

# objective 1: enforcing consumer protection legislation

We enforce the rules that protect consumers against unfair trading, leading other UK enforcers and cooperating with our international enforcement partners. We give businesses the opportunity to put right suspected breaches so that they can meet their obligations without the expense of legal proceedings, but we take court action against those who flout the law.

Our enforcement action has an important deterrent effect and, to further improve compliance, we issue guidance to businesses on the application of the law.

## Performance against our annual plan

<b>Objective</b> We will actively enforce consumer protection legislation, coordinated with other qualified enforcement bodies, to deal with unfair trading practices and seek to ensure that only fit persons hold a consumer credit licence or act as an estate agent.	
<b>Our commitment</b>	<b>Our performance</b>
<p>Using the Unfair Terms in Consumer Contracts Regulations, the Distance Selling Regulations, the Control of Misleading Advertisements Regulations and the Enterprise Act Part 8:</p> <ul style="list-style-type: none"><li>we expect to investigate between 1,500 and 2,000 cases of which, based on past experience, we expect to find breaches of law in between 250 and 300 cases. We will deal with these by consulting with traders with a view to obtaining satisfactory undertakings; by taking court action, where traders fail to provide satisfactory undertakings, or where immediate action is needed; and by giving advice to achieve compliance, working with the home authority TSD as appropriate.</li></ul>	<ul style="list-style-type: none"><li>Investigated 1,816 cases</li><li>Found breaches of law in 331 cases.</li></ul>

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<p><b>Using our powers under the Consumer Credit Act 1974 and the Estate Agents Act 1979:</b></p> <ul style="list-style-type: none"><li>• we expect to carry out initial checks of between 29,000 and 31,000 consumer credit licences on new applications and renewals, to investigate the fitness of between 350 and 400 consumer credit applicants or licence holders and between 70 and 90 estate agents. We expect to resolve the majority of these cases through advisory or warning letters. Formal action to revoke or refuse may be necessary in relation to 130 to 150 consumer credit licences and to warn or ban between 15 and 20 estate agents.</li></ul>	<ul style="list-style-type: none"><li>• Carried out initial checks of 29,499 consumer credit licences on new application and renewal</li><li>• Investigated the fitness of 800 consumer credit applicants or licence holders and 229 estate agents</li><li>• Resolved 218 consumer credit cases and 86 estate agents cases through advisory or warning letters</li><li>• Took formal action to revoke, refuse or grant in different terms, 111 consumer credit licences</li><li>• Took formal action to consider warning or banning nine estate agents and obtained undertakings from one individual and one business, under the Control of Misleading Advertisements Regulations 1988.</li></ul>
<ul style="list-style-type: none"><li>• we will publish in final or draft form, consumer credit licensing guidance and conduct compliance reviews for three business sectors or activities.</li></ul>	<ul style="list-style-type: none"><li>• Issued guidance to debt collection sector</li><li>• Completed compliance review of debt management sector</li><li>• Delayed review of guidelines to non-status lending sector until after publication of OFT report on debt consolidation.</li></ul>

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<ul style="list-style-type: none"> <li>we will tighten up checks on previous criminal records for those applying for consumer credit licences.</li> </ul>	<ul style="list-style-type: none"> <li>Routine access to the Police National Computer to vet applicants not granted, but improved access to criminal record information agreed.</li> </ul>
<ul style="list-style-type: none"> <li>we will complete and publish the outcome of the review of the consumer credit group licensing regime.</li> </ul>	<ul style="list-style-type: none"> <li>Review largely completed but publication delayed.</li> </ul>
<ul style="list-style-type: none"> <li>we will respond to all requests from DTI and the Treasury for quick advice on proposed changes to the Consumer Credit Act, giving detailed advice where needed.</li> </ul>	<ul style="list-style-type: none"> <li>Responded to all requests for advice.</li> </ul>
<p><b>Using our cross-border enforcement powers and coordinating with other enforcement bodies overseas:</b></p> <ul style="list-style-type: none"> <li>we expect to investigate between 25 and 35 cross-border cases within the EEA, where there are reasonable grounds to believe there is an infringement causing UK consumers significant economic detriment.</li> <li>we expect to obtain between five and 10 written undertakings from traders in other member states to cease infringements on such cases, and refer between two and five such cases to the relevant court where undertakings cannot be obtained or are otherwise inappropriate.</li> <li>we expect to achieve compliance on five to 10 cases by referral to EU counterpart enforcers or other stakeholders, and to pass between five and 10 cases, with structured evidence, to non-EU enforcement partners, with a view to them taking substantive action to stop detriment to UK consumers.</li> </ul>	<ul style="list-style-type: none"> <li>Investigated 18 cross-border cases within the EEA</li> <li>Obtained no undertakings from traders in other member states</li> <li>Referred one case to the relevant court</li> <li>Achieved compliance in four cases by referral to EU counterpart enforcers or other stakeholders</li> <li>Passed four cases to non-EU enforcement partners with a view to them acting to stop detriment to UK consumers</li> <li>Sent 28 warning letters to holiday club marketers</li> <li>Referred 61 timeshare resale cases to the Spanish fraud squad</li> </ul>

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	<ul style="list-style-type: none"> <li>Ran successful consumer information campaigns on holiday clubs and Canadian Lottery scam.</li> </ul>
<ul style="list-style-type: none"> <li>we expect to formalise arrangements with postal service providers to rescind contracts with traders sending unsolicited prize draws and lotteries using UK PO Box numbers.</li> </ul>	<ul style="list-style-type: none"> <li>Arrangements made but not yet formalised.</li> </ul>
<p><b>On communication and information:</b></p> <ul style="list-style-type: none"> <li>we will issue between four and six guidance publications for business and consumers on the application of the Unfair Terms in Consumer Contracts Regulations, the Distance Selling Regulations, the Control of Misleading Advertisements Regulations and the Enterprise Act Part 8 and we will develop and finalise information sharing matrices for use with overseas counterparts, and ancillary internal protocols.</li> </ul>	<ul style="list-style-type: none"> <li>Issued seven guidance publications</li> <li>Developed and finalised information-sharing matrices for use with overseas counterparts in the USA and Canada.</li> </ul>
<ul style="list-style-type: none"> <li>we will coordinate and facilitate the annual International Consumer Protection and Enforcement Network (ICPEN) internet sweep with UK and international enforcers, and publicise the results of enforcement action taken.</li> </ul>	<ul style="list-style-type: none"> <li>Coordinated and facilitated ICPEN sweep</li> <li>Began taking enforcement action with a view to publicising results.</li> </ul>

During 2003-04, the OFT spent £8.42m on achieving this objective.

This money was allocated as follows:

<b>Staff costs</b>	<b>£7.61m</b>
Consumer Regulations Website	£0.16m
Litigation	£0.10m
Research	£0.07m
Other operating costs	£0.48m

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## The Enterprise Act

Part 8 of the Enterprise Act 2002 came into force on 20 June 2003, replacing the consumer provisions of the Fair Trading Act 1973 and the Stop Now Regulations 2001.

Part 8 imposes no new obligations on business. Instead, it is a new enforcement tool that gives the OFT, trading standards departments (TSDs) and designated enforcers strengthened powers to obtain court orders against traders who breach a range of consumer law.

The Act establishes a consistent enforcement regime and allows enforcers to act quickly against breaches of the law so that the interests of consumers are better protected.

Part 8 replaces the Stop Now Orders (EC Directive) Regulations 2001 in giving effect to the European Injunctions Directive in the UK. It gives the OFT the power to take action against businesses in certain other European countries that are infringing certain European-based consumer protection legislation.

Between 20 June 2003 and 31 March 2004, we used the Enterprise Act as the legal basis for action in 97 consumer regulation enforcement cases in the UK including several of those highlighted in this annual report.

## Coordination

Part 8 of the Enterprise Act gives the OFT a central coordinating role to ensure action under this part of the Act is taken by the most appropriate enforcement body and is not duplicated.

During 2003-04, we worked with our enforcement partners on 19 cases under the Enterprise Act and the Stop Now Regulations. We took the lead in nine of these cases and provided case support to TSDs or designated enforcers in the other 10 cases.

## Examples of joined-up action

Kitchen supplier Vance Miller was imprisoned for contempt of court after breaching a court order obtained by the OFT. The OFT and TSDs had received a large number of complaints about the businesses Mr Miller was involved with and, in April 2002, a Stop Now order was made against him. Despite the order, more than 180 subsequent complaints about Mr Miller's business activities were received and these prompted the OFT to bring the contempt action. We relied on TSDs across the country to obtain and collate evidence.

We obtained a court order to stop a door supplier from supplying poor-quality goods and fitting goods badly. Mark Talbot, owner of Surrey-based Specialist Doors, had breached written undertakings and assurances previously given to the OFT that he would stop infringing the Supply of Goods and Services Act. We worked closely with Merton TSD to obtain the order.

Nottingham TSD obtained a court order against builder John Docherty, after receiving a large number of complaints about his work and business practices. We provided detailed casework support to the TSD.

## Consumer regulations website

We launched the consumer regulations website (CRW), an important tool in our coordination of consumer regulation enforcement.

The CRW contains details of cases being pursued by the OFT and our enforcement partners. It enables the enforcement community to share information in a secure way so we can target persistent offenders and priority sectors, take consistent action and avoid duplication of activity.

At the end of 2003-04, 145 out of 204 TSDs and four out of the eight designated enforcers were using the CRW and we were continuing our efforts to increase take-up.

 *Consumer regulations website: [www.crw.gov.uk](http://www.crw.gov.uk)*

## Training

We provided extensive training for our enforcement partners to help them use their new powers under Part 8. This included running 76 Enterprise Act training seminars for individual TSDs and regional groupings.

To take our training to as many joint enforcers as possible, we produced two computer-based training programmes and distributed them on CD-ROM. One programme shows how investigations can be started by TSDs and highlights the importance of consulting the OFT and the other explains the process for seeking a court order. Both CD-ROMs are based on a video case study and contain material that will be of assistance in building and taking a case through the courts. In addition, guidance is provided on important points of law.

## Mass-marketing scams seminar

2003-04 saw a large increase in the number of victims of deceptive marketing delivered by post, e-mail, telephone and text messaging. To help coordinate the response of the enforcement community to the challenges posed by these scams, we held a seminar for 60 regulators and enforcement bodies including TSDs, the Advertising Standards Authority (ASA) and the Office of the Information Commissioner.

► *Our work to combat cross-border mass-marketing scams: page 38*

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## Unfair contracts

We continued to make progress in tackling unfair terms in consumer contracts. During 2003-04, 1,541 terms were abandoned or amended by 117 businesses in response to regulatory action by the OFT.

We maximised the impact of our work by targeting sectors where we felt there were significant problems with unfair contract terms. We did this by working with organisations that provide model contracts for their sectors and by issuing guidelines to businesses. We reached many more businesses this way than would have been possible through taking regulatory action only against individual businesses.

Exclusions or limitations of liability for shortcomings in the quality of goods or services and unfair price-variation and financial-penalty clauses were the most commonly used unfair terms. Consumer complaints about unfair terms rose in 2003-04 to 1,102.

## Used-car warranties

Warranty contracts used by hundreds of second-hand car dealers were made fairer following OFT action. Around 300 dealerships use the contracts issued by Warranty Administration Services Ltd. The company comprehensively revised its contract to address our concerns. Shropshire TSD had referred the matter to us following a consumer complaint.

## Glazing contracts

A trade association for businesses that supply and fit windows, doors and conservatories improved its model contract following discussions with the OFT. The Glass and Glazing Federation, which has approximately 500 members, revised terms in its model contract that we considered to be unfair or unclear.

## Tenancy agreements

We continued to make headway in our work on tenancy contracts. Since publishing guidance on unfair terms in tenancy agreements in 2001, we have been working with trade associations, legal stationers and other publishers to get them to revise unfair and unclear terms in standard contracts. As a result, fairer standard contracts are now widely available to landlords and lettings agents.

## Travel loyalty scheme

Travel operator Air Miles Travel Promotions Ltd agreed to change its contract terms to address our concern that some of them were potentially unfair. Air Miles, a wholly-owned subsidiary of British Airways, has more than six million members. In return for shopping with certain retailers, members are awarded Air Miles that can be used to pay for travel.

## Major tour operator

Cosmosair PLC, the UK's fifth largest tour operator, agreed to change its contract terms following OFT action. The revised terms include those dealing with cancellation rights, rights to compensation and surcharges.



## Misleading advertisements

The OFT received more complaints about misleading advertising in 2003-04 than in any previous 12-month period. We worked on 632 cases of misleading advertising and obtained 12 undertakings and two court orders, which were granted against five individuals and a company to prevent the continued publication of misleading advertising.

## Holiday clubs

After receiving complaints passed to us by TSDs, we investigated three holiday clubs and secured undertakings from the companies and their officers that they would stop making claims about their products that we considered false or misleading. We also obtained undertakings from two individuals involved in running a holiday voucher redemption company that they would not publish misleading advertisements or breach consumer contracts.

## Data Protection Act notification

The OFT acted against nine individuals and a company involved in issuing misleading mailings to businesses for data protection notification services.

In the majority of cases, traders gave undertakings that they would stop the mailings. However, in the cases of two traders who were involved with advertisements that had, between them, led to thousands of complaints from businesses, we took court action that led to injunctions against the defendants.

Our concern was that these advertisements were misleading because, among other things, they gave the impression they came from official bodies and that businesses receiving them were under a legal obligation to register with the sender at a cost of between £95 and £135. Businesses required to register under the Data Protection Act can do so directly with the Information Commissioner for only £35.

## Domain name registration services

We acted against a company that 'cold called' businesses offering to register internet domain names on their behalf, and claiming that third parties had already expressed interest in the domain names on offer. The company and its directors promised that they would not claim to have been contacted by third parties interested in registering domain names when no such interest had been expressed to them.

## The Officers Club

In March 2004, we initiated court action against high-street clothing retailer The Officers' Club Limited to prevent the publication of what we considered to be misleading advertisements. We issued a claim in the High Court for an injunction against the company and one of its directors. We argued that certain marketing policies of The Officers' Club, particularly its consistent use of '70 per cent off' advertisements, created the misleading impression that it was offering a reduction from genuine previous prices.



## Guidance

Issuing guidance on the application of consumer laws is one of the main ways we improve trading practices and compliance with the law. It also enables us to take speedier and more effective enforcement action where malpractice persists.

## Entertainment

We warned the £8bn-a-year entertainment industry about potentially unfair terms in contracts for entertainment including tickets for concerts, sporting events and the theatre, hire of performers and leisure activities. Our guidance to businesses in the sector gives examples of terms we are likely to consider unfair and advice on how to revise them.

In tandem with this industry guidance, we published a leaflet to help consumers spot unfair terms in entertainment contracts.

## Package holidays

Tour operators and travel agents received OFT guidance on contracts for package deals. The guidance illustrates the types of terms we are likely to consider unfair under the Unfair Terms in Consumer Contracts Regulations, particularly those that may also breach the Package Travel Regulations.

## Care homes

We sought to empower older people to get fairer contract terms from care homes by publishing a leaflet for prospective care home residents and those helping them. It gives advice on choosing a care home, explains that prospective residents are entitled to a straightforward, written contract in clear language, and highlights unfair terms to watch out for.

Guidance was also produced for trading standards officers and other professional advisers. This provides detailed advice on the types of unfair terms the OFT has found in care home agreements and explains why those terms are considered unfair and how they can be improved.

## Consumer IT

We published draft guidance for consumer IT goods suppliers who sell via the internet, mail order and other home shopping methods. It aims to ensure that businesses comply with the law on distance selling and that they use fair and clear standard contract terms. The draft guidance followed an OFT study of the market for consumer IT goods that revealed problems with contract terms.

## Vehicles

In February 2004, we began consulting on new guidance for vehicle retailers who sell with no face-to-face contact, for example online, by mail order or over the telephone. Our draft guidance seeks to clarify how the Distance Selling Regulations apply to the sale of new and used vehicles.

## Distance selling

As part of our campaign to raise awareness of the Distance Selling Regulations, we produced a short leaflet informing businesses of their legal responsibilities under the Regulations.

## Enterprise Act

In June 2003, to coincide with the coming into force of Part 8 of the Enterprise Act, we published guidance explaining the provisions of this Part and how we expect them to work in practice.

►► *More on our communication with businesses and consumers: page 88*

## Consumer credit

We continued to make full use of our powers under the Consumer Credit Act 1974 to regulate the consumer credit industry. We did this by pursuing cases against traders we suspected were unfit to hold consumer credit licences, by issuing guidance to businesses in sectors attracting high levels of complaints and by administering the licensing system.

In addition, we provided input to proposals to reform the Act to make it more focussed and effective and to bring it up to date to reflect a modern vibrant consumer credit market.

## Barclaycard

Barclaycard, the credit card business owned by Barclays Bank PLC, agreed to withdraw advertising and marketing material promoting its '0% Forever' offer following OFT action.

We considered this advertising to be highly misleading and in breach of the Consumer Credit Act's provision on credit advertising. Barclaycard did not consider it was in breach of the Act. However, it promised to withdraw advertisements, and other marketing material promoting the offer, and to ensure future promotions complied with the undertakings. Barclaycard also promised to write to all affected cardholders, clearly explaining the terms of the agreement.

## Store card conversion

Marks and Spencer Financial Services plc (MSFS) and GE Capital Bank Ltd (GE) changed the way they offered to replace store cards with credit cards after OFT intervention.

Under the Consumer Credit Act, it is an offence to send a credit token to a consumer unless it has been requested in writing. MSFS had sent letters to many cardholders saying its store card would automatically be replaced by the &More credit card unless they objected. MSFS argued it was not contravening the law because it was not supplying a new credit token but sending a replacement card. Our view was that MSFS did not have the right to change one type of card into another in this way.

Although GE required its new credit card to be activated by the consumer before use, we considered that the way the offer was presented did not alert cardholders to their options with sufficient clarity.

Following the publicity generated by our discussions with MSFS and GE, another company changed the way it offered to replace its store cards with a credit card.

►► *OFT study of the store cards market: page 75*

## Interest-free claims

The OFT continued to approach retailers who advertise credit as 'interest free', or imply it by using similar wording, when in fact interest is payable under the agreement if the debt is not paid off in full at the end of the interest-free period.

For example, Rock Group PLC, trading as Rock Direct, undertook not to use terms such as '0% Finance' and 'No interest' in advertisements relating to interest-bearing credit agreements of 29.8 per cent APR when advertising the sale of computers.

## Debt management companies

In November 2003, we published our report on our review of compliance by debt management companies (DMCs), with guidance we published in 2001.

The review found that the guidance had led to a 70 per cent reduction in complaints received by the OFT. In addition, DMCs were generally more transparent about the services they provided and had improved their procedures and practices.

The review was the first of its kind we had carried out. It indicated that providing guidance to licence holders can be effective in reducing consumer detriment.

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## Debt collectors

We warned debt collectors to deal fairly with debtors in new guidance for licence holders. The guidance sets out debt collection practices we consider to be unfair and which could call into question fitness to hold a licence. The guidance also warns lenders that their fitness could similarly come into question if they ignore the unfair practices of debt collectors acting on their behalf.

## Non-status lenders

We postponed until 2004-05 the review of guidance to licence holders in the non-status lending sector in order to take into account our fact-finding study into debt consolidation. Our initial work suggested that the guidance required amendment and/or expansion to take account of new lending issues uncovered by our study of the debt consolidation market and others' work in relation to debt. We intend to consult stakeholders before issuing new guidance.

►► *OFT study of the debt consolidation market: page 75*

## Credit advertising

During 2003-04, we became increasingly concerned about the number of credit advertisements that appeared to be contravening the Consumer Credit Act. We began a formal programme to monitor credit advertisements and will take appropriate action, including conducting a compliance review, later in 2004-05.

## Licensing

In 2003-04, we issued or renewed 27,539 consumer credit licences (2002-03: 27,687). We challenged around 800 licences and applications. This led to us revoking 21 licences (2002-03: 25), refusing 31 licences (2002-03: 37) and issuing 218 warning letters.

A priority for the OFT is that we tighten up our assessment of individuals' fitness to hold a consumer credit licence by verifying their identity and checking their criminal conviction history. During the year, we worked on new licence application forms which ask for more and better information, and the introduction of new checks on criminal records. We were refused direct routine access to the Police National Computer (PNC) to vet all applicants. However, we have been granted direct access to the PNC for formal investigation purposes. In addition, we will require basic criminal record information from those entering the licensing system from August 2004. Individuals will be required to



obtain that information from Disclosure Scotland, which is the only organisation that provides individuals in the UK with a Basic Disclosure certificate detailing their criminal history.

We continued our review of the group consumer credit licensing system with a view to completing it and publishing our findings when the results of the government's consultation on reform of the Consumer Credit Act (see below) are announced.

① *Information on our consumer credit licensing work:*  
[www.ofc.gov.uk/Business/Legal+Powers/Consumer+Credit+Act.htm](http://www.ofc.gov.uk/Business/Legal+Powers/Consumer+Credit+Act.htm)

## Legislative change

Throughout 2003-04, the OFT helped shape the government's proposed reform of consumer credit law. The government's proposals for change were published in December 2003 and we responded to the consultation papers on establishing a transparent market and the creation of an Alternative Dispute Resolution process for credit disputes.

Changes are long overdue and we have been pressing for reform for a number of years to create an effective and modern regulatory system that will help us screen out traders unfit to hold credit licences.

## Estate agents

We carried out 229 investigations of the fitness of estate agents to carry out estate agency work and took formal action, involving the issue of notices warning or banning estate agents, in nine cases. In seven of these nine cases, the notices were based primarily on infringements of the Estate Agents (Undesirable Practices) (No.2) Order 1991, the first time we have considered the fitness of so many agents in respect of matters other than convictions. One Prohibition Order (effectively banning the estate agent from engaging in the estate agency market) and one Warning Order (effectively putting an estate agent 'on notice') had become effective as of 1 April 2004. Seven other Orders were subject to appeal or a right to appeal at that date.

## Fly-boarding

During 2003-04, we acted in partnership with TSDs to stop estate agents putting 'For sale' signs outside properties they are not marketing, a practice known in the industry as 'fly-boarding'. Fly-boarding gives a misleading impression that an estate agent is doing more business in an area than is the case and this can affect a seller's decision to select an agent. In one case, an undertaking was obtained from an estate agent that it would not market property unless acting on instructions to do so from the owner.

► *OFT study of the estate agency market: page 71*

## International enforcement

The growth in consumer-to-business trade being conducted across borders led to increased international consumer regulation enforcement work for the OFT.

Internet, mail order and telemarketing scams were one of our biggest concerns in 2003-04. We made significant progress in combating these harmful practices by using our cross-border powers and collaborating with international partners.

### First cross-border court case

We initiated landmark court action against Belgian mail-order company D Duchesne SA, trading as TV Direct. In March 2004, we issued proceedings in a Belgian court to stop D Duchesne SA sending what the OFT considers to be misleading mailings to UK consumers. It was the first time we had used our new cross-border powers (available to us under Part 8 of the Enterprise Act, which gives effect to the Injunctions Directive) to take court action in another European Union (EU) member state against breaches of EU consumer protection legislation.

We consider the mailings sent to UK residents are misleading since they appear to notify recipients of a large prize win, typically of £10,000. To receive the prize, the consumer is asked to make a purchase from the enclosed catalogue of household goods. However, respondents are only entered into a prize draw and may not have won anything.

Currently it is not known whether D Duchesne SA will dispute the OFT's action. A hearing is scheduled before the Commercial Court in Brussels in September 2004 to decide the merits of the case.

Court action has been initiated because D Duchesne SA failed to respond to our requests to sign undertakings that it would stop sending UK consumers misleading mailings and comply with the Misleading Advertising Directive. We laid a writ before the commercial court in Brussels for breaches of the Belgian legislation implementing the Misleading Advertising Directive.

### Holiday clubs

Following the OFT's holiday clubs consumer information campaign in March 2003, we significantly developed our cross-border holiday club strategy. We reinforced the message to consumers through our timeshare communication campaign and leaflets. We issued 28 warning letters to traders in the holiday club market and a further 26 trader education letters. We referred 61 timeshare resale cases to the Spanish criminal authorities for action.

### Canadian lottery scam

We worked with our international partners to combat a Canadian lottery scam.

People targeted by the scam were contacted by someone in Canada claiming they had won a big prize in a 'Canadian national lottery' that would be released if they paid an upfront sum – in some cases running to several thousand pounds – to cover tax or processing. In fact, the prize never existed.

At one stage, at least 15 call centres in Canada were specifically targeting the UK. Thousands of people were affected and victims lost around £3m to the fraudsters in the first six months of 2003.

We launched a campaign to alert people to the dangers of the scam and worked with the Canadian authorities, including the Competition Bureau of Canada and the Royal Canadian Mounted Police, to take action. We set up a dedicated telephone hotline to gather evidence that could be used to prosecute the perpetrators. By the end of 2003, the Canadian authorities had arrested more than 50 people and shut down several call centres.



## Work with postal service providers

The OFT worked with postal service providers to act against overseas businesses sending misleading prize draw or lottery mailings to UK consumers. In some cases, postal providers agreed to rescind contracts with the offending businesses. We are aiming to formalise our working arrangements with postal providers early in 2004-05.

## Unfair Commercial Practices directive

The OFT worked closely with the DTI to influence negotiations on the content of the European Commission's draft framework directive on Unfair Commercial Practices. This will require all member states to take steps to stop unfair practices by traders – an unfair practice being one that is contrary to 'professional diligence' and that 'materially distorts the economic behaviour' of the 'average consumer' or is likely to do so. The new rules will apply to marketing, advertising and selling activities, and to certain after-sales commitments.

We believe the directive will create sharper enforcement powers for use when the interests of UK consumers are being harmed by the activities of traders in other member states. We therefore gave our broad support to the general principle of the directive, while working to ensure the new law would avoid unnecessary duplication of regulation and provide certainty for businesses, consumers and enforcers.

**i** *The European Commission draft directive on unfair commercial practices: [www.europa.eu.int](http://www.europa.eu.int)*

## International cooperation frameworks

### European cooperation regulation

Working alongside the DTI, we contributed to the development of the European Commission's proposal for a Regulation on Consumer Protection Cooperation. Published in July 2003, the draft regulation provides for improved mutual assistance between EU member states' consumer protection bodies when dealing with cross-border infringements of European consumer protection law.

If adopted, the regulation would empower enforcement authorities to seek and obtain action by counterparts in other member states and remove existing barriers to information exchange. It would also establish a minimum range of enforcement powers that public enforcement bodies in member states must have at their disposal, including the ability to conduct on-site inspections and to require 'rogue traders' to make payments into the public purse if they fail to comply with court orders. The new regulation will make it easier for us to track down and deal with those dishonest businesses that deliberately target UK consumers from within the EU.

We see the regulation as a major advance in international consumer protection enforcement and are supporting its adoption with a view to making full use of the additional enforcement powers it will provide.

**i** *The regulation on consumer protection enforcement: [www.europa.eu.int](http://www.europa.eu.int)*

## OECD

In June 2003, the Organisation for Economic Cooperation and Development (OECD) approved guidelines for increased international cooperation between its members. We worked in support of the DTI to influence the drafting of the guidelines.

The guidelines are broadly in line with the draft EC regulation on consumer protection enforcement (outlined above) and are being implemented through bilateral and multilateral agreements between members. By the end of 2003-04, we had signed such agreements with our counterparts in the USA, Canada, Australia and New Zealand. We had also developed and finalised information-sharing matrices for use with our counterparts in the USA and Canada.

Using the guidelines as a basis for action, we pursued a number of cases in collaboration with our OECD partners. One concerned a Canadian trader sending misleading advertising to UK firms and several concerned UK businesses sending unsolicited e-mail advertising to consumers in the USA.

① *OECD guidelines: [www.oecd.org/sti/crossborderfraud](http://www.oecd.org/sti/crossborderfraud)*

## ICPEN

We continued to play an active role in the International Consumer Protection and Enforcement Network (ICPEN), an association of consumer protection bodies drawn largely from OECD member states, and its European sub-group, ICPEN Europe.

In February 2004, we worked with ICPEN members to 'sweep' the internet for get-rich-quick schemes, bogus lotteries, work-at-home programmes and other suspicious or blatantly deceptive websites. We coordinated the involvement of 30 TSDs in the sweep. At the end of 2003-04, traders whose sites appeared to infringe consumer laws – including 176 in the UK – were being contacted by the appropriate national authority with a view to securing changes through negotiation or court action.

① *ICPEN: [www.icpen.org](http://www.icpen.org)*