

Report

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Competition Act & Consumer Rights

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1. Introduction

This report details the main findings from 2 tracking research studies conducted into the topic of Business Competition and Consumer Rights.

The first study was conducted amongst the general public (consumers) and was undertaken to measure awareness, knowledge and confidence in using consumer rights, to explore perceived benefits of business competition and measure awareness of the OFT and OFT publicity.

The consumer survey was first undertaken in 2002 and, where relevant, trend data for the past 3 years is presented in this report. For 2004, the questionnaire was extended to include more detailed questions about consumer rights when buying 'services' as well as 'products'.

The second study was conducted amongst businesses, with the project undertaken to measure awareness and knowledge of the 1998 Competition Act, awareness of the Enterprise Act, awareness of the Office of Fair Trading (OFT) and knowledge of consumer rights legislation.

The research in respect of Competition Act was broadly a repeat of business studies conducted on behalf of the OFT over the previous 5 years, covering businesses with 10-499 employees and in a select number of industry sectors. For the past 3 years the sample has been extended to include small businesses with 1-9 employees and all industry sectors, excepting the public sector.

This report follows a presentation of the survey findings made to the OFT in April 2004.

2. Research Method

2.1 Consumer Survey

The key objectives of the consumer survey were as follows:

- To explore perceived benefits of business competition.
- To measure the general public's knowledge of consumer rights, and their confidence in using such rights.
- To measure knowledge of the OFT's role.

The consumer survey was undertaken by face-to-face in-home interviews, with a total of 2,011 interviews conducted. The sample size was increased for 2004, to allow for geographical sub-analysis.

Over 100 sample points were used for the interviewing, with these sample points being selected by CACI to reflect the population density profile and ACORN profile of those living in Great Britain.

At each sample point, quotas were imposed for age, gender and working status, with booster quotas set for those aged 16-18 and those aged 75+ (a target of 100 interviews were set for each of these booster groups). The final data set has been weighted to bring the age, gender and working status profile in-line with the GB profile.

The interviews were conducted between 7th February 2004 and 29th February 2004. As with the telephone study, all fieldwork was conducted by fully trained interviewers, all of whom were fully briefed about the survey objectives prior to the start of fieldwork.

The questionnaire length averaged 20 minutes, with additional questions introduced for 2004 to explore consumer rights in relation to 'service provision'. The questionnaire was piloted prior to main fieldwork and a copy of the final questionnaire is appended to this report.

The survey was introduced as a survey on behalf of government departments and no incentive was offered to take part in the research.

2.2 Business Survey

The key objectives of the business survey were as follows:

- To measure awareness and knowledge of the Competition Act and, specifically within this, to measure knowledge of the OFT's role as a regulator of the Act and the value attached to competition.
- To benchmark awareness of the Enterprise Act.
- To measure awareness and knowledge of consumer rights legislation amongst 'consumer facing' businesses.

The business survey was undertaken by telephone, with a total of 1,366 interviews conducted. As in previous survey waves, the Dun & Bradstreet business database was used as the sampling frame for the interviews.

Quotas were imposed on the sample to ensure a good spread of response by size of business. For the final analysis, the data has been re-weighted back to the proportion of businesses in each size category and each SIC¹ category, so that the total column reflects all businesses nationwide. A profile of the businesses included in the research is provided in Appendix A & B.

All business types were included in the research, with the exception of organisations in the public sector.

Fieldwork was undertaken during the day, with respondents contacted at work. The interview was conducted with the 'person in the organisation responsible for legal matters relating to trading practices'. The job title of respondents interviewed varied across business sectors and sizes. In the smaller companies, the interview was often undertaken with the owner/MD whereas in the larger organisations the eligible respondent was often a Company Secretary or Financial Director.

It is worth noting that larger organisations often have a designated member of staff assigned to dealing with legal issues such as competition legislation. Whereas smaller organisations often have to allocate the task to a member of staff who has to deal this in addition to their day by day roles and responsibilities.

The telephone interviews were conducted between 5th February 2004 and 23rd March 2004, at Synovate's telephone centre. All fieldwork was conducted by trained interviewers, all of whom were fully briefed about the survey objectives prior to the start of fieldwork.

The questionnaire, which averaged 15 minutes, was piloted prior to main fieldwork. This pilot checked the flow, clarity, relevance and length of the final questionnaire. A copy of the final questionnaire is appended to this report.

The survey was introduced as a survey on behalf of government departments and no incentive was offered to take part in the research.

¹ Standard Industrial Classification.

³ Competition Act & Consumer Rights, May 2004

3. Executive Summary

Consumer Survey (Key Findings)

Consumer Rights

- Consumers tend to feel protected in terms of their consumer rights, but opt for the category of 'fairly' rather than 'very' well protected. Against 2003, there has been a marginal but statistically significant rise in perceptions – from 69% thinking they are protected in 2003 up to 75% in 2004. This is a return to the level recorded in 2002.
- The main reasons consumers feel they are not protected are as follows: people don't know their rights (14%), companies try to get out of their responsibilities (10%), too many rogue traders/ sharks (8%) and from personal experience (8%).
- Consumers do not perceive themselves to be particularly well informed about their rights (only 58% think they are informed), although they are reasonably confident in using them (78% claiming to be confident).
- Those young (aged 16-18, 43%) and the elderly (those aged 75 and over, 49%) are the groups least likely to think they are informed of their consumer rights. The same age groups are also least likely to feel confident using their consumer rights (70% and 71% respectively). ABC1s appear to be the most informed and confident demographic subgroup.
- In terms of regional differences, respondents living in Greater London (50%) and Yorkshire and the Humberside (50%) think that they are less well informed about their consumer rights. Those living in Greater London (65%) also feel less confident about using their consumer rights.

Perceptions Of Companies Protecting Consumer Rights

- In terms of how they think different types of companies perform in protecting consumer rights (10 different company types being tested in the research), consumers do not give any of the companies particularly high scores. As in 2003, supermarkets topped the list with 17% thinking they are excellent at protecting consumer rights and 60% that they are good.

OFT Awareness

- For the source they would use to check their consumer rights, the most common mention is the Citizens Advice Bureau (55%). Without prompting, 9% mentioned the OFT at this question.
- In terms of whether they had heard of the OFT prior to the survey interview, echoing the business survey findings, most proved to be aware (81%). This compares to a figure of 85% recorded in 2003 and 83% in 2002 (indicating no statistically significant change).

- 4 in 5 respondents (83%) could name a role of the OFT, with over half (51%) believing the OFT is there to look after the rights of consumers (as opposed to businesses). 80% could name a role of the OFT in 2003.

OFT Campaign Awareness

- As in 2003, 1 in 5 respondents (22%) can recall seeing or hearing some information, advertising or publicity about the OFT in the past 12 months.
- In terms of specific campaigns, 11% can recall some publicity on '*In debt, help yourself out*', which was targeted towards a very specific market. 38% can recall some publicity about the *Canadian Lottery Scams*, which gained some coverage in the mainstream media.

Consumer Rights Action Taken

- In terms of consumer rights action taken, the 2004 survey was revised, with the question split to specifically look at activity in terms of 'products' as well as 'services'.
- In terms of products, a net of just over half (55%) of consumers have taken 'consumer action' over the past 12 months. Whilst faulty items top the list (34%), many have taken a product back either because it wasn't right (27%) or because they didn't like it (22%).
- In terms of product buying activity over the past 12 months, 24% had bought by mail order, 22% over the Internet and 20% by phone (40% had done any of these activities).
- In terms of services, fewer respondents had taken consumer action overall, 16% had made a complaint about a service received or contested a contract over the past 12 months.
- In terms of service buying activity over the past 12 months, 10% had bought by phone, 8% over the Internet and 4% by mail order (18% had done any of these activities).
- When taking into consideration 'consumer activity' in the survey, problems were more common when making a complaint about a *service* or cancelling or contesting a contract for a *product or service* (based on the last action taken).

Knowledge Of Consumer Rights

- Across the various retail scenarios tested in the research, results show that knowledge of consumer rights is generally low. Most correct knowledge was shown in terms of a faulty item for which the consumer had the receipt.

	Entitled to legal refund	All would under customer policy	Some would under customer policy	No legal rights
Faulty, no proof of purchase	30%	24%	26%	10%
Faulty, proof of purchase	83%	7%	3%	1%
Sale item faulty, proof of purchase	54%	14%	14%	7%
Customer changed mind, proof of purchase	34%	18%	25%	11%
Mail order, customer changed mind	49%	18%	11%	2%

- Generally, consumers tend to think a time limit for returning goods applies– 83% thought it applied for a shop on the high street, 76% for mail order companies and 46% for Internet companies (48% were unsure for Internet companies). When asked what they thought the time limit was, the mean average proved to be around 1 month. Results were similar to those in 2003

Service Scenarios

- Additional questions were added to the 2004 research, consumers were presented with 3 trade related service scenarios and asked what they thought their rights would be in these situations. Results varied and in-line with the product scenarios exposed a large number of respondents who do not know their exact consumer rights.
- As for products, a large proportion (58%) of respondents asked about time limits on repair, replacement or compensation believed that there was a time limit, although when asked to specify what it was, answers varied considerably. Around 3 in every 10 (29%) did not know if a time limit applied or not.

Checking Service Provider Credentials

- The research indicates that in most situations the credentials of trades people such as builders or plumbers are checked more rigorously than they are for other service providers such as travel agents. Consumers are also highly likely to use those recommended/known to them.

Advantages & Disadvantages Of Competition

- The majority of consumers (82%, against 80% in 2003) can mention an advantage of business competition, with keeping prices down/increased competition being the most commonly mentioned benefit. Fewer can name

any disadvantages (35%, against 30% in 2003), with a variety of disadvantages mentioned (e.g. poor quality goods, cutting corners/shoddy work).

Business Survey (Key Findings)

Enterprise Act

- Whilst the awareness questions on the Enterprise Act were brought forward in the questionnaire in 2004, awareness of the Act has risen markedly, suggesting that any change is due (at least in part) to real market changes rather than an influence of questionnaire order. In 2003, given that the Enterprise Act had only just come into force, just 17% of business claimed awareness – over the past 12 months, this has now risen to 28% or just over 1 in 4 businesses.
- Awareness proves to be linked to the size of company, rising markedly amongst companies with 200+ employees.
- Those who claimed they had heard of the Enterprise Act at the first prompt stage were asked what they felt were the main purposes of the legislation. Over two-thirds (71%) were unable to state any purpose of the Enterprise Act with the top answers being: ensure fair trade (9%), promote small business (7%) and encourage enterprise (7%).

Competition Act

- Awareness of the Competition Act remains very similar to the levels recorded in 2003, with around two-fifths of companies of all sizes (37%) aware of the Act (with answers equally spread between those aware at the first nominal prompt, and those aware after the full description). For businesses with 10-499 employees awareness of the Act now stands at 50%.
- As with the Enterprise Act, awareness and knowledge levels of the Competition Act rise markedly for companies with 200+ employees.
- Those who claimed they had heard of the Competition Act at the first prompt stage were asked what they felt were the main purposes of the legislation. Exactly two-fifths (40%) were unable to state any purpose of the Competition Act, with the top answer being: protects competition (22%) as it was in 2003. Other top mentions included to stop abuse of dominant position in markets (17%), ensure fair trade (12%), against price-fixing (9%) and against cartels (8%).
- A fifth (21%) of respondents were aware of both the Enterprise Act and the Competition Act, but equally a fifth (23%) were aware of one of the Acts but not the other. In total, therefore, over two-fifths (44%) were aware of one or both of the Acts and over half (56%) were not aware of either.

Competition Legislation

- For 2004, respondents were first asked about their awareness of the Enterprise Act, before being asked about their awareness of the Competition Act, they were then asked about knowledge of 'this Competition Legislation' (to encompass knowledge of both the Acts).
- Only 6% of respondents claimed to know a 'fair amount/a lot' about competition legislation and 37% feel that they don't know very much. Just as with awareness, knowledge levels prove to be linked to size of company. Of those with 200+ employees 25% claim to know a lot about competition legislation.
- Of the respondents aware of *both* the Competition Act and the Enterprise Act, only 11% were aware that the Competition Act had been amended, although this figure did rise within larger companies.
- In terms of sources of awareness of competition legislation, press articles (20%) emerge as the main source of awareness followed by television programmes (7%). This is amongst all respondents, including those who are unaware of the Act.
- As in 2003, the majority (73%) of those aware of the Act thought it applied to all organisations. Belief that competition legislation covers all companies is fairly high amongst companies of all sizes.
- In terms of penalties for non-compliance, 61% of those aware of the legislation were unsure what these were. Just over one quarter (26%) knew the penalty was a fine, with this showing a drop on the 36% stating this knowledge in 2003. This is thought to reflect publicity and media coverage about non-compliance prior to the 2003 survey.
- When asked who they thought was responsible for enforcing Competition Legislation, results show an increase in the number of respondents answering 'don't know' (47% of businesses who claim to be aware of the legislation cannot say who enforces them). Awareness of the OFT as the enforcer has dropped from 17% in 2003 to 7% in 2004 (please note, however, that the 2003 survey asked who the enforcer of the 'Competition Act' was, rather than the enforcer of 'competition legislation').
- One quarter (25%) of all businesses have, in their view, taken appropriate action to comply with the act, with this proportion rising to two-thirds (63%) of businesses with 200+ employees. Reasons for not taking action centre on businesses feeling that the legislation is not relevant to their organisation.
- For further information on Competition Legislation, businesses would tend to opt for more neutral sources, such as Legal Advisers, the Internet and Trade Associations.
- Respondents were asked the main ways in which competition affects their business. As in previous years few positive comments were given. Nearly one fifth of companies (18%) claim they have to keep prices low as a result of competition, whereas 12% feel that competition results in a loss of business.

Knowledge Of Consumer Rights

- As in previous years, around two-fifths (40%) of organisations that deal with consumers ('consumer facing organisations') have no formal customer policies. This absence of procedures is more prominent amongst smaller businesses. In terms of their justification for a lack of formal policies, organisations felt there simply was no need (e.g. they had no issues to resolve, they dealt with complaints on an informal basis as they arose etc.).
- In terms of awareness of consumer rights legislation, only a minority were able to spontaneously name any of the legislations applicable to their organisation, with the highest mentions recorded for the Sale of Goods Act (at 8%). Awareness rises significantly on prompting of the name, although it still remains the case that a third of consumer organisations (32%) thought that none of the pieces of legislation applied to them. Prompted recall of the legislation was: Sale of Goods Act (59% of consumer facing organisations), Unfair Terms in Contracts (23%), Consumer Credit Act (20%, or 62% of those with a credit licence), and Distance Selling Regulations (9%). These results mirror the findings from the 2003 survey.
- Amongst those who sell remotely to customers (i.e. via mail order etc.), there is wide variation in terms of the time limit they set for returning goods. Around a fifth (18%) of those interviewed for this question did not know what their time limit was.
- Whilst it is acknowledged that respondents were 'put on the spot' with some of the questions in the survey, nearly two-fifths (39%) were unable to say what information they have to provide consumers by law. The top mention given was 'full description of product' (37% of those selling remotely to consumers).
- When questioned on the consumer rights across 4 different shopping scenarios, findings suggest there is widespread variation in businesses' understanding of the rights of consumers, although most felt able to give an answer. As with the consumer research, the most conclusive viewpoint was in terms of a faulty item that the consumer still had the receipt for.

	Legal Refund	No consumer rights
Faulty, no proof of purchase	38%	49%
Faulty, proof of purchase	87%	5%
Customer changed mind, proof of purchase	35%	52%
Customer changed mind, no proof of purchase	10%	78%

OFT Awareness

- Results show that most business respondents had heard of the OFT (91%), although, aside from larger companies, few have had any dealings with them.

Codes Awareness

- 1 in 10 businesses (9%) claim to be aware of the codes of practice regime, although nearly two-thirds (61%) of those are unable to state the trade sectors or types of businesses involved so far.