

Chairman's foreword



Sir John Vickers
Chairman

Introduction

Over the past year the OFT has consolidated the transformation of its role brought about by the Competition Act 1998 and the Enterprise Act 2002. The focus has been on improving – through better working methods, priority-setting and communication – the effectiveness of our efforts to make markets work well for consumers, for fair-dealing businesses and for the economy as a whole.

The report that follows shows that it has been a year of results. Highlights include:

- the first of a series of cartel decisions relating to the construction industry
- the first cross-border court action to protect UK consumers from deceptive mailings from overseas
- the first OFT approvals of consumer codes of practice
- progress towards a better deal for consumers from payment systems
- a range of market studies, and reference to the Competition Commission of the markets for home credit and liquefied petroleum gas
- upholding by the Competition Appeal Tribunal of our decisions on price-fixing of toys and of replica football kit.

Compared with some regulatory bodies the OFT remains relatively compact, despite our wide span of responsibility and our growth in recent years, with staff numbers around 720 and annual expenditure about £52 million in 2004-5. That accords with our view that markets, provided they work well, serve consumers and drive productivity far better than even the best regulators. The proviso is crucial – markets restricted or distorted by anti-competitive or unfair trading practices let down the public and hinder good economic performance.

The OFT's task is to use our competition and consumer law powers together in a market-oriented way to deter and combat such practices so that markets do work well. How we have been doing this can be illustrated by reference to the five priority areas identified in the OFT's annual plan for the current year.

Consumer credit

The year saw important improvements to consumer information about credit products thanks to new regulations, supported by OFT guidelines, on credit advertising and systematic monitoring with trading standards of newspaper ads. Licensing scrutiny was further enhanced, with more than 1600 actions where the application was withdrawn, not proceeded with or refused. A super-complaint from the National Consumer Council led to a market investigation reference of home credit to the Competition Commission, which is also examining the market for store cards. Our effort to clarify that consumer credit card protection extends to overseas purchases was unsuccessful before the High Court and we are appealing that judgment. Important continuing investigations include those on credit card interchange fees (under competition law) and of credit card late payment fees (under consumer law).

The past year saw heightened efforts to combat mass-marketed scams.

Construction and housing markets

The past year saw decisions with penalties against price-fixing and bid-rigging cartels in the construction industry – relating to roofing contractors in Scotland and the north-east of England, and to suppliers of desiccant, a product used in double glazing. More suspected construction cartels are under investigation, assisted by information from leniency applicants. Action against unfit estate agents was stepped up and enforcement action under the Enterprise Act was taken for the first time in the sector. Updated unfair contract terms guidance was issued for the home improvements sector, which has long been a source of widespread consumer complaint. And a study began into the market for property search information.

Healthcare

Work on a major market study was undertaken into the care home sector, following a super-complaint from Which? on behalf of a coalition of charities for older people. In parallel, improvements in the clarity and fairness of contract terms were secured from major providers of care home services. The internet is increasingly used as a means to promote healthcare products. After a sweep of sites revealed that many health product suppliers did not properly inform consumers about online shopping rights, follow-up action was taken, together with measures to alert consumers.

Mass-marketed scams

Both domestically and internationally, the past year saw heightened efforts to combat mass-marketed scams by actions against deceptive traders and their routes to market, and by consumer awareness initiatives. For example, misleading mailings were stopped by court action in Belgium and by cooperation with the Swiss authorities that closed PO boxes used by companies targeting UK consumers, and in partnership we took action against the Canadian lottery scam. Joining forces with more than 70 agencies world-wide, we helped lead an international effort to identify sources of deceptive internet spam.

Government and markets

The government interacts with markets as regulator, supplier, subsidiser and customer. Each of these roles can help or hinder competition, and a growing theme of OFT work has been to examine those market interactions. In the past year we continued to recommend deregulation where appropriate, we published a study on the competition effects of public sector procurement, and we completed the first phase of a project on the market impact of subsidies. We also helped establish the Competition Forum to deepen awareness of competition issues across government.

International work

In addition to our continuing to play a leading role in European Community competition and consumer work, and in organisations such as the OECD and the International Competition Network, the past year has been particularly important internationally for the OFT. On 1 May 2004, when the 'Modernisation' Regulation came into force, the OFT acquired responsibility to apply European competition law – Articles 81 and 82 of the EC Treaty – as well as UK domestic law. And on 1 August we took up the presidency of the International Consumer Protection Enforcement Network. In a world where markets – and therefore competition and consumer protection issues – increasingly transcend national boundaries, international work is integral to our efforts to make markets work well for UK consumers.

Further reform

Although the past year has been one to consolidate the recent transformation of the OFT's role, further reform is in prospect. The Consumer Credit Bill, which was recently reintroduced to Parliament, will at last modernise the regulatory framework for consumer credit markets. UK consumer law as a whole will be shaped by how the European directive on unfair commercial practices is implemented. There is also the prospect of radical institutional reform: the Hampton report has recommended the establishment of a Consumer and Trading Standards Agency, which could be separate from, or part of, the OFT. Whatever institutional choice is made after consultation, it is of paramount importance that UK competition and consumer policies continue to be operated in an integrated, market-based way. A failure of integration and a loss of shared market understanding would be a recipe for more regulation, not less. Competition policy must be consumer-oriented, and consumer policy must always embrace the fundamental importance of competition for consumers.

Those principles have guided the OFT through the past five years of transformation, as have greatly enhanced transparency and accountability, and much more effective working in partnership, especially with our colleagues in trading standards services throughout the UK.

The platform for transformation has been new and better legislation, but its driving force has been the people at the OFT. In the past year Brian McHenry joined as Solicitor to the OFT, succeeding Pat Edwards, and in April this year Bart Smith took up the new post of chief operating officer. I look forward to welcoming Philip Collins, my successor as chairman, and the new chief executive in the autumn. I want now to thank and pay tribute to all the staff of the OFT and my board colleagues, especially Penny Boys, with whom it has been such a pleasure to work.