

objective 5: studying markets

We take a broad look at how entire markets work to ensure that the interests of consumers are being well served. These open and exploratory studies help us to assess if there are problems preventing a market from working well and, if so, what action should be taken.

Studies may be triggered by information from OFT enforcement teams, local authority trading standards departments (TSDs) and by organisations representing consumers. They can also arise from super-complaints from designated consumer bodies or from market intelligence gathered by the OFT's Enquiries Unit.

Performance against our annual plan

<p>Objective</p> <p>We will study markets proactively to see whether they are working well for consumers and refer markets to the Competition Commission for investigation where appropriate.</p>	
<p>Our commitment</p>	<p>Our performance</p>
<p>Develop a framework for identifying areas for market studies to be carried out. This will be published as part of the market study guidance.</p>	<ul style="list-style-type: none"> Published consultation document on draft market study guidance Carried out two external consultancy projects to evaluate our market study framework.
<p>Initiate up to seven market studies, at least two of which will look at the effects on markets of government regulations.</p>	<ul style="list-style-type: none"> Launched five market studies: <ul style="list-style-type: none"> - Debt consolidation – 17 June 03 - New car warranties – 30 June 03 - Store cards – 17 September 03 - Financial Services and Markets Act – 04 November 03 - Public sector procurement – 05 February 04.

	<ul style="list-style-type: none"> Announced a study into care homes after receiving a super-complaint from the Consumers' Association on 08 December 03.
Complete our ongoing studies into payment systems, estate agencies, taxi licensing, doorstep selling, debt consolidation and liability insurance.	<ul style="list-style-type: none"> Published reports on: <ul style="list-style-type: none"> Payment Systems – 22 May 03 Liability insurance – 03 June 03 Taxi licensing – 11 November 03 Car warranties – 17 December 03 Debt consolidation – 11 March 04 Store cards – 18 March 04 Estate agents – 23 March 04 Report on doorstep selling was published in May 2004.
Prioritise reviews of existing CC undertakings to determine whether they remain necessary or they should be changed or removed.	<ul style="list-style-type: none"> Announced a review of Orders relating to film distribution, and undertakings relating to postal franking machines, both to be completed in 2004-05 In February 2004, the Secretary of State for Trade and Industry announced that, on the advice of the OFT, a number of manufacturers of concrete roofing tiles were released from undertakings.

During 2003-04, the OFT spent £3.41m on achieving this objective.

This money was allocated as follows:

Staff costs	£2.65m
Miscellaneous administration	£0.76m

We concluded that the £2.5bn market for estate agency in England and Wales could be made to work better for consumers.

Framework for market studies

In December 2003, we invited views on draft guidance setting out our approach and procedures for conducting market studies. This 12-week consultation exercise ended in March and our final guidance will be published later in 2004.

We also commissioned two external consultancy projects to evaluate our market studies framework:

- NERA (National Economic Research Associates) was tasked with assessing how quantitative data, for example on price changes, profitability and productivity, could be used to identify markets which might not be working well.
- L.E.K. Consulting was employed to review the project management processes on the first four studies carried out by the OFT. A change programme based on its recommendations is being implemented to enhance our processes.

① *Our paper 'Market studies: Guidance on the OFT approach': www.of.gov.uk*



Completed studies

Payment systems

Our short study into UK payment systems found that while progress had been made in addressing competition concerns, some important questions remained.

The report reviewed developments over the preceding three years in money transmission clearing systems – such as direct debits, standing orders and cheques – and provided an account of recent OFT competition work on card networks.

We welcomed industry proposals to shorten clearing cycles and separate the ownership of clearing schemes from their technical infrastructure. However we called for a firm implementation date for these proposals.

The report estimated the annual cost to consumers of the ‘float’ (where, in relation to standing orders, internet and telephone banking payments, money reaches the beneficiary customer’s account some time after it leaves the paying customer’s account) at £30m.

In February 2004, we called for changes to the voluntary Banking Code requiring an end to the interest-free float and the provision of better information to consumers about clearing times for payments and receipts of funds. Any departures from normal minimum clearing times should be made especially clear.

Estate agency

We concluded that the £2.5bn market for estate agency in England and Wales could be made to work better for consumers.

We found that the Estate Agents Act 1979 needed modernising to allow the OFT and trading standards officers to act more speedily and effectively in tackling rogue agents. We recommended changes to the Act to enable more effective enforcement, to make clear that it covers new ways of buying and selling property, and to ensure that statutory terms used in contracts are more easily understandable.

Given the high number of consumer complaints in this sector, we recommended that the industry do more to improve self-regulation and provide access to low cost third-party redress. We will review the industry’s progress in two years’ time, with a view to recommending a statutory scheme be introduced if things have not improved.

We also found that while the market structure was generally not uncompetitive, price competition could be improved. Fewer than half of sellers received quotes from more than one agent. Those who did shop around and negotiate paid, on average, 14 per cent less in fees.

We called on the industry to quote fees to potential sellers in both absolute monetary terms, based on the property's valuation, and percentage terms. We will also launch a consumer information campaign to highlight the potential savings to consumers of shopping around and getting a number of market estimates of the value of their property.

We called on car manufacturers and franchised dealers to lift restrictions on where new cars may be serviced while under warranty.

Taxi licensing

Removing restrictions on the number of licensed taxis on Britain's roads would be good for the public, we reported in November.

Our market study into licensed taxis and private hire vehicles called for an end to regulations permitting local authorities to limit the number of taxis in their area. These quantity restrictions lengthen waiting times for consumers and create a gap in the market which is partly being filled by illegal cabs.

We estimated that abolishing these controls would increase the number of licensed UK taxis by around 15,000.

We also found that restrictions create an artificial premium on taxi licences when licensed vehicles are sold privately. This acts as a sizeable barrier to entry in the market.

We recommended a fare cap to protect vulnerable consumers and the sharing of best practice between local authorities to ensure that vehicle specifications and other quality controls do not impose unnecessary costs on taxi drivers.

Responding to the study, the government supported our findings on fares and quality controls. It urged local authorities operating quantity restrictions to either withdraw them or demonstrate that they benefit consumers.



Liability insurance

We conducted a five-month fact-finding study into UK liability insurance markets amid concerns about increases in premiums, reported reductions in underwriting capacity and increases in the excesses borne by policyholders.

Figures showed that in 2002 average premiums for employers' liability insurance rose by 50 per cent, public and product liability by 30 to 40 per cent and professional indemnity by 30 to 60 per cent. This followed a six-year period during which liability insurance premiums fell in real terms by about 14 per cent.

Our study found no evidence of a widespread lack of availability of liability insurance cover. However, there appeared to be problems obtaining cover for asbestos-related risk and professional indemnity insurance for independent financial advisers.

The report's recommendations included:

- an extension of renewal periods to allow policyholders to shop around for alternative cover;
- improvements in information and risk management, allowing premiums to more accurately reflect risks;
- greater use of rehabilitation for those injured at work, which should reduce damages claims; and
- improved data collection, enabling better forecasting of claims.

The OFT will keep liability insurance markets under review and will re-examine premium levels later in 2004-05. If the markets are not working better at that point, we will consider if further action is appropriate.

New car warranties

We called on car manufacturers and franchised dealers to lift restrictions on where new cars may be serviced while under warranty, and to provide better information to consumers on warranty terms and conditions.

Around half the cars sold in 2003 were subject to conditions restricting servicing to garages that are part of the manufacturer's network, in order for part or all of the new car warranty to remain valid. The market for car servicing and repair in the UK is worth around £10bn a year, of which about £1.4bn is spent on servicing cars under three years' old. Currently, around 90 per cent of these cars are serviced by franchised dealers where servicing costs are considerably higher than at independent garages.

Under recent changes to European regulation, manufacturers and their franchised dealers are obliged to open themselves up to greater potential competition for after-sales services from garages outside their networks.

The car industry's response to our recommendations has been positive. In future all major makes of new car in the UK will be sold without servicing ties and consumers will benefit from increased choice and competition. We have also run a consumer information campaign to help new buyers clarify the terms attached to warranties.

Powers for enforcing European competition law passed to member states on 1 May 2004. Under these powers, manufacturers retaining servicing restrictions could be subject to further investigation by the OFT.

Extended warranties

We made recommendations to the Secretary of State for Trade and Industry on improving competition in the market for extended warranties for domestic electrical goods following a report by the Competition Commission.

We had referred the market to the Commission in July 2002 after a market study found that electrical retailers had a strong point-of-sale advantage that harmed consumers. The Commission upheld our view that a complex monopoly existed in the market, resulting in excessive prices and a lack of choice and information.

We recommended that the Secretary of State accept the Commission's report and adopt a package of remedies, including a requirement that retailers:

- display extended warranty prices alongside product prices;
- provide a quotation valid for 30 days, allowing consumers to shop around;
- give consumers an information leaflet before selling an extended warranty; and
- operate a right to cancel with a full refund within 45 days of an extended warranty purchase.

The Secretary of State announced in December 2003 that she accepted the report and would implement the remedies by statutory order.

Bogus trading in doorstep selling

Ahead of our wider report into doorstep selling, we set out our position on legislative options to combat the threat posed by bogus property maintenance providers.

This coincided with a parliamentary debate in March on a private member's bill calling for a ban on the doorstep selling of repair services such as roofing and Tarmac-laying, which can lead to vulnerable consumers paying large sums for shoddy goods and services.

While around 15,000 complaints about bogus selling are reported to TSDs each year, we estimated the scale of the problem to be much larger.

Four ways in which existing legislation could be tightened were identified:

- the introduction of a new fraud offence to replace the existing Theft Act deception offence;
- an extension of current legislation on fraudulent trading by companies to cover partnerships and individuals;
- a ban on work and/or payment within seven days of a cold call, except for urgent repairs; and
- a ban on cold-calling for property maintenance and repairs, although not necessarily along the lines of the private member's bill.

We recommended that the government proceed to consultation and legislation on the fraud and fraudulent trading offences, and consult on the two possible options for a ban.

Debt consolidation

Better financial awareness among consumers and clear, accurate information from credit providers are required to make the use of debt consolidation fairer and more transparent.

Our study found that most borrowers do not shop around for credit for debt consolidation, and many are unaware of the alternatives open to them, such as negotiating with creditors or getting free help from debt counselling services.

Borrowers do not, in the main, give due weight to factors such as the length of the term of the loan and the total cost of repayments when deciding whether debt consolidation makes financial sense for them, the report concluded.

We also identified some potentially unfair practices, such as lenders requiring existing customers to take out consolidation loans as a way of dealing with a debt problem. These will be investigated by the OFT and may lead to appropriate enforcement action.

The study recommended further work by the OFT, the FSA and the Government to educate consumers and improve the regulation of consumer credit.

Store cards

We referred the supply of store card credit and services to the Competition Commission in March 2004, following a study into the £4.8bn sector. This was the first market investigation reference to the Competition Commission under the Enterprise Act.

Our study, launched in response to questions raised by the Treasury Select Committee, concluded that there are features of the sector, both in the supply of store card credit to consumers and in the supply of store card services to retailers, that appear to prevent, restrict or distort competition.

Most store cards have an APR of around 10 percentage points above those available for credit cards, and it is questionable whether these rates are disciplined by competitive pressure.

We found a lack of transparency for consumers at all stages of the store card process – before signing, at the point of sale and post-contract. This made it difficult for consumers to compare alternative forms of payment.

We also had concerns about the supply of store card services to retailers – specifically the ability of new store card providers to enter the market.

The OFT will run a consumer education campaign to raise awareness of store card issues later this year.

Ongoing studies

Public sector procurement

We commissioned external consultants to undertake preliminary research into the impact of public sector procurement on competition. We expect this research to be completed by July and to publish a report in the summer.

Financial Services and Markets Act

We announced we would assess the impact on competition of the Financial Services and Markets Act 2000, which established the Financial Services Authority as the single regulator of the financial services sector, as part of the government's two-year review of the Act.

Care homes

In response to an informal super-complaint from the Consumers' Association, we announced a study of the £9bn-a-year market for nursing and residential care homes for the elderly. The study will assess the impact of price information on competition and choice, both for self-funded and publicly funded residents.

 *Details of OFT market studies:*

www.offt.gov.uk/business/market+studies

Progress on private dentistry

In response to a year-long OFT study of the private dentistry market, the government unveiled an action plan to improve standards and provide better information for consumers.

It proposed stronger professional guidance and new sanctions where dental professionals fall short of acceptable standards. It also envisaged a formal role for independent bodies such as the Council for Healthcare Inspection and Audit in monitoring the quality of private dentistry treatment. The revised professional guidance, issued for consultation in September, includes a new complaints procedure, administered by the General Dental Council, to ensure that complaints about private and NHS dentistry are subject to the same independent investigation and redress.

► *Our consumer information campaign on private dentistry:*
page 91

Review of remedies

We launched a review of orders and undertakings made under the Fair Trading Act 1973, which arise from reports by the Competition Commission and its predecessor, the Monopolies and Mergers Commission.

We chose to look at two orders covering the supply of films for exhibition in cinemas, and undertakings concerning the supply, maintenance and repair of postal franking machines.

The OFT is currently required to keep under review the action taken in compliance with undertakings or orders, and from time to time to consider whether, by reason of any changes of circumstances, the undertaking or order in question should be varied, revoked or superseded by new undertakings or orders. The OFT is required to advise the Secretary of State accordingly. The power to vary, revoke or make new undertakings or orders currently rests with the Secretary of State, but will in the future pass to the Competition Commission.

As with much of the work the OFT undertakes, if we have cause to take additional action we have several options available to us. These include (but are not restricted to):

- the publication of information to help consumers;
- encouraging firms to take voluntary action;
- making recommendations to Government or regulators;
- investigation or enforcement action against companies or individuals suspected of breaching competition law; and
- making a market investigation reference to the Competition Commission under the Enterprise Act.

We announced a study of the £9bn-a-year market for nursing and residential care homes for the elderly.