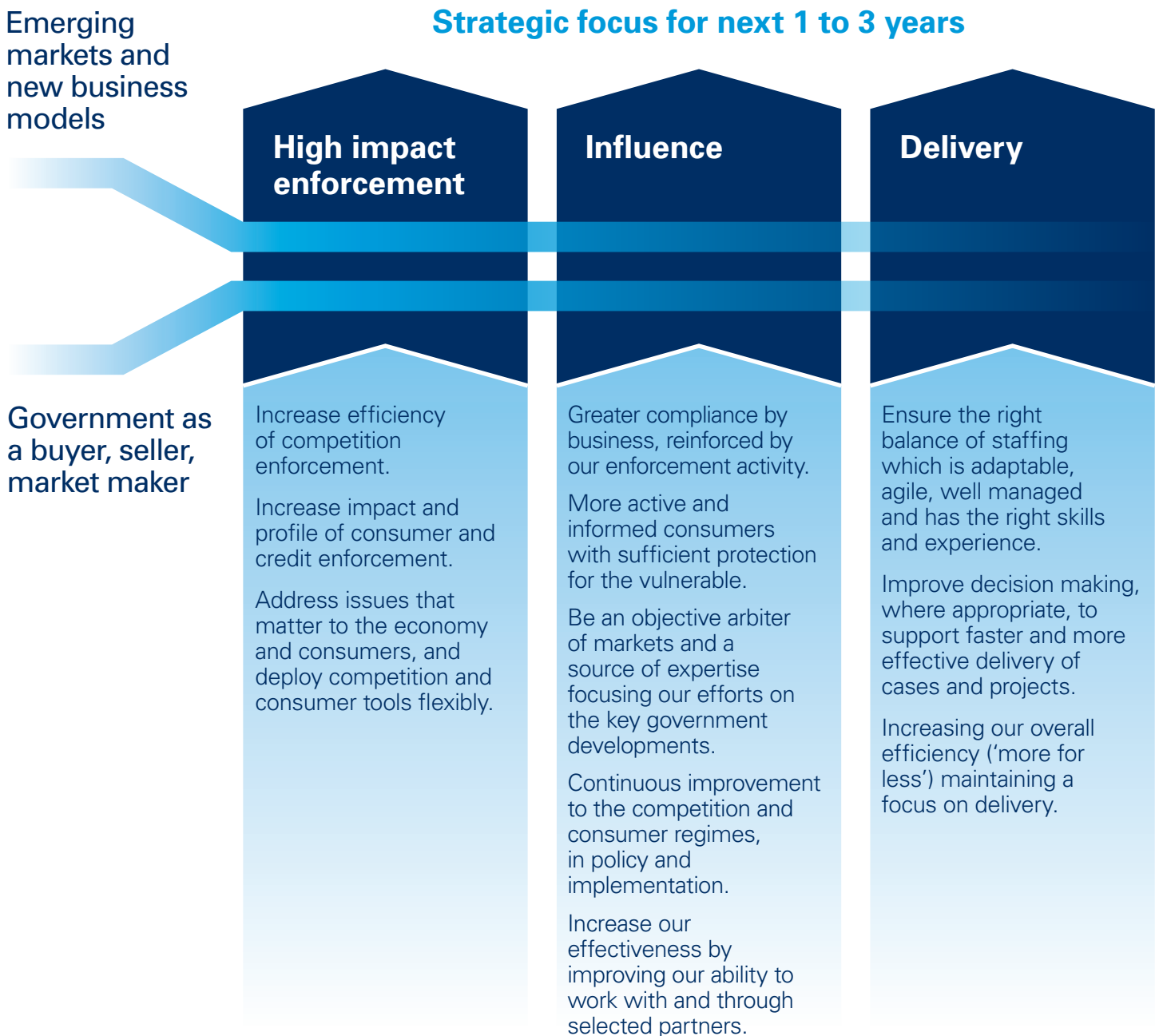
In March 2009, the National Audit Office found that the OFT had improved its operations and value for money following recommendations on maintaining competition in markets made by the National Audit Office and Committee of Public Accounts in 2005 and 2006.

We strive to improve our performance in a timely, cost-effective and efficient manner to improve outcomes for consumers and the UK economy.

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**We work in partnership with other organisations which have complementary powers or influence in relation to markets.**

# Key themes for 2010-11



## High impact enforcement

We address issues that matter to the economy and to consumers, looking at the supply and demand side of markets, taking a holistic view when considering problems. We have demonstrated that we are prepared to use our enforcement powers, including criminal enforcement powers, and we will continue to build on our track record of delivery in both consumer and competition enforcement. We remain committed to taking enforcement action, including maximising the impact of corporate and individual sanctions.

We will continue to prioritise our work using our prioritisation principles which describe the factors we consider and balance when we make decisions on our priorities. We will select our work to maximise impact in terms of preventing direct harm to consumers and to ensure the wider education and deterrent effects of our work, setting precedent where appropriate to do so.

We will be flexible and agile in process and responsive to changing circumstances. We will take a proportionate, pragmatic and balanced approach to compliance, deploying our competition and consumer tools flexibly to achieve the best market outcomes. To ensure that we continue to tackle the issues that matter to consumers and the economy, and minimise unnecessary burdens on business, we will keep the portfolio of our work under review throughout the year. We will continue to evaluate the impact of our work.

## Influencing and changing behaviour

Alongside enforcement, which itself provides wider deterrence across the market, we make markets work well by changing the behaviour of businesses, consumers and Government. We will work with business to increase compliance and good practice, with consumers to enable them to engage better with businesses, with government to inform policy and with other agencies to increase our overall effectiveness.

Through our market studies we can examine the way a market is working and make proposals as to how it might be made to work better, ideally without the need for formal intervention or regulation. Shining a spotlight on a market can also make it more accountable to consumers, encouraging them to be more proactive and driving competition between firms.

We will work to inform, support and explain to business how to comply with the law. We will encourage business compliance through our work on self-regulation and the Consumer Codes Approval Scheme. We will also look to improve standards of business behaviour in credit activity in order to increase the protection of consumers, especially the most vulnerable. We will continue to improve the effectiveness of our direct support for consumers through education and awareness campaigns as well as through our main source of consumer advice, Consumer Direct, to ensure that consumers know their rights.

At a time when economic and budgetary pressures may force significant changes in government interventions in markets, we have a key role to play in demonstrating persuasively how competition and consumer law and policy support prosperity and consumer well-

being. Our advocacy role remains vital in protecting consumers and legitimate businesses. It strengthens understanding of competition as a driver of growth, rather than in conflict with strategic government objectives. We will build on our recently published *Government in markets* paper to influence government policy design and will co-Chair the cross-Whitehall competition forum.

Working with key partners is essential to ensuring effective consumer and competition regimes. This includes working with local authority Trading Standards Services, with sector regulators, the Financial Services Authority and the Competition Commission to maximise high impact enforcement outcomes across the consumer and competition regimes.

We will also contribute to debates at EU and international level, taking full advantage of our leadership role within the International Competition Network. The question of how national competition authorities should best work together to ensure that all consumers benefit from open competitive markets at the international level, as well as domestically, is central for competition policy in a globalised economy.

## Delivery and capability

Over the period 2008-09 to 2010-11 the OFT's net budget will have reduced by 15 per cent. We are committed to improving our efficiency to ensure we deliver high impact outcomes within budget. Fundamentally, over 2010-11 we must deliver more with less. Page 20 sets out our resources for 2010-11.

With a reducing budget we have had and will continue to have hard choices to make. We will build on improvements we have made in

developing our staff, improving our decision making and increasing our overall efficiency whilst maintaining a focus on delivery.

We aim to have staffing which is adaptable, agile, well-managed and which has the right balance of skills and experience. We have already made significant improvements in developing our staff and will continue to do so, including through improving talent and strengthening our leadership. We are also focusing on our culture and related systems to promote greater efficiency, adaptability and delivery.

We are involved in Government programmes to deliver efficient and improved public services, including benchmarking our back office functions through the Operational Efficiency Programme<sup>2</sup> and developing a Service Transformation Plan under the Service Transformation agenda. We are seeking improvements in back office services, for example in IT and re-organising our business services. We are renegotiating IT and facilities management contracts, and will increase outsourcing where this improves value for money. We are increasing workspace utilisation within our accommodation, to make more efficient use of space.

We are improving our use of intelligence and knowledge management across the organisation, maximising the use of existing information and knowledge teams, horizon scanning and links with Government, business and other enforcers. Assuming our current pilot on electronic document discovery is successful, we aim

to improve our productivity by implementing this in our case work. We have also completed an evaluation of electronic records management with a view to piloting a system in 2010-11.

We are carrying out a corporate project to improve the effectiveness of our consumer work. This project looks at the public value of our work and seeks to define more clearly the outcomes for consumers within our overall mission. It also sets the work of the OFT in the wider consumer protection landscape, to clarify our role and to enable us to work effectively and efficiently with a broad range of partners. We are developing new internal arrangements to link the different areas of consumer expertise within OFT and to facilitate tracking of our performance.

As part of a second corporate project on organisational agility we are reviewing our internal procedures for Competition Act 1998 cases with a view to streamlining processes, so far as possible, while respecting parties' rights of defence. We are also proposing to trial a short-form opinion procedure, which would provide guidance on a novel or unresolved issue of wider interest arising in the context of a specific prospective collaborative initiative within a short time period.

Over the last year we have been working closely with the Competition Commission to ensure that the competition regime makes the best use of public money by being efficient and cost-effective. This has included looking at the operation

of both the market investigation reference and mergers regimes. For example, we have improved sharing of knowledge and best practice across our organisations, put in place a series of staff secondments, worked together on joint draft substantive merger guidelines following a collaborative review of the OFT and Competition Commission's respective guidelines and sought to improve the handover of cases between our organisations.

Looking forward we aim to build on these improvements working collaboratively with our partners, with a view to ensuring that the consumer and competition regimes improve outcomes for consumers and for the UK economy.

## Minimising burdens on business

Part 4 of the Regulatory Enforcement and Sanctions Act 2008 (RES Act 2008) imposes on the OFT a duty to keep performance of our regulatory functions<sup>3</sup> under review and secure that we do not impose or maintain unnecessary burdens on business. We are committed to adhering to the Regulators' Compliance Code.

We recognise the need to remove unnecessary burdens on business since such burdens will typically be passed on to consumers in the form of higher prices, lower quality or reduced choice. Our mission of making markets work well for consumers includes ensuring that our interventions do not impose unnecessary costs on business, subject to delivering our overall objectives.

2. OFT's benchmarking results are set out in 'Benchmarking the back office: Central Government' (HM Government, 2009).

3. The OFT is not primarily a regulator, and the majority of our functions are outside the scope of Part 4 of the RES Act 2008 and the better regulation agenda. Those functions within scope are: consumer law enforcement, credit licensing and anti-money laundering supervision.

Our 2009-10 Simplification Plan<sup>4</sup> explains how we aim to minimise burdens across all of our work, not just our limited regulatory role, and we will continue to do so. In particular we have taken steps through increased transparency, improved stakeholder liaison and commissioning independent evaluation work to ensure that we are fully aware of the impact of our work on business. We have also in the past few years introduced a risk-based approach to our regulatory role in consumer credit, ensuring that we focus our resources on those areas where harm is most significant, and therefore keeping costs and burdens to business as low as possible. Through such actions and through publishing our plans and reporting on our performance we comply with, and will continue to comply with, our Part 4 RES Act 2008 duty.

## Key external factors we will respond to over 2010-11

### Online markets

Our 2007 Internet Shopping market study<sup>5</sup> highlighted the importance of trust in online markets if the full benefits of the internet were to materialise. Two years on we found that, despite improvements, consumer confidence remains a problem: 72 per cent of people surveyed who shop online have concerns about doing so. Additionally, the survey found there was still significant distrust around internet shopping amongst

those who had not engaged in it over the past 12 months.<sup>6</sup>

Online markets are crucial to the competitiveness of the UK and EU economy. Full consumer benefits from the internet will only materialise if consumers trust online markets enough, and engage confidently with them. If trust in online markets is low, the economy will suffer, now and in the future since demand will grow at a slower rate and smaller players and new entrants – who are often the source of future innovation – might be disproportionately affected. The shape of consumers' current and future demand is critical to innovation and investment decisions in online markets. Consumers who are not confident are also likely to demand further regulation, which in turn might be excessively burdensome and actually harm consumers themselves.

Improving online confidence presents a number of challenges, including in the area of e-consumer enforcement – for example the fast-moving and cross-boundary nature of transactions. We are working in close cooperation with partners on an e-consumer protection strategy to increase trust in online markets, aimed at ensuring that all relevant agencies work together better. We are looking to optimise our use of intelligence, and working towards better cooperation and coordination with other sources of intelligence. We will also develop our capacity and capability to act in a digital world.

### Government's role in markets

Government's approach to markets is changing. In recent years there has been a shift away from the more traditional ways of delivering public services through the state and other government funded agencies to a more market oriented approach with public services being increasingly opened up to private firms. At the same time, the economic downturn has brought new calls for government intervention. And, global challenges – such as climate change and security of supply – go to the heart of the relationship between government and markets.

In September we published a paper on Government's role in markets. This set out the rationale for Government intervention in markets, and provided a framework for assessing different types of intervention. It demonstrated that for those interventions to be effective in the long term, their impact on competition needs to be a central consideration.

We plan to build on this work to help ensure that policy makers protect and promote competition in markets to capture the benefits of markets for consumers and society as a whole. For example, we are carrying out a study to explore the factors that make choice and competition a more or less effective mechanism for delivering public services to users. The study aims to look at a number of examples of public service markets where choice and competition has been rolled out.

4. OFT1067, March 2009 at: [www.offt.gov.uk/shared\\_offt/529862/offt1067.pdf](http://www.offt.gov.uk/shared_offt/529862/offt1067.pdf)

5. OFT921, June 2007.

6. Findings from consumer surveys on Internet Shopping – a comparison of pre and post study consumer research (OFT1079, May 2009).

# Performance framework and objectives

2010-11 is the third year of the performance framework for 2008-11 that we agreed with the Government as part of the 2007 Comprehensive Spending Review (CSR07). This framework provides our four main objectives and underpins our plans for the year ahead, setting out our commitments to the Government, consumers and businesses.

## Objective 1: to deliver high impact outcomes

**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.**

Under our CSR07 Performance Framework Agreement, the OFT has agreed to do the following:

- 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.

- In each Annual Report estimate the additional wider benefits of the OFT's work, for example, increasing consumer and business confidence in markets and deterring future anticompetitive behaviour.
- Publish annually statistics and information on all the OFT's enforcement and non-enforcement outcomes, including comparisons with previous years' statistics and,

where applicable, other leading National Competition Authorities.

- 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).
- Publish and continue to develop a framework for prioritising work, drawing on information from complaints to the OFT and Consumer Direct, proactive market monitoring and project evaluation work. Report annually on how the framework has been reflected in projects carried out.
- Publish detailed performance monitoring arrangements for Consumer Direct and report annually on success against those targets. Demonstrate that Consumer Direct is generating benefits of at least three and a half times its operating costs.
- 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.

Alongside the above, during 2010-11, the OFT will:

- Concentrate our enforcement work on areas where we believe our intervention will most benefit consumers and the economy using the full range of our tools and those available to our enforcement partners. We will deploy those tools flexibly to achieve the best market outcomes. We will use our prioritisation principles to

enable us to target our resources effectively, and we will take into account the resources available to our enforcement partners. Our focus is on preventing and bringing an end to serious misconduct and increasing overall compliance levels, both as a direct consequence of our actions and through wider deterrent and educational effects. We will continue to establish legal precedent through court action where appropriate, which will provide clarity and more certainty for business and consumers in areas of contention and dispute.

- Work to ensure that our interventions are as swift, efficient and transparent as possible. We fully recognise the need to ensure that we do not impose unnecessary burdens on business and will continue to make every effort to avoid doing so in the course of our work. We will continue implementing the measures set out in our 2009 Simplification Plan, and the proposals arising out of our recent consultation on transparency. In this consultation we proposed to share more information about the work that we do, how we do it, how long it is going to take and how stakeholders will be involved in the process. We recognise the importance of being even more transparent in the work that we do and the benefits of quality engagement with and hearing the concerns of interested parties, whether businesses, consumer groups, government or individuals.
- Continue to work to ensure that the UK merger regime operates in a timely, efficient and transparent manner, protecting consumers from mergers that

could damage competition whilst minimising the burdens on business. We will accept offers of merger undertakings where these would clearly resolve our concerns, apply the 'de minimis' exception where markets are of insufficient importance, and refer other cases that raise serious competition issues to the Competition Commission. Our mergers intelligence function will continue to identify and investigate mergers that have not been notified to us where we believe that consumers may be at risk of adverse consequences from those mergers. We will also continue to provide informal assistance in merger cases that raise genuine competition issues and where our involvement would assist businesses in ways that their advisors cannot.

- Investigate and challenge anti-competitive agreements, and abusive conduct by businesses with a dominant position in a market, which harm both businesses and consumers. We will continue to work to root out hard-core cartel activity across the whole of the UK

economy, and remain fully committed to using our criminal powers in respect of cartel activity where this is appropriate.

- Use our market-wide tools to raise industry standards, increase business and consumer awareness and remedy generic issues of market failure. For example, where a market study identifies structural or behavioural defects within markets we will seek solutions to address these problems as quickly and efficiently as possible, such as seeking voluntary action from business, making recommendations to Government or making Market Investigation References to the Competition Commission.
- Work to ensure that the impact of the OFT's work, and the attendant benefits for all participants in the economy, are more widely known and understood amongst businesses, consumers and other interested parties. We will be clear and open about the reasons for our actions and interventions, so that they can have a wider

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**Our focus is on preventing and bringing an end to serious misconduct and increasing overall compliance levels, both as a direct consequence of our actions and through wider deterrent and educational effects.**

impact through promoting compliance with the law across the business community.

- We will continue our work in the financial services sector, including our work to resolve issues arising in relation to bank charges and other priorities as set out in the Financial Services Strategy published in July 2009.
- In those areas where the OFT has direct regulatory responsibilities, such as anti-money laundering and consumer credit licensing, we will continue to deliver effective and efficient regimes that protect markets, businesses and consumers while minimising the regulatory burden on business. We will encourage industry compliance and will focus our enforcement efforts on activities that represent high risks to consumers. We will test a 'shadow' credit fee charging system to ensure that charges imposed on different players in the credit market more accurately reflect the costs expended on providing an appropriate level of consumer protection through the consumer credit licensing regime.
- Use our consumer protection and market wide powers to ensure that consumers are not disadvantaged by businesses that do not comply with their legal responsibilities. We will focus our interventions where they will have the highest impact, optimising their deterrent effect.
- Work to increase trust in online markets, developing a national e-consumer protection strategy and taking high impact enforcement action to tackle online consumer protection issues.

## Objective 2: to 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.**

Under our CSR07 Performance Framework Agreement, the OFT has agreed to do the following:

- 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.
- Publish objective criteria for undertaking and terminating market studies.
- 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.
- Demonstrate an increasing awareness of the OFT's work and role, through measures such as survey evidence and number of website hits.
- Take action to drive up the average quality of complaints received, and respond to 90 per cent of public enquiries within 10 days.

- 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.
- Maintain or improve the OFT's rating as one of the top consumer and competition authorities in the world as measured by the Department for Business Innovation and Skills' peer review, Global Competition Review and other appropriate measures.
- Monitor and increase the number of OFT decisions cited favourably in international competition and consumer policy debate (for example through LexisNexis citations).

Alongside the above, during 2010-11, the OFT will:

- Continue to improve the way in which we use intelligence, including horizon scanning, maximising our use of market, stakeholder and case-specific intelligence. We will use 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.
- Develop our understanding of consumer behaviour and decision making, by drawing on the expertise that exists amongst businesses, academia, and our other partners. We will also keep up to date with changing business models, especially those that have the effect of encouraging entry to markets.

- Monitor markets proactively, and ensure that we have the intelligence we need to perform all of our functions by identifying and filling any gaps. We will continue to scrutinise markets that have been identified as having consumer and competition problems in the past.
- We will work closely with the Competition Commission to develop, monitor, and review remedies in markets that we refer where necessary.
- Improve communication and cooperation between OFT, local authority Trading Standards Services, police and other enforcers to share information, building up our capability to protect consumers in online transactions. This will enable enforcers to work together more effectively to improve consumer confidence in online transactions by ensuring lack of duplication and better co-ordination of e-consumer protection activities.
- We will implement an intelligence management database to maximise our ability to share accurate and timely information with our enforcement partners.
- Coordinate with fellow competition and consumer authorities to make our work effective, both through bilateral relationships and active participation in the European Competition Network, International Competition Network and Consumer Protection Cooperation Network.
- Share and coordinate, where appropriate, our research with stakeholders and partners so that it can help shape the debate on competition and consumer issues. We will also ensure that our expertise is appropriately shared with others, including through sharing knowledge and best practice with other agencies and government departments.
- Evaluate the impact of our work and use the outcomes to inform our decisions on overall strategy and future projects. As our understanding of the impact of our work develops we can put this learning to good use, enabling us to improve our performance and prioritise effectively. Evaluating our work helps us to estimate the direct financial benefits, and some of the wider benefits of our interventions, which in turn enables us to communicate our impact.
- Take account of lessons from external reviews of our performance, looking closely at the conclusions reached and any suggestions for improvement in our performance and make full use of these in delivering better outcomes for consumers.

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**We will work to increase trust in online markets, developing a national e-consumer protection strategy and taking high impact enforcement action to tackle online consumer protection issues.**

### **Objective 3: to work in partnership**

**Work with our partners to better achieve objectives 1 and 2. This will include working with local authority Trading Standards Services to pursue a risk-based approach to local regulation of businesses, cooperating 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.**

Under our CSR07 Performance Framework Agreement, the OFT has agreed to do the following:

- 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.
- Have an increasing impact on government policy through Regulatory Impact Assessments, regulatory reviews and wider advocacy work, and monitor and improve the feedback we receive from other government departments through our advocacy work.

Alongside the above, during 2010-11, working strategically with selected partners the OFT will:

- Work with local authority Trading Standards Services to deliver high impact enforcement actions. This will include working closely to develop an e-consumer protection strategy that enables OFT, local authority Trading Standards Services, and other law enforcement agencies to work together more effectively to improve consumer confidence in online markets, including developing our intelligence capabilities. We will continue to work with local authority Trading Standards Services on consumer credit, including through our formal agreements covering competence visits to licensed businesses and applicants for licences.
- We also plan to work with the Department for Business, Innovation and Skills, the Local Better Regulation Office and alongside local authority Trading Standards Services on compensation pilot schemes for breaches of the Consumer Protection from Unfair Trading Regulations 2008.
- Work with the Competition Commission and other regulators to ensure effective regimes, continuing to provide advice and guidance to, and liaise with, sectoral regulators in the UK through the Concurrency Working Party. We will continue to look at improvements to concurrency arrangements on both the consumer and competition side.
- Work in partnership with the Financial Services Authority, including under the terms of the joint Memorandum of Understanding and associated Competition Concordat.
- Improve and strengthen relations with international counterparts including through leadership of the International Competition Network, participation in the European Competition Network and Organisation for Economic Cooperation and Development, and our contributions to the International Consumer Protection and Enforcement Network.
- Work with partners across government, including the devolved administrations, to influence developments and to ensure that government policy and interventions do not unnecessarily impact on competition. We will continue working with others to increase effective redress under consumer law and we will look to increase use of private actions in both consumer and competition law. We will seek to strengthen our work on recent EU consumer legislation. Through our office in Edinburgh, we will continue to build relationships with major stakeholders across the devolved administrations.
- Seek to work in partnership with businesses where possible to prevent and resolve consumer and competition problems and increase compliance with the law. This will include engaging on self-regulation where appropriate, including through the Consumer Codes Approval Scheme.
- Enable consumers to make informed decisions that can act as a positive stimulus to competition between businesses and lead to better outcomes from markets. We will achieve this through our partnership work with a wide range of organisations.
- Support consumers through education and advice, particularly through Consumer Direct, helping consumers to make informed choices. We will launch a facility through Consumer Direct to allow consumers to report online problems. In addition we will enter into a new contract for the delivery of the Consumer Direct service from 2011 to 2016. The transition to the new arrangements will begin in autumn 2010 and be completed by March 2011.

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**We strive to improve our performance in a timely, cost-effective and efficient manner to improve outcomes for consumers and the UK economy.**

## Objective 4: to develop the OFT as an organisation

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

Under our CSR07 Performance Framework Agreement, OFT has agreed to do the following:

- 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.
- 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.
- Monitor and report on the destination of staff leaving the OFT and use this information to inform work towards achieving [the above two] targets.
- Our People Strategy sets out a clear framework for achieving excellence in the way we lead, manage and develop our people. This enables the OFT to deliver its objectives and build long-term capability.

During 2010-11 we will:

- Maintain a continuing high reputation among our peers, strong leadership and adherence to OFT's values. We will continue to develop a skilled and professional workforce, providing staff with the opportunity to work flexibly, undertake quality work and have access to learning and development opportunities. We will also demonstrate a high standard of leadership and people management through IIP accreditation and, in time, other external awards.
- Manage and develop talent, and strengthen leadership and people management skills across the organisation.
- Create a culture which embodies our values, innovates, is agile and adapts to change, respects all – regardless of difference and diversity, encourages self-directed learning and development and shares knowledge across the organisation.
- Develop more robust internal systems to support better decision making and more effective and agile delivery.

The OFT Equality and Diversity Action Plan sets out our commitment to mainstream

inclusivity in our business, and is strengthened by visible leadership at Board level. The OFT is committed to:

- Having an open culture and behaving inclusively.
- Having the courage to challenge all forms of discrimination.
- Being passionate about diversity and the benefits it brings.
- Creating an environment built on trust, where individuals feel comfortable enough to express their identity.
- Recognising and developing the potential of all staff.

In 2010-11 we will:

- Commence review of the OFT Equality Schemes for publication at the end of 2011.
- Review the robustness of our approach to Equality Impact Assessments, and any impact on our business.
- Continue to raise awareness of equality and diversity issues through our Diversity Coalition and support for staff networks.

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# Resources

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2010-11 is the third year of a three-year HM Treasury funding settlement covering the financial years 2008-09, 2009-10 and 2010-11. The OFT's net budget reduces by five per cent in real terms each year across this period.

The OFT expects to raise income from a variety of sources, but principally from consumer credit licensing activity. We also expect to receive funds from BIS for specific projects – for example, Consumer Direct development. When added to our CSR settlement this will give OFT a gross spending capacity of circa £82m.

We continue to improve our efficiency to ensure we can deliver within our budget. Ensuring we are more efficient applies equally to our work that is self-funding.

## **If you would like to find out more**

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