

objective 7: new legislation and policy initiatives

Government laws and regulations can have an unintended impact on markets, for example by stifling innovation or restricting consumer choice. Under the Enterprise Act 2002, the OFT has a general function to advise ministers or other public authorities on consumer protection and competition issues, including in relation to proposed changes in the law. We provide direct input on draft legislation and policy initiatives that may affect our enforcement work. We also play an active role in assessing new regulations for potential competition concerns.

Performance against our annual plan

<p>Objective</p> <p>We will assist the shaping of policy in order to facilitate competitive markets and to maintain and develop consumer protection.</p>	
<p>Our commitment</p>	<p>Our performance</p>
<p>Promote continuing improvement in quality of OGD competition assessments by scrutinising Regulatory Impact Assessments (RIAs), provide drafting advice and educate OGDs on assessing competition impacts.</p>	<ul style="list-style-type: none"> • Provided advice on over 200 RIAs • Continued to liaise closely with the Cabinet Office Regulatory Impact Unit to improve the quality of competition assessments and RIAs as a whole.
<p>Coordinate input into new legislation that directly impacts on OFT enforcement activity.</p>	<ul style="list-style-type: none"> • Worked closely with the DTI on new legislation that impacts on consumer protection and/or competition enforcement.
<p>Provide both proactive and reactive advice on wider policy initiatives.</p>	<ul style="list-style-type: none"> • Provided advice to regulators or other government departments in 94 cases.

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Liaise with stakeholders, domestically and internationally, in order to advise on new policy initiatives and impact on the legislative and regulatory debate.

- Liaised closely with OGDs and counterparts in other jurisdictions, together with international bodies including the OECD, ICN and UNCTAD, to provide the UK perspective on competition and consumer negotiations and discussions.

During 2003-04, the OFT spent £0.97m on achieving this objective. This money was allocated as follows:

Staff costs	£0.86m
Miscellaneous administration	£0.11m



Regulatory Impact Assessments

Government departments are required to carry out a competition assessment of new policies as part of the Regulatory Impact Assessment (RIA) process. The OFT assisted this work by providing drafting advice and guidance on competition policy for government officials. We operated a telephone helpline to advise policymakers on the workings of the competition assessment, which are also explained in OFT guidelines.

The first stage of the assessment consists of nine straightforward yes/no questions which signal the likelihood that a proposal will have an adverse competitive impact. Depending on the results of this filter, a simple or more detailed assessment of competition effects may be needed.

In the event of detailed assessments, we assist government departments in:

- identifying affected markets;
- understanding the current nature of competition in affected markets; and
- identifying the direct and indirect effects of competition processes likely to result from the regulation.

During 2003-04, we provided advice on approximately 200 RIAs.

i *The OFT's guidelines for competition assessment:*
www.of.gov.uk/business/regulations

Input on legislation

We gave our considered response to draft legislation, both from the UK government and the European Commission, and liaised with external stakeholders to identify potential impacts on consumers and competition.

We worked alongside the Department of Trade and Industry (DTI) and the Department of Culture, Media and Sport (DCMS) on the Communications Act 2003, which created the new Office of Communications (Ofcom). Ofcom has concurrent powers to enforce the Competition Act 1998 in the sectors it regulates and to apply the market investigation provisions of the Enterprise Act 2002. We were also closely involved in the formulation of new provisions relating to newspaper mergers and cross-media mergers, in which both the OFT and Ofcom have new functions.

We also worked with the DTI on forthcoming amendments to the Consumer Credit Act, which will have far-reaching implications for the work of the OFT (for more, see page 34). We also took a close look at the Housing Bill and how the proposed introduction of a Home-Seller's Pack could deliver maximum consumer benefit.

On a European level, we were actively involved in discussions on the modernisation of competition law enforcement (for more, see page 58) and the reform of the European Community Merger Regulation (for more, see page 67).

We responded to a number of formal and informal consultation exercises during the year. For example, the DTI sought our views on the implementation of an EC directive requiring member states to maintain 90 days of emergency oil stocks. We discussed a possible methodology to inform the DTI's decision on how stocks should be held between refineries and distributors so as not to distort competition in the UK oil market.

We also met with the Land Registry to discuss competition issues raised by a proposed move towards paperless conveyancing.

Influencing policy

We engaged in a series of proactive policy discussions with the government and others on competition and consumer issues.

A key issue arising from this work was the extent to which public sector procurement influences competition in the UK. We commissioned external consultants to undertake a preliminary economic analysis of government purchasing power and its competitive impacts (both positive and negative). This research may lead to further market studies under the Enterprise Act.

The establishment of an international cross-office working group has resulted in greater collaboration across the OFT on international policy issues. In turn, this has assisted with improved policy liaison with international counterparts in other jurisdictions and international bodies. A key achievement in 2003 was securing the support of the OECD Competition Committee Secretariat, and other Committee members, for the first joint meeting of the OECD Competition and Consumer Policy Committees to focus on an OFT advocated theme.

We are putting in place new arrangements to seek to ensure that we proactively identify all relevant consultation documents published by the government and public bodies. Our Policy Team will provide a single point of contact for consultations and coordinate our responses in liaison with relevant OFT colleagues.