

# Office of Fair Trading Annual Report and Accounts 2010 - 11

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This is part of a series of Annual Reports which, along with the Main Estimates 2011 - 12 and the document Public Expenditure: Statistical Analyses 2011, present in the Government's outturn and planned expenditure for 2011 - 12.

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## CONTENTS

	<i>Page</i>
Chairman and Chief Executive's Statement	4
1 About the OFT	6
2 The Board	9
3 Themes for the Year	13
4 Enforcement	16
5 Market Tools, Analysis and Policy	26
6 Advocacy, Advice and Guidance	34
7 Improving the Way We Work	37
8 Operating and Financial Review	42
9 Focusing on the Future	44
10 Resource Accounts	45
11 Trust Statement	80

## CHAIRMAN AND CHIEF EXECUTIVE'S STATEMENT

During a year of profound economic challenge in the UK, the OFT has continued to contribute to economic development through its role in enabling competitive markets to function well, while protecting consumers and business from anti-competitive behaviour, unfair practices and public restrictions on competition. We achieved effective outcomes for consumers and the UK economy through combined competition and consumer enforcement and analysis, and have further enhanced the efficiency of our work to allow us to deliver these outcomes with fewer resources.

The full range of our work resulted in direct benefits in excess of £320 million on average over the last three years to consumers and the economy – more than six times our cost. Our work has benefited some of the most vulnerable consumers and touched all sectors of the economy, driving change and influencing business, consumer and government behaviour. And we have provided international leadership aimed at ensuring joined-up and consistent international enforcement and policy. At the same time, we know that there is more that can be done.

We continued to prioritise high-impact enforcement for 2010 - 11, and acted firmly against businesses that broke the law. For instance we imposed substantial penalties, on tobacco retailers and manufacturers for engaging in unlawful practices in relation to retail prices for tobacco products, won a ground-breaking High Court ruling that prize promotions distributed by a number of companies were in breach of the law, and obtained a criminal conviction and a significant confiscation order against an unsecured loan company for trading without a licence, with the money going to compensate its customers.

Wide ranging action in consumer credit helped drive out poor business practices and improve standards across the industry. Our focus on the highest risk activities delivered substantial protection for consumers as economic uncertainty raised the potential for harm in the credit market.

We joined enforcement more closely with market studies, using our deeper understanding of

problems facing consumers in markets to better target enforcement action. Following our study into the advertising of prices, we took action against the suspected use of 'bait advertising' and misleading promotional statements in relation to website sales, and our market study of outdoor advertising has also led to a competition investigation. We laid down markers in new markets, taking action to protect consumers in the markets for postal gold sales and internet penny auctions, and to ensure that other traders in these developing areas are in no doubt as to their obligations. Aside from the protection of consumers in these instances, these cases set clearer standards for compliant businesses.

We improved the speed and quantity of our enforcement work. Eleven of the 23 Competition or Enterprise Act cases we had open at the end of the year were investigations that we had opened in the past year. Our investigation into abuse of dominance in the market for heartburn medicines, for example, went from a Statement of Objections in February 2010 to an early resolution agreement in October, and we issued a final decision in the case in mid-April 2011.

Following the withdrawal of our criminal case relating to airline fuel surcharges in May 2010, we learned a number of valuable lessons which will benefit future investigations. The case has not affected the OFT's commitment to take criminal enforcement action where appropriate.

Our markets work was particularly productive in 2010 - 11, with more studies launched and completed than in previous years, in shorter timescales, across a range of areas. From looking at problems caused across markets by advertising practices and consumer contracts to making recommendations around specific markets such as corporate insolvency and equity underwriting, we contributed to the understanding of these areas and the ways in which they can be made to work better for customers. We also delivered important reports into key areas for Government and the economy, such as our work on infrastructure ownership, barriers to entry in retail banking, and procurement of public services.

Complementing our enforcement work, we undertook ground-breaking work to promote

compliance and to help businesses to avoid inadvertently falling foul of the law: we published guidance to help companies and directors to comply with their responsibilities and create a culture of compliance within their businesses, and established a Sale-of-Goods-Act hub to provide comprehensive online advice for retailers and businesses on consumers' rights when purchasing goods.

We have helped consumers to get better deals and avoid traps and pitfalls through education and advice. Consumer Direct dealt with more than 1.7 million contacts and provided consumers with benefits of more than ten times its cost, and we ran successful campaigns to help consumers to save for Christmas, buy tickets and used cars, and take action against scammers.

As ever, we have looked to improve and innovate in the way we work. Building on previous efforts, we have further increased our transparency, setting out what those involved and interested in our work can expect throughout the lives of cases and projects and publishing more information about the OFT. We introduced new guidance on procedures for Competition Act work to increase clarity for business, and we announced a one-year trial of a Procedural Adjudicator role to resolve procedural disputes in competition cases more efficiently.

All of these achievements came in a year when OFT's budget was reduced by over five per cent in 2010 - 11, following five per cent reductions in each of the previous two years. Our spending review settlement for 2011-15 will see our financial situation continuing to be challenging, reducing our budget by 25 per cent in real terms phased over this period. We continue to make efforts to increase efficiency, although it is inevitable that difficult decisions on prioritisation will have to be made.

At Board level Jonathan May retired from his dual role as Executive Director, Policy and Strategy and as Executive Director, Markets and Projects

after nine years service at the OFT. Two non-executive directors stepped down, James Hart at the end of his term and Alan Cook shortly after the year-end. We thank them for their invaluable contributions to the work of the Office and wish them the very best for the future.

The Government has put forward proposals for institutional change and reform around the competition, consumer protection and consumer credit regimes. We welcome the opportunities that these proposals bring to strengthen these regimes at a time when their contribution to consumers and growth in the UK economy is so necessary. We have engaged with Government to help develop these proposals through the benefit of our practical experience, and will continue to do so as the proposals go forward. However, we remain fully committed to our mission in the interim, and this year's strong results demonstrate that there will be no let-up in our work as the proposals evolve and changes are planned and implemented.

We look back at 2010 - 11 as a period of continued achievement in protecting consumers and markets, and important contributions to national debates around vital UK economic issues, set against a backdrop of uncertainty around our future role, remit and resources. As these uncertainties are resolved, we look forward to the challenge of building on our achievements and ensuring that the regimes for which we are responsible continue to deliver for consumers.



**Philip Collins**  
Chairman

**John Fingleton**  
Chief Executive

## 1 ABOUT THE OFT

The OFT is the UK's primary competition and consumer agency. Our mission is to make markets work well for consumers. Our work enables competitive markets to deliver the incentives for greater business efficiency, and to ensure that firms are responsive to consumer demands. Our goal is competitive, efficient, innovative markets where standards of customer care are high, consumers are empowered and confident about making choices and where businesses comply with consumer and competition laws but are not overburdened by regulation.

Effective competition and well-functioning markets drive the long term productivity growth vital for economic recovery without adding costs to Government or business.

### Our approach

Good consumer outcomes rely on competitive markets providing choice and value, whilst vibrant competition relies on consumers shopping with confidence. Our dual competition and consumer remit allows us to take a holistic approach to our work and the wide range of remedies at our disposal allows us to act in a flexible and proportionate manner.

The majority of our work consists of:

- Enforcing competition and consumer law
- Analysing markets
- Merger control
- Licensing and supervisory work in the consumer credit and estate agency markets, including anti-money laundering supervision
- Advocacy
- Working with partners to deliver information and education programmes to businesses and consumers
- Delivering advice to consumers through Consumer Direct.

The tools we have at our disposal are considered in detail below. In many cases we use a combination of those tools to address market failures in a holistic way.

Across all our work we are committed to acting in a targeted and proportionate manner. We consider carefully what intervention tools and remedies (including voluntary resolution) might be most appropriate to ensure that we obtain proportionate and effective outcomes. We recognise the importance of being transparent in the work we do.

In many cases, we work in partnership with other organisations that have complementary powers or influence. We work on the principle that action should always be taken by the most appropriate

body. We work closely with the Competition Commission (CC), other regulators, compliance partners, consumer organisations and international counterparts to ensure effective competition and consumer regimes.

### Our tools in detail

**Enforcement interventions** including:

- Taking criminal action against those involved in serious unfair commercial practices or engaged in criminal cartel activity
- Imposing financial penalties and other sanctions on companies under competition law for involvement in anti-competitive agreements and the abuse of a dominant position
- Applying for Competition Disqualification Orders against directors of companies that have infringed competition law
- Refusing and revoking consumer credit licences and imposing requirements on licensees
- Warning and banning estate agents
- Applying for civil court orders restraining businesses from breaching consumer legislation
- Imposing financial penalties and prosecuting certain classes of business for non-compliance with anti-money laundering controls.

**Market tools and analysis** including:

- Actively studying markets that may not be working well for consumers through market studies, or in response to super-complaints from designated bodies
- Referring a market to the CC for investigation where we have reasonable grounds for suspecting that any feature, or a combination

of features, of the market is preventing, restricting or distorting competition in the UK

- Monitoring, enforcing and reviewing orders and undertakings put in place in the context of a market investigation reference

### Merger control

- Reviewing information relating to merger situations and, where necessary, referring any relevant mergers to the CC for further investigation
- Monitoring, enforcing and reviewing orders and undertakings put in place in the context of a merger reference

### Advocacy, advice and education

- Raising awareness of competition issues and advising policy makers where wider government policies affect competition and markets
- Informing consumers through education and awareness campaigns, and through our Consumer Direct advice service
- Carrying out business education and encouraging business compliance
- UK and international policy work, using our influence to promote the economic interests of UK consumers.

In addition, our **statutory remit** includes obligations on us to:

- Monitor the fitness of businesses holding or applying for a licence to offer goods or services on credit or lend money
- Act as a supervisory authority under the Money Laundering Regulations 2007
- Report on whether the regulatory provisions of clearing houses and investment exchanges seeking recognition have a significantly adverse effect on competition.

## How we do our work

### Prioritisation

Where we have discretion to choose whether or not to act, we focus our interventions on areas which pose the greatest threat to competitive, open and well-functioning markets. Our Prioritisation Principles describe the factors we consider and balance when we make decisions on our priorities. The principles are:

- **Impact:** What would be the likely direct and indirect effect on consumer welfare, and what would be the expected additional economic impact on efficiency and/or productivity?

- **Strategic significance:** Does the work fit with the OFT's strategy and objectives, is the OFT best placed to act and what would be the impact of the new work on the balance of OFT's current portfolio of work?

- **Risks:** What is the likelihood of a successful outcome?

- **Resources:** What are the resource implications of doing the work, are the resource requirements proportionate to the benefits and will any savings be created for the OFT by enabling us to meet our objectives more efficiently?

Prioritisation decisions are made on a case by case basis, taking account of individual circumstances and the likely outcomes of alternative courses of action.

### Minimising burdens on business

Our mission of making markets work well for consumers includes ensuring that our interventions do not impose unnecessary costs on business. Burdens on business will typically be passed on to consumers in the form of higher prices, lower quality and/or reduced choice. So, where we perform direct regulatory functions – such as credit licensing – we adopt a risk-based approach, ensuring that we focus our resources on those areas where harm is most significant, therefore keeping costs and burdens to business as low as possible.

### Transparency

Our Transparency statement<sup>1</sup> took effect from July 2010 and sets out our commitments, covering how we will engage and what information we will provide through the life of a case or a project to those involved and interested in our work. This includes consistently providing parties with information at the start of enforcement action and regularly updating parties on case status and timescales.

Following public consultation on our Competition Act 1998 (CA98) investigation procedures, we

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<sup>1</sup> [www.offt.gov.uk/about-the-offt/accessing-information/transparency/offt-transparency-statement/](http://www.offt.gov.uk/about-the-offt/accessing-information/transparency/offt-transparency-statement/). The statement mainly relates to CA98 cases, consumer enforcement cases – excluding credit – market studies and some policy projects

have published related guidance<sup>2</sup> that aims to increase transparency. We have committed to measures such as informing parties of the identity of the decision-maker and key individuals in the case team at the outset of a formal CA98 investigation. Parties will be given access to the decision maker at the oral representations meeting and also have the opportunity of meeting with senior case team representatives before a statement of objections is issued. The guidance also provides greater transparency on the OFT's internal processes.

Our 2011 - 15 Business Plan<sup>3</sup> outlines our contribution to the Government's system of democratic accountability.

### **Evaluation**

We are committed to gaining a better understanding of the impact of our work on consumers and the economy. This commitment is reflected in our 2011 - 15 Business Plan, which refers to our use of impact indicators, including the estimation of direct savings to consumers, an associated benefit-to-cost ratio and to the annual publication of 'at least one independently-audited, in-depth, ex-post evaluation of an intervention'.

As part of our work, we will continue to embed impact estimation and monitoring in our day-to-day activities, will undertake in-depth research on the impact of specific interventions and will aim to gain a better understanding of the wider impact of our work (including on deterrence and growth).

### **Delivering faster, agile and innovative outcomes**

We have made good progress in enhancing the effectiveness and efficiency of our work. We have continued to reduce the time taken to carry out market studies, which are now taking, on average, nine and a half months to complete whilst delivering considerable savings to consumers. Competition enforcement has become much more streamlined, and innovative approaches – such as early resolution and short -

form opinions – are allowing us to achieve quicker outcomes.

Our recently published CA98 investigation procedures guidance gives businesses and their advisers better clarity around our processes and should help us deliver our investigations more quickly and efficiently. We have also announced the trial of a new Procedural Adjudicator<sup>4</sup> role to resolve disputes on procedural issues, as part of this continuing drive to speed up CA98 investigations.

This approach also applies to our consumer protection work, where we have published a policy statement setting out our approach to promoting business compliance with consumer protection law. This is intended to provide a clear explanation to businesses and others of what to expect from the OFT.

We aim to build on this progress through 2011 - 12 through a mix of structural, cultural and behavioural changes. We will ensure that we make the optimal use of, and develop our skilled staff, building our leadership and management skills, stepping up high-impact enforcement work and developing a stronger delivery culture, supported by the right processes, tools and systems. Steps in this direction include creating a Pipeline and Performance Group, merging several of the enforcement teams and delayering the organisation to create two larger groups that are able to prioritise more effectively, make better use of resources and make quicker decisions.

Across our corporate services we have benchmarked functions such as Human Resources, Finance, IT and Estates through the operational efficiency programme. Significant savings will be extracted through a radical overhaul of our back office functions. To ensure better value for money, we are aligning Human Resources with the new Civil Service-wide Next Generation HR service delivery model, and are renegotiating key contracts. We are also investing in our IT infrastructure which will deliver significant capability and productivity improvements.

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<sup>2</sup> [www.offt.gov.uk/about-the-offt/legal-powers/legal/competition-act-1998/ca98-procedures-guidance](http://www.offt.gov.uk/about-the-offt/legal-powers/legal/competition-act-1998/ca98-procedures-guidance)

<sup>3</sup> [www.offt.gov.uk/about-the-offt/offt-structure/accountability/business-plan](http://www.offt.gov.uk/about-the-offt/offt-structure/accountability/business-plan)

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<sup>4</sup> [www.offt.gov.uk/about-the-offt/legal-powers/legal/competition-act-1998/procedural-adjudicator-trial](http://www.offt.gov.uk/about-the-offt/legal-powers/legal/competition-act-1998/procedural-adjudicator-trial)

## THE BOARD



**Philip Collins**  
Chairman



**John Fingleton**  
Chief Executive



**Vivienne Dews**  
Executive Director



**Robert Laslett**  
Executive Director



**Clive Maxwell**  
Executive Director



**Alan Cook**  
Non-executive Director



**Alan Giles**  
Non-executive Director



**James Hart**  
Non-executive Director



**Frédéric Jenny**  
Non-executive Director



**Anthony Lea**  
Non-executive Director



**Philip Marsden**  
Non-executive Director



**William Moyes**  
Non-executive Director

## 2 THE BOARD

The OFT Board is principally responsible for strategic direction, policy priorities and performance monitoring. The executive management team, which is accountable to the Board, is responsible for most operational and enforcement decisions.

### **Philip Collins**

#### **Chairman**

Philip Collins became Chairman in October 2005. He is a solicitor who has practised in the UK and EU competition law field for more than 30 years, initially in London and latterly in Brussels.

He was formerly a partner in Lovells where, in 1978, he was the first partner appointed to specialise in competition law. With the subsequent development of the practice, he was made head of the firm's competition and EU law practice.

Subsequently, and until September 2005, he was Senior Counsel at Wilmer Cutler Pickering Hale & Dorr LLP, based in Brussels. Philip was one of the founders of the Competition Law Forum established at the British Institute of International and Comparative Law and a member of its Advisory Board from its foundation in 2002. He is also a member of the Editorial Board of the European Competition Journal.

### **John Fingleton**

#### **Chief Executive**

Dr John Fingleton became Chief Executive in October 2005. John studied economics at Trinity College, Dublin, and Nuffield College, Oxford. He taught economics at Trinity College, Dublin for almost a decade, and spent shorter periods at the London School for Economics, the Graduate School of Business at the University of Chicago, and the Université Libre de Bruxelles.

As Chairperson of the Irish Competition Authority from 2000 to 2005, John oversaw the implementation of the 2002 Competition Act. He has played an active role in international competition policy, where he is Chair of the Steering Group of the International Competition Network, and in domestic economic policy, particularly relating to competitiveness.

### **Vivienne Dews**

#### **Executive Director**

Vivienne Dews became Executive Director of the OFT's Corporate Services function in April 2008. Vivienne joined the OFT from the Health and Safety Executive, where she was Director of Resources and Planning, and led corporate support and other services. The earlier part of her career was spent primarily in the Home Office. From 1999 to 2001 she was Chief Executive of the Police Information Technology Organisation. She is a member of the Chartered Institute of Public Finance and Accountancy. She leads delivery of OFT services to consumers and businesses including Consumer Direct, credit licensing, anti-money laundering supervision and the OFT's enquiries department. In addition she is responsible for the OFT's in-house services such as human resources, finance and procurement, facilities management and IT.

### **Robert Laslett**

#### **Executive Director**

Robert Laslett joined in August 2010 as Executive Director. He was previously at the Department for Work and Pensions (DWP), where he was Chief Economist for Pensions and Director for Private Pensions. In this role he was responsible both for the analytical basis of pension policy, for regulatory policy, and for the stewardship of non-departmental public bodies including the Pensions Regulator.

Prior to joining DWP in 2003, Robert's career ranged widely across the public and private sectors, both in the UK and overseas. In 2000 he established and headed the London office of Boston-based Charles River Associates, an economic consultancy specialising in competition and regulation issues. Previously he set up the financial services regulation and competition practice of London Economics, where he worked from 1991 to 2000 and led consultancy assignments across a range of sectors.

Earlier in his career, he was at the World Bank in Washington DC, where he worked both as a

country economist in Latin America and as a country risk analyst, and in Malawi where he was on the Overseas Development Institute Fellowship programme. Robert started his career as an economist at HM Treasury.

#### **Clive Maxwell**

##### **Executive Director**

Clive Maxwell joined the Board as an Executive Director in September 2010. Before then, he was Senior Director, Services at the OFT from October 2009, on secondment from HM Treasury.

Prior to his work at the OFT, Clive undertook a wide range of roles for HM Treasury from 1992-2009. He worked there on a variety of issues including, as Director, Financial Stability, responding to the financial crisis in 2007-2009. He participated in secondments at the London Borough of Lewisham in 1999-2000, to work on public services, and to the European Commission in Brussels in 1994-1995, dealing with economic and monetary issues.

Clive has represented the UK in numerous international and EU fora, including the EU's Financial Services Committee, of which he was Vice-Chairman in 2008-2009.

#### **Alan Cook**

##### **Non-executive Director**

Alan Cook was appointed for a four-year term from 1 April 2010. He resigned from the Board at the end of April 2011 on being appointed Chairman of Irish Life and Permanent in Dublin. He has had many years of experience in financial services and has worked extensively in both the private and public sectors. He is currently Chairman of 'Action for ME', the UK's leading charity supporting sufferers of ME/chronic fatigue syndrome, and is also a non-executive director of the Department for Transport and the Financial Ombudsman Service. He was formerly Managing Director of National Savings and Investments and Chief Operating Officer of Prudential. He is a Chartered Insurer, a Fellow of the Royal Society of Arts, a Fellow of the Chartered Institute of Management and a Freeman of the City of London. He was awarded a CBE in 2006.

#### **Alan Giles**

##### **Non-executive Director**

Alan Giles was appointed for a four-year term from 1 April 2007 (and re-appointed for a further three years from April 2011). He has many years of experience in retail businesses. He is currently Chairman of Fat Face Ltd and a non-executive director of Rentokil Initial plc. He was formerly Chief Executive Officer of HVM Group plc, Managing Director of Waterstone's Booksellers Ltd and Executive Director of WH Smith Group plc.

#### **James Hart**

##### **Non-executive Director**

James Hart was appointed for a three-year term from 1 April 2008. He left the Board at the end of his appointment in March 2011. He has spent most of his career in the police service, starting in the Surrey and Metropolitan forces and rising to become Head of the Diplomatic Protection Group, and latterly Commissioner of City of London Police. He now holds a number of non-executive appointments and advisory positions.

#### **Frédéric Jenny**

##### **Non-executive Director**

Professor Frédéric Jenny was appointed for a five year term from 1 April 2007. He is a professor of Economics at ESSEC Business School in Paris. He is currently Conseiller en Service Extraordinaire Cour de Cassation (Member of the French Supreme Court) and Chairman of the OECD Competition Law and Policy Committee. He was closely involved in the establishment of what is now the Conseil de la Concurrence (Competition Council) in France and latterly became its Vice-President, and is internationally recognised for his work in the competition field.

**Anthony Lea****Non-executive Director**

Anthony Lea was appointed for a four-year term from 1 April 2008. He is currently Chairman of the World Mining Trust plc and a non-executive director of the British Standards Group. He is also Chairman of the Emerging Africa Infrastructure Fund and a trustee of the RAF Benevolent Fund. He is an economics graduate who has spent most of his career within what is now the Anglo American group, latterly as Finance Director, which included responsibility for legal affairs and competition law compliance. He was a non-executive director of various companies in the group, including AngloGold Ashanti, De Beers, Englehard Corporation and Terra Industries.

**Philip Marsden****Non-executive Director**

Dr Philip Marsden was appointed for a four-and-a-half-year term from 1 October 2008. He is a Canadian and English lawyer who has practised in Toronto, Tokyo and London, and has also worked as an official in the Canadian Competition Bureau.

He has particular interest in competition and consumer policy and is currently the Director and Senior Research Fellow at the British Institute of International and Comparative Law in London, with responsibility for its Competition Law Forum. He is also Non-executive Director on the

Board of the Jersey Competition Regulatory Authority, Visiting Professor at the College of Europe, Bruges, and General Editor of the European Competition Journal.

**William Moyes****Non-executive Director**

Dr William Moyes was appointed for a three-year term from 1 April 2010. He is currently a lay member of the Legal Services Board and trustee of the Nuffield Trust. He was also Executive Chairman of the Independent Regulator of NHS Foundation Trusts ('Monitor') from 2004 to 2010 and Director-General of the British Retail Consortium (2000 to 2003). He was seconded to the British Linen Bank (a wholly owned subsidiary of the Bank of Scotland) in 1994, establishing its PFI advisory and equity investment team, which focused on large deals, mainly in health. He was Director of the British Linen Bank (1996) and Head of the Infrastructure Investments Department at the Bank of Scotland (1998 to 2000).

A civil servant from 1974 until 1996, he held a variety of posts in the fast stream and senior civil service. He was a member of the Economic Secretariat in the Cabinet Office between 1980 and 1983, and Director of Strategy and Performance Management within the Management Executive of the NHS in Scotland from 1990 to 1994.

### 3 THEMES FOR THE YEAR

In our annual plan for 2010 - 11, we set out three key themes: high impact enforcement, influencing and changing behaviour, and delivery and capability.

#### High impact enforcement

We demonstrated our commitment to taking strong enforcement action where businesses break the law, imposing fines totalling £225 million on two tobacco manufacturers and 10 retailers for engaging in anti-competitive practices, issuing a decision that Royal Bank of Scotland (RBS) and Barclays engaged in anti-competitive practices, fining RBS £29 million and issuing a decision that Reckitt Benckiser abused its dominant position, imposing a fine of £10 million.

We obtained court orders in the course of enforcement action against companies who we considered were breaching consumer legislation and misleading consumers with their sales and marketing practices in relation to holiday clubs and secured undertakings from postal gold businesses to make changes to their business practices. We also secured undertakings from Markco Media Ltd on the use of bait advertising, from Handpicked Media requiring it to use disclosures in respect of commercial blogging activities and from We Buy Any Car Ltd in relation to the true nature of their online valuations.

We targeted our enforcement activity at areas that posed the most risk to consumers. Credit and debt issues remained a priority for us, with the OFT taking action against a range of businesses to ensure that consumer vulnerabilities created by the recession were not unfairly exploited. This included securing a conviction against London North Securities Ltd for lending without a credit licence, warning 129 firms to take steps to achieve compliance with debt management guidance or face losing their credit licences and imposing requirements on lenders to address concerns about the way some consumer debts are being enforced.

#### Influencing and changing behaviour

Alongside enforcement, we make markets work well by changing the behaviour of businesses, consumers and Government.

This included undertaking work to gain a better understanding of the factors which drive business compliance in order to help businesses comply with both consumer protection and competition law, encouraging business compliance through our work on self-regulation and our Consumer Codes Approval Scheme, informing and educating consumers and providing advice to Government on restrictions in public markets that may have unintended consequences on competition.

Through our market studies we can examine the way a market is working and make proposals as to how it might be made to work better, ideally without the need for formal intervention or regulation.

During the year, we published two reports on the impact on consumers of potentially misleading advertising and pricing practices, focusing particularly on emerging trends in online selling. The first showed that certain pricing techniques when used in a misleading way can result in consumers making purchasing decisions they would not have made were prices more clearly advertised, or to spend more than they need to. The second looked at consumer concerns about privacy and targeted pricing, and encouraged the Internet Advertising Bureau (IAB) to work with industry players. Both reports discuss how regulation may apply and in what circumstances enforcement action may be necessary.

We also published our report into the corporate insolvency market and recommended changes to the regulatory system and to the regulations to increase transparency and improve the protections available to unsecured creditors.

In total we published our findings in relation to seven separate market studies and launched a further five. We also published reviews into the UK's infrastructure ownership and control, and Barriers to Entry, Expansion and Exit in Retail Banking.

Throughout the year we have worked with industry and partners to achieve greater compliance by businesses and to enable consumers to be better informed. We published a strategy for protecting consumers online, continued our successful Scamnesty campaign in February, alongside Local Authority Trading Standards Services (TSS), and with Age Concern UK carried out an awareness drive to warn consumers about rogue doorstep sellers. We also launched a new online resource to help businesses comply with the Sale of Goods Act, with initial research indicating that businesses using the hub have reduced costs in managing complaints.

Our advocacy role remains vital in protecting consumers and legitimate businesses. Together with the Cabinet Office we held a roundtable discussion to explore how government can best support consumer choice tools.

In March 2011 we published a report into commissioning and competition in the provision of public services which identified practical steps for commissioners and procurers in local, central and devolved government to take in order to more effectively leverage competition as a means of driving better value.

Working with key partners is also essential to ensuring effective consumer and competition regimes. Throughout the reporting period we continued to work together with TSS, sector regulators, the Financial Services Authority and the CC, as well as using our international networks at a cross-border level.

### **Delivery and capability**

During the reporting period, we continued to increase efficiency within the organisation to

ensure we delivered within our budget. We have increased workspace utilisation by making more efficient use of space, allowing us to sub-let part of our office space and plan to free-up more in the coming year.

In March 2011 we announced changes to the structure of the OFT, with new and reduced management layers across the office. This will allow us to use our resources more efficiently, reduce the numbers of management layers and reporting lines and increase our accountability and transparency.

We have continued to support a faster delivery of cases and projects. In March 2011, we made first use of the fast-track reference procedure in a merger case, streamlining the phase 1 process and referring the merger directly to the CC. We are continuing to reduce the length of market studies, which now take an average of nine and a half months to complete.

We have worked closely with the CC to ensure that the competition regime makes the best use of public money. This approach led to, for example, issuing joint OFT/CC guidelines on several aspects of the merger review process.

In April 2010, we issued our first advice under a new Short-form Opinion process on the competition implications of a proposed joint purchasing agreement. Under this process, the OFT aims to provide clarity to businesses within a prompt timetable on how the law applies to prospective collaboration agreements between competitors which raise novel or unresolved competition issues.

## Distribution of key OFT work in 2010-11 across the economy

Cases not in the public domain, mergers cases and consumer education campaigns are not included.



Size of rectangles reflects approximate value of each market sector to the UK economy (based on Office for National Statistics figures for gross value added at current prices, 2007).

<p><b>Transport, storage and communication</b></p> <ul style="list-style-type: none"> <li>• Airline passenger fares</li> <li>• Handpicked Media</li> <li>• Long-haul passenger flights</li> </ul>	<p><b>Arts, entertainment, hotels &amp; restaurants, recreation, other service activities</b></p> <ul style="list-style-type: none"> <li>• Modelling &amp; entertainment agencies</li> <li>• Football tickets</li> <li>• Misleading prize promotions</li> <li>• Holiday clubs</li> <li>• Gym membership</li> <li>• Hotel online booking</li> </ul>	<p><b>Agriculture, forestry, fishing, mining &amp; quarrying</b></p> <ul style="list-style-type: none"> <li>• Agriculture sector</li> </ul>	<p><b>Electricity, gas and water*</b></p> <ul style="list-style-type: none"> <li>• Heating Oil</li> <li>• Off-grid energy</li> </ul>
<p><b>Construction</b></p> <ul style="list-style-type: none"> <li>• Aggregates</li> <li>• Home repairs &amp; improvements</li> </ul>	<p><b>Financial intermediaries</b></p> <ul style="list-style-type: none"> <li>• Personal current accounts</li> <li>• Anti-money laundering supervision</li> <li>• Credit licensing and enforcement</li> </ul>	<p><b>Manufacturing</b></p> <ul style="list-style-type: none"> <li>• Reckitt Benckiser (Gaviscon)</li> <li>• Tobacco retail pricing</li> <li>• Automotive sector</li> <li>• Commercial vehicles</li> </ul>	
<p><b>Wholesale and retail trade</b></p> <ul style="list-style-type: none"> <li>• We Buy Any Car Ltd</li> <li>• Dairy product retail pricing</li> <li>• Tobacco retail pricing</li> <li>• Supply of beer in pubs</li> <li>• Markcco Media Ltd</li> </ul>	<p><b>Loans- professional services</b></p> <ul style="list-style-type: none"> <li>• Equity underwriting</li> <li>• Corporate insolvency</li> <li>• Cash ISAs</li> <li>• Motor insurers</li> <li>• Credit &amp; debit card surcharges</li> <li>• Cold calling &amp; charging practices</li> </ul>		<p><b>Health and social work</b></p> <ul style="list-style-type: none"> <li>• Mobility aids</li> <li>• Private healthcare</li> <li>• EHIC cards</li> <li>• Veterinary diagnostics</li> </ul>
<p><b>Letting of dwellings</b></p>	<p><b>Public administration and defence</b></p> <ul style="list-style-type: none"> <li>• Public services procurement</li> <li>• Choice in public services</li> </ul>		<p><b>Education</b></p>
<p><b>Other real estate activities, renting of machinery and goods, business activities</b></p> <ul style="list-style-type: none"> <li>• Street furniture contracts</li> <li>• Outdoor advertising</li> <li>• Estate agency regulation</li> </ul>	<p><b>Other real estate activities, renting of machinery and goods, business activities</b></p> <ul style="list-style-type: none"> <li>• Retirement home exit fees</li> <li>• Audit market</li> <li>• Pyramid schemes</li> </ul>		

\* Electricity and gas markets are regulated by Ofgem. The supply of water is regulated by Ofwat.

## 4 ENFORCEMENT

We took decisive action in conjunction with enforcement partners against anti-competitive behaviour and the activities of rogue traders, focusing on issues that matter to the economy and consumers. During the year we imposed penalties for price fixing in the retail sector, and a major pharmaceutical company agreed to pay a penalty for abusing its dominant position. We have acted to clamp down on detrimental behaviour by businesses, shaping rapidly evolving markets and promoting a competitive economy. Where the recession and credit crunch have exposed sharp business practices, we have responded with cases in the debt collection and debt management sectors.

Our current high impact enforcement approach is paying dividends: new research demonstrates a doubling in the number of businesses saying they know a lot or fair amount about competition law since 2006<sup>5</sup>.

### Acting against anti-competitive agreements

The retail sector has seen a range of interventions by the OFT into alleged unlawful activities, potentially resulting in artificially higher prices or other negative impacts on consumers of tobacco, groceries, and e-books.

#### Unlawful practices relating to tobacco retail pricing

We imposed fines totalling £225 million on two tobacco manufacturers and 10 retailers in April 2010, having found evidence of unlawful retail pricing practices for tobacco products in the UK. The OFT concluded that each manufacturer had a series of individual arrangements with each retailer whereby the retail price of a tobacco brand was linked to that of a competing manufacturer's brand. These arrangements restricted the ability of these retailers to determine their selling prices independently. The infringements span different periods between 2001 and 2003 for different parties, and related variously to the markets for UK duty paid cigarettes, hand rolling tobacco, pipe tobacco, and cigars and cigarillos.

Six of the parties have appealed our decision to the Competition Appeal Tribunal.

#### Investigation into several large supermarkets and dairy processors regarding retail pricing practices for certain dairy products

We continued our investigation into a number of retailers and suppliers following suspected breaches of the CA98 relating to one or more of liquid milk, and UK-produced cheese in 2002 and/or 2003.

One party is contesting the OFT's provisional infringement findings and has submitted representations on the allegations against it. The other parties to this investigation either entered into an early resolution agreement with the OFT or applied for leniency. We are carefully considering those representations and the evidence in the case as a whole, and expect to conclude this work in the first half of 2011.

#### Investigation into certain retailers and suppliers

In April 2008, following receipt of substantial evidence from more than one source, the OFT opened a formal investigation under the CA98 into suspected breaches of competition law by a number of retailers and suppliers, across a range of product areas in the UK grocery sector.

The investigation examined whether suspected indirect retail price co-ordination involving suppliers and retailers had occurred between 2005 and early 2008 (so called A-B-C information exchanges).

Following an OFT review process, and in light of the prioritisation principles, the OFT concluded it was appropriate to close the investigation on administrative priority grounds. In reaching this

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<sup>5</sup> Report will be published in June, 'Competition Law Compliance Survey 2010', Synovate (UK) Ltd, June 2010 OFT1270

decision, the OFT took comments from the parties under investigation into account.

### **Investigation into arrangements between certain publishers and retailers for the sale of e-books**

Following a significant number of complaints, the OFT has opened an investigation into whether arrangements certain publishers have put in place with some retailers for the sale of e-books may breach competition rules.

The investigation is at an early stage and it should not be assumed that the parties involved have breached competition law.

The OFT is fully aware of the European Commission's investigation into the sale of e-books, and we are co-operating very closely to avoid any duplication between the two investigations.

**Two airline cases** have been undertaken by the OFT to investigate alleged price-coordination.

### **Pricing strategies regarding airline passenger fares**

We issued a statement of objections in April 2010, alleging that Cathay Pacific Airways and Virgin Atlantic Airways have infringed competition law, by potentially co-ordinating prices.

We are investigating whether the two airlines infringed competition law in relation to passenger services on the London to Hong Kong route. The matter was brought to our attention by Cathay Pacific under our leniency policy. Provided it continues to co-operate, Cathay will be immune from any penalty imposed in this case. At this stage it should not be assumed that the parties have broken the law. The OFT will not decide if the law has been breached until it has reviewed the responses to the Statement of Objections.

### **Investigation into alleged price fixing of fuel surcharges for long-haul passenger flights**

The OFT is investigating British Airways (BA) and Virgin Atlantic Airways (VAA) for the alleged price fixing of passenger fuel surcharges for long-haul passenger flights to and from the UK. This practice is in breach of Article 101(1) of the Treaty of the Functioning of the European Union (TFEU) and the Chapter I prohibition of the CA98.

In August 2007, the OFT announced that it had reached an early resolution agreement with BA

who agreed to pay a penalty of £121.5 million. VAA currently qualifies in principle for full immunity under the OFT's leniency policy.

The OFT expects to issue a Statement of Objections by the end of the year.

We have also pursued criminal proceedings against four men charged with cartel offences relating to the same offence. The prosecutions were commenced in August 2008 following an OFT criminal investigation, the OFT having concluded in accordance with the applicable code that the case was merited both on an assessment of the evidence and because there was a reasonable prospect of conviction.

The prosecution was withdrawn in May 2010, following the discovery of a substantial volume of electronic material, which neither the OFT nor the defendants had previously been able to review.

Given that the trial had already begun and the volume of material involved, the OFT accepted that to continue with the trial in light of this unforeseen development would be potentially unfair to the defendants and the four defendants were acquitted.

In December 2010, a paper was published on an OFT Board-led review into this case.<sup>6</sup> Its terms of reference were 'to review and report back to the Board on the facts and circumstances surrounding, and the events leading to, the decision by the OFT to offer no evidence at the criminal trial and, in the light of these, to make recommendations to the Board concerning the investigation and prosecution of criminal cartel cases, whether in relation to procedures, processes, policies or other matters.' The review made a number of recommendations relating to process and governance, leniency guidance, evidence handling and management of IT and management response. These recommendations will be reviewed by the Board during 2011. The OFT learned a number of valuable lessons from the case and its subsequent review which will benefit future investigations.

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<sup>6</sup> [www.of.gov.uk/about-the-oft/legal-powers/enforcement\\_regulation/prosecutions/fuel-surcharges](http://www.of.gov.uk/about-the-oft/legal-powers/enforcement_regulation/prosecutions/fuel-surcharges)

With its complex products and potential for negative consumer impact, **the financial sector** continues to be a focus for the OFT, with CA98 cases in loan products and insurance (and a range of other work across our portfolio, including market studies, consumer credit work, super-complaints and other market related work).

### **Investigation in the provision of loan products to professional services firms**

The Royal Bank of Scotland agreed to pay a penalty of £28.6 million after admitting that individuals in its Professional Practices Coverage team had unilaterally disclosed confidential future pricing information to a competitor, Barclays Bank.

On 20 January 2011 the OFT issued a decision that Royal Bank of Scotland (RBS) and Barclays engaged in anti-competitive practices in breach of the Chapter I prohibition of the CA98 and/or Article 101 of the TFEU in relation to the pricing of loan products to large professional services firms. Barclays brought the matter to the OFT's attention and, under the OFT's leniency policy, has not been fined.

### **Motor insurers**

Seven insurance companies and two IT software and service providers have agreed to limit the data they exchange between themselves after the OFT raised competition law concerns.

This follows an investigation which identified a risk that the use of a specialist market analysis tool, Whatif? Private Motor, could constitute an infringement of the Chapter 1 prohibition under the CA98 and/or of Article 101(1) TFEU.

The nine companies involved have addressed the OFT's concerns by giving formal commitments that will result in the insurers no longer being able to access each others' individual pricing information through the Whatif? Private Motor tool. Instead, they will only exchange pricing information through the analysis tool if that information meets certain principles provisionally agreed with the OFT.

In another unrelated financial services case, the OFT is awaiting the judgment of the General Court in MasterCard v Commission case, where MasterCard is appealing against the decision of the European Commission regarding MasterCard's, including Maestro's, intra-European cross-border interchange fee

arrangements. The date for a hearing before the General Court has not yet been determined. The OFT expects to decide on the way forward in its investigations after the General Court judgment.

### **Construction**

The OFT issued two decisions imposing financial penalties for breaches of Chapter I of the CA98 in September 2009, one in relation to a number of construction companies and the other in relation to a number of construction recruitment agencies.

Both of the decisions were appealed by a number of parties. The appeals were heard by the Competition Appeals Tribunal (CAT) which handed down its judgments during March and April 2011. Penalties were reduced in all appealed cases. The OFT will not be appealing the judgments.

### **Potential abuse of dominant position**

#### **Abuse of dominant position in heartburn medicines**

The OFT imposed a fine of £10.2 million on Reckitt Benckiser after concluding that Reckitt Benckiser abused its dominant position by withdrawing and de-listing NHS packs of its Gaviscon Original Liquid medicine in 2005. A decision was issued in April 2011.

The fine was the subject of an early resolution agreement concluded on 14 October 2010, under which Reckitt Benckiser admitted its conduct infringed UK and European competition law and agreed to co-operate with the OFT.

#### **Alleged abuse of a dominant position in air travel**

Following a complaint from Air Southwest in 2009, the OFT opened an investigation under Chapter II of the CA98 and/or Article 102 of the TFEU into alleged predatory entry by Flybe on the Newquay to London Gatwick route, which put it in competition with Air Southwest's operations on its Plymouth to Newquay to Gatwick route.

Following careful assessment of all of the evidence at its disposal, the OFT decided that it did not have sufficient evidence to support a finding that Flybe's conduct was designed to eliminate Air Southwest from the route, or, more widely, to undermine Air Southwest's operations at Plymouth Airport in order to eliminate Air

Southwest as a competitor at Plymouth Airport. The OFT concluded that it had no grounds to take action against Flybe.

### **Alleged abuse of dominance in bunker fuel**

In February 2011, we issued a Statement of Objections alleging that CH Jones:

- abused a dominant position in the market for the provision of bunker fuel card services to direct bunkering customers, typically heavy goods vehicle (HGV) fleet operators
- used its dominant position to undertake abusive conduct in the market for the provision of pay as you go (PAYG) fuel card services to customers operating HGV fleets
- engaged in a strategy composed of several elements, including the use of exclusive agreements with bunker fuel sites, with the objective of excluding a rival fuel card supplier, UK Fuels, from and restricting competition in the relevant markets.

The OFT launched an investigation after being contacted by the complainant, UK Fuels, in April 2010.

No assumption should be made at this stage that there has been an infringement of competition law. The OFT will not be in a position to decide if the law has been breached until it has received and reviewed CH Jones' response and any comments from third parties.

During the year we also opened competition enforcement cases into street furniture contracts, hotel online booking, sports goods retailing and in veterinary diagnostics. As at the 31 March 2011, the OFT was investigating 16 CA98 cases, including seven that were opened during the year.

Detailed statistics on our competition work in 2010 - 11 can be found in Annexe C at: [www.offt.gov.uk/annualreport](http://www.offt.gov.uk/annualreport)

In addition, the OFT is conducting ongoing criminal investigations into suspected cartel activity in the automotive and agricultural sectors. Investigations are being carried out under the Enterprise Act 2002 (EA02) which makes it a criminal offence for individuals to dishonestly engage in certain cartel conduct. The OFT is also running a parallel investigation under both CA98 and EA02 in the commercial vehicle sector.

## **Reviewing mergers**

The OFT obtains and reviews information relating to mergers and has a duty to refer any relevant merger situation where a significant lessening of competition might occur, to the CC for further investigation.

We examined 77 merger cases, referring eight to the CC in 2010 - 11. Our reference test was met in a further 14 cases. Of these, we accepted undertakings in lieu of a reference to the CC in four cases during the year, and cleared four cases on the basis that the relevant markets were not of sufficient importance to justify a reference (the 'de minimis' exception). Negotiations for undertakings in lieu of a reference are still ongoing in two further cases.

Detailed statistics on our merger work in 2010 - 11 can be found in Annexe D at: [www.offt.gov.uk/annualreport](http://www.offt.gov.uk/annualreport) . Further information on all our mergers work can be found on our website: [www.offt.gov.uk/OFTwork/mergers/](http://www.offt.gov.uk/OFTwork/mergers/)

### **Thomas Cook, the Co-operative Group and the Midlands Co-operative Society**

During the reporting period the OFT made a fast-track reference to the CC of the anticipated travel business joint venture between Thomas Cook, the Co-operative Group (CGL) and the Midlands Co-operative Society.

We were concerned that it could significantly affect competition in the supply of travel services via retail travel agency outlets in the UK. We also considered, on the basis of our limited investigation, that further investigation was warranted due to Thomas Cook's significant market presence at the tour operator level in the provision of package holidays in the UK, independent tour operators may lose or have reduced access to distribution through the former CGL and Midlands' stores.

This was the OFT's first use of its fast-track reference procedure and follows a request from the parties. The procedure provides merging parties, in cases which may raise complex issues or which clearly meet the threshold test for reference to the CC, with an opportunity to streamline Phase 1 of the merger process.

### Asda/Netto groceries

The OFT accepted undertakings from Asda in relation to its proposed acquisition of Netto's 194 UK grocery stores.

To address local competition concerns, the undertakings require Asda to sell the Netto stores it will acquire in 47 local areas. While we were satisfied that many of the stores Asda offered to divest were likely to be of interest to multiple suitable buyers, we remained concerned that this was not necessarily true for all stores. We therefore asked Asda to find suitable up-front buyers for 25 stores.

Asda has done this successfully, within the required timescales, and has signed undertakings to divest the stores in the remaining 22 areas.

### Unilever/Alberto Culver

The OFT is considering undertakings offered by Unilever in relation to its proposed acquisition of hair and personal care products manufacturer, the Alberto Culver Company.

We concluded the acquisition would not give rise to competition concerns in certain categories of personal care products, but it would give rise to a realistic prospect of a substantial lessening of competition in the bar soaps market.

To address the competition concerns raised, Unilever offered to divest Alberto Culver's bar soaps business, which includes the Cidal, Wright's and Simple brands.

This divestment undertaking will be subject to an up-front buyer requirement.

### News Corporation/British Sky Broadcasting

The Secretary of State (SoS) for Culture, Olympics, Media and Sport asked the OFT to work with News Corporation (News) and British Sky Broadcasting Group plc (Sky) to agree a set of undertakings in lieu of reference to the CC. This work was undertaken to help the SoS make a final decision whether or not to accept those undertakings, taking into account the OFT's further recommendations on whether they are practically and financially viable.

## Revisions and updates to mergers policy and guidance

### Joint OFT/CC guidance

During the last 12 months, the OFT and CC have published several joint pieces of guidance on aspects of the merger review process.

The **Merger Assessment Guidelines** are designed to provide greater clarity on how the competitive impact of mergers is assessed. They set out the questions the CC and OFT will consider when reviewing mergers. The guidelines also deal with public interest cases. We also published a short companion to the guidelines: the Quick Guide to UK Merger Assessment.

We also published **guidelines on good practice in merger surveys**, designed to assist companies and their advisors wishing to submit research evidence to the OFT or CC during merger inquiries, and new merger guidance on OFT's application of the exceptions to the duty to refer a merger to the CC and its ability to take first phase remedies

The OFT and CC published a **joint commentary on retail mergers**, which draws together some of the common themes that have arisen in retail cases examined by the two authorities since the Enterprise Act came into force. It shows how the authorities have developed their approaches and techniques, focusing on three of the questions that have most often arisen in past cases.

## Protecting consumers from unfair commercial practices and unfair contract terms

We have protected consumers by shaping rapidly evolving markets, testing new legislation and targeting areas where the risk of consumer detriment is high, including tackling alleged:

- sharp practices relating to the chosen business model (vehicle buying services, penny auctions)
- non-provision of services or products (FIFA World Cup ticket sales, bogus investment opportunities, business networking services)
- misleading consumers (commercial blogging, traders claiming to be modelling and entertainment agencies, EHIC cards)

- disempowerment of consumers (defamation and consumer feedback).

A selected range of cases are discussed below:

### **Investigation into alleged unfair practices by a trader offering a vehicle buying service to consumers**

We Buy Any Car Ltd (trading as webuyanycar.com) gave undertakings to the OFT following an investigation into its business practices. We found a lack of transparency in dealing with consumers, in particular in relation to the status and nature of the online vehicle valuation. Once consumers had invested their time in taking their vehicle to the onsite inspection, some discovered that the final valuation might be reduced for reasons that they had not been told about, such as current market conditions.

We were concerned that the effect of some of We Buy Any Car Ltd's business practices might be to encourage consumers to attend an onsite inspection without being aware of the true nature of the online valuation.

During the investigation, which was assisted by Rochdale TSS, We Buy Any Car Ltd engaged constructively with us and affirmed its commitment to providing greater transparency to consumers on how it conducted its business. Whilst the company and its directors believe their business practices complied with the law, they agreed to make changes in light of the OFT investigation.

### **Penny auctions**

The OFT has accepted undertakings from two penny auction website companies. We were made aware that some penny auction websites used a function commonly termed as auto-bidding (artificial bidding).

The OFT wrote to a number of penny auction websites in order to establish that their penny auction selling processes comprised the placing of legitimate bids by real consumers rather than auto-bidders.

UK Penny Auctions Ltd (UPAL) was the proprietor of a website, 'www.battybid.com', which operated as a penny auction. UPAL stated that the software package that runs the website incorporates an 'auto bidder service' and that UPAL had used artificial bidding to make computer generated bids against genuine

consumers in the course of penny auctions facilitated by the website. UPAL and its officers offered undertakings which we accepted. They also closed the website and dissolved the company.

The second company, Scriptmatix promoted software on its website that had an 'auto-bidding feature, included as standard'. Scriptmatix and its officers signed undertakings and sent a corrective statement to all its customers informing them that they should not use the autobidding function when operating a live auction.

### **Bait advertising and unfair commercial practices in relation to an online sale**

The OFT obtained undertakings from Markco Media Ltd and its director which require that these parties do not continue or repeat the conduct of concern in this case. This case investigated the suspected use of bait advertising in relation to a sale by Markco Media Ltd on the Groupola website.

As part of the promotional activity for this sale, Markco Media advertised that it would be selling a limited number of Apple iPhone 4s for £99. During the sale, Groupola displayed a progress bar displaying how many handsets had been sold and how many were remaining. At one point during the sale, this progress bar indicated there were over half the amount of iPhone 4s still available. Above this was a caption stating '202 bought'. Soon after the promotion in question concluded Markco Media stated that 'We can confirm that we had 200 handsets available, and these have now sold out.' However, Markco Media told the OFT that eight handsets were available to buy.

The OFT was also concerned about misleading comments made by one Groupola employee on the company's Facebook page at the time of the sale. The employee represented himself as an ordinary consumer and made positive comments about the company.

### **Action against five companies who purchased gold from consumers by post**

Following OFT's investigation, CashMyGold, Cash4Gold and Postal Gold provided undertakings and made changes to their business practices and terms of business. CashYourGoldNow also provided undertakings

but ceased trading. Money4Gold went into liquidation during the investigation.

The OFT raised concerns with these companies that they were unfairly pressuring consumers into selling their gold, that consumers did not have sufficient information on the prices offered or paid for gold, and that there was a lack of transparency regarding other key matters, such as the insurance arrangements and whether gemstones were purchased, returned or at risk of damage.

### **Investigation into inadequate disclosures in respect of commercial blogging activity**

This investigation was opened by the OFT on its own initiative to investigate the engagement by Handpicked Media of bloggers on a commercial basis. We were concerned that individuals engaged by Handpicked Media were publishing online content which promoted the activities of Handpicked Media's clients, without sufficient disclosures in place to make it clear to consumers that the promotions had been paid for.

As a result of our investigation, we formed the view that Handpicked Media may be operating in breach of the Consumer Protection from Unfair Trading Regulations 2008 (CPRs), and consulted with Handpicked Media to ensure this did not continue. Following this, Handpicked Media signed undertakings to comply with the law.

### **Investigation into alleged misconduct of certain traders claiming to be modelling and entertainment agencies**

We investigated ten traders claiming to be model and entertainment agencies due to concerns that consumers were induced to pay for a portfolio of photographs, a CV and registration with a purported modelling and entertainment agency by misleading statements about the availability of work in that sector. As far as the OFT is aware, in most cases such work did not materialise.

Following the investigation, two traders dissolved as business entities and two businesses and three individuals signed undertakings.

### **High Court ruling on misleading promotions**

Following information provided from TSS, the OFT issued High Court proceedings against the companies and individuals behind five UK prize draw promotions in December 2009.

On 2 February 2011 the High Court ruled that the promotions distributed by Purely Creative Ltd, Strike Lucky Games Ltd, McIntyre & Dodd Marketing Ltd, The Winners Club Ltd and associated company and individuals were in breach of the CPRs.

The High Court ruled that it would accept undertakings from each of the companies and individuals. In April 2011 the companies appealed the court decision, following which the OFT counter-appealed.

Separately to the High Court ruling, the OFT also secured undertakings from Strike Lucky Games Ltd, McIntyre & Dodd Marketing Ltd and the company officers on 12 October 2010 not to continue using trading names that include certain words such as 'British', 'Council', 'National', 'Registry', or 'Register' without the approval of the Secretary of State.

### **Investigations into the deceptive online selling of EHC cards**

We took action against four online traders who deceptively sold consumers European Health Insurance Cards (EHICs).

The cards can be obtained free of charge from the official NHS website but some online traders were charging consumers, typically around £10 per application, to submit applications on their behalf to the Department of Health. Following an investigation with the assistance of the Department of Health and Bolton Trading Standards, the OFT formed a view that five online traders were operating in breach of the CPRs.

Of these traders, three signed formal undertakings not to engage in deceptive practices, the fourth website was suspended by its domain name registrar and the fifth voluntarily ceased trading.

### **e-protection**

As part of our internet enforcement we published a long-term strategy to protect consumers shopping online in the UK in December 2010. The strategy sets out key priorities to help prevent misleading selling, deceptive online advertising and malicious practices. These measures include:

- Providing clarity on consumer law in relation to online shopping

- More effective enforcement – the strategy sets out that the OFT, police and TSS, must close gaps to improve sharing of intelligence and co-ordination and continue to build on successes in mounting investigations affecting large numbers of online consumers
- Facilitating business compliance – the strategy outlines continuing work with businesses to raise awareness of consumers' online rights
- Empowering consumers – the strategy reinforces the need to ensure relevant consumer messages are consistent across organisations and avoid duplication, as well the importance of creating a national online reporting system.

### **Investigation into an online retailer relating to non-delivery of orders and erroneous contact details**

We requested an internet service provider take down a number of websites the OFT believed to be in breach of UK consumer protection legislation.

The sites in question purported to sell electronic goods, but consumers complained that when they tried to make a purchase their credit or debit card was declined. In some cases, money was subsequently transferred from the consumer's bank account. The OFT believes the contact details provided on these websites were also either made up or taken from people whose card details had been stolen.

Detailed statistics on our consumer work in 2010 - 11 can be found in Annexe A at: [www.offt.gov.uk/annualreport](http://www.offt.gov.uk/annualreport)

### **Protecting consumers in the credit market**

Responding to the challenges posed by the recession and the credit crunch has been a key theme for the OFT over the past year, and we have targeted action in areas that pose the most risk to consumers. We have taken action in the debt collection and debt management sectors, and provided further guidance on irresponsible lending. We have intervened to stop what we considered to be misuse of direct debit facilities by lenders. We have increased the promotion of good practice and further developed compliance partnerships with Legal Services Board (LSB),

Credit Services Association (CSA) and Debt Managers Standards Association (DEMSEA). TSS continue to support the OFT in undertaking credit competence visits and providing local intelligence about business practices and behaviours. The introduction of the Consumer Credit Act (CCA) 2006 resulted in additional powers for the OFT, improving our ability to stop bad practice.

### **Update on debt management enforcement action**

In September 2010, the OFT published the findings of its industry review of compliance with the Debt Management Guidance. We found widespread compliance problems and consequently warned 129 firms to take immediate steps to achieve compliance or face losing their consumer credit licences.

Since the warning was issued, 10 'minded to revoke' notices have been issued, of which five of the recipients have now had their licence revoked and a further two firms have surrendered their licences. 42 licences have now been surrendered in total and audit reports have been submitted by 77 other firms.

We are analysing the content of these audit reports and will contact each firm to discuss its findings. Those failing to meet the required standards may also find themselves subject to licensing action.

### **Unenforceable credit agreements**

We published guidance on sections 77-79 of the Consumer Credit Act on 16 October 2010. This relates to the duty to give information to debtors and the consequences of non-compliance on the enforceability of the credit agreement. The guidance contains a technical document for creditors and a leaflet for consumers.

### **Charging orders**

We imposed requirements on Alliance and Leicester Personal Finance Ltd, American Express Services Europe Ltd, HFC Bank Ltd and Welcome Financial Services Ltd to address concerns about the way some consumer debts are enforced.

Problems uncovered during the investigation were specific to each business, but we considered that they included failure to consider customers' circumstances, or to take account of proportionality considerations before asking the court to put a charging order in place, not building adequate checks into the lender's decision-

making process, and also applying substantial charges for referring cases to a debt collection agency. In a minority of cases, lenders sent what the OFT considered to be oppressive and/or misleading correspondence. We also found charging orders being used to secure debts of less than £600.

The four named companies co-operated fully with the OFT during the investigation and have each made changes to address the specific problems identified within their business practices.

### **Conviction of unlicensed loan company**

The OFT secured a conviction against London North Securities Ltd (LNS) at Southwark Crown Court on 15 December 2010 for lending without a consumer credit licence between March 2007 and February 2010.

LNS was ordered to pay a confiscation order of £400,000, money that will be used to compensate up to 56 customers of LNS, with payments ranging from a few hundred pounds to £50,000. LNS is also required to remove approximately 70 charges that secured debts on borrowers' properties.

The director of LNS gave an undertaking to the court that he would never engage in any activity that requires a consumer credit licence. If he breaches the undertaking he is likely to be in contempt of court and subject to imprisonment and/or a fine.

### **Irresponsible Lending Guidance**

The OFT published its response to the consultation on 'Irresponsible Lending – OFT guidance for creditors' in August 2010, which summarises the main issues raised during the consultation process and provides our view on those issues. It should be seen as a companion to the Irresponsible Lending Guidance which provides greater clarity for businesses and consumer representatives as to the business practices we consider constitute irresponsible lending practices.

In line with our commitment to update the guidance as and when we consider it appropriate to do so, a limited number of additions and amendments were made to the guidance during the year, most recently, in February 2011. This amendment reflects the end of the transitional period (from 1 February 2011) for giving effect to the Consumer Credit (EU Directive) Regulations

2010 which transpose the requirements of the Consumer Credit Directive into UK law.

### **Credit licensing activity**

The number of new licence applications we received has fallen by around 11 per cent compared with 2009 - 10. Applications for renewal of, and variation to, existing licences also fell. Our credit licensing work is funded directly by the fees paid by applicants and by licensees seeking renewals and variations.

We continued to seek improvements across the credit regime throughout 2010 - 11. Key functions of the regime were brought together, allowing us to achieve efficiencies, and along with improved information provision we were able to discharge our responsibilities under the regime without a fees increase during 2010 - 11. This will not be sustainable going forward and a fees increase, implemented in April 2011, was required.

### **Other credit enforcement**

Throughout the year we undertook a number of other regulatory interventions in the consumer credit sector including against lenders we considered to be misusing direct debit facilities to vary the amount or date of loan repayments, debt collectors for not properly investigating disputed debts, lead generation firms for illegal cold-calling and credit brokers for not refunding upfront fees. We additionally launched consultations on guidance setting out the standards we expect from those engaged in debt recovery and from lenders dealing with credit applications from consumers known to, or suspected of, having some form of mental capacity limitation.

A detailed account of our consumer credit licensing activity in 2010 - 11 is in Annex B at: [www.offt.gov.uk/annualreport](http://www.offt.gov.uk/annualreport) and information on all of our cases is available on our website.

### **Additional regulatory activity**

#### **Estate agency regulation**

In line with our duties laid out in the Estate Agents Act 1979, we continued to take proportionate action against anyone we considered, after careful investigation, not fit to practise. We prohibited one person from conducting estate agency work, and worked with TSS to ensure that other cases were investigated

and appropriate action taken. In some cases, we issued informal warnings to give advice on future conduct. Although the OFT is the only body which can prohibit estate agents from practising, it is not the only body with other relevant powers, and we have focussed on ensuring that our resources are effectively targeted. We continue to work to ensure that investigations are undertaken by those best placed, and that the most appropriate tool is identified in each case.

### **Anti-money laundering**

Under the Money Laundering Regulations 2007, the OFT supervises estate agents and certain consumer credit lenders to ensure they are complying with the Regulations. We have powers where necessary to impose financial penalties and to bring prosecutions.

In September 2010, we published our interim policy on imposing financial penalties on businesses who have failed to register with the

OFT but carry on a supervised activity. These businesses will be subject to penalties starting at £2,000. Businesses are given 21 days to apply for registration or to explain why they are exempt, before being notified of an intention to apply a financial penalty. During 2010 - 11, we carried out a pilot 'population improvement programme' exercise, targeting those businesses who we believe are required to be registered. In the majority of cases our action was successful, with businesses moving to registration following initial contact or a warning letter.

In December 2010, we published a summary of the responses to our consultation on our future supervisory approach and fee structure. In February 2011 we published our future fee structure and fee levels for 2010 - 11. All registered businesses were invoiced for their annual fees for 2010 - 11 in March 2011.

## 5 MARKET TOOLS, ANALYSIS AND POLICY

We analysed markets to see if they were working well for consumers, and took part in policy initiatives at home and abroad to promote consumer rights and effective competition. We identified concerns in the markets of advertising of prices, online targeted advertising and pricing, corporate insolvency, outdoor advertising, equity underwriting and consumer contracts. We are continuing to complete market studies more quickly, and now take an average of nine and a half months. Our policy and research work focused on promoting compliance and self-regulation and ensuring that our market interventions are proportionate and effective. As well as our work in domestic markets we have continued to work with our international networks to facilitate fair and competitive cross-border trade.

### Market studies

In 2010 we published two related reports on the impact on consumers of potentially misleading advertising and pricing practices, focusing particularly on emerging trends in online selling.

#### Advertising of prices

In 2010 we published two related pricing reports, the first, 'Online targeted advertising and pricing', published in May 2010, sets out our current views on behavioural advertising and targeted pricing practices, focusing particularly on emerging trends in online selling.

The report finds that, although industry self-regulation addresses some concerns about behavioural advertising, more could be done to provide consumers with better information. It also sets out how regulation might apply. While behavioural advertising may offer benefits to consumers such as free access to content, consumers have concerns about privacy and the possibility for the misuse of personal data. To address these concerns, the OFT will continue to encourage the IAB, the trade association for online advertising, to work with the industry.

The study also examined the prospects for the online targeting of pricing based on previous purchases, browsing behaviour or geographic location. Research suggests that consumers who knew that targeted prices were being applied would change their behaviour, meaning that failure to inform consumers about the practice could breach the CPRs. In such an event the OFT would consider enforcement action.

In December 2010, we published the second report 'Advertising of Prices', which found that certain pricing techniques when used in a misleading way can result in consumers making purchasing decisions they would not have made

were prices more clearly advertised, or spending more than they need to.

This study has helped the OFT determine how it proposes to apply the Consumer Protection from Unfair Trading Regulations 2008, which prohibit, amongst other things, misleading advertising. After extensive engagement with industry we have developed a new framework for prioritising enforcement action, which is set out in the report.<sup>7</sup>

#### Consumer contracts

The OFT's market study into consumer contracts, concluded in February 2011, sent a clear warning to businesses that consumer contracts must be clear without any unwelcome surprises buried in the small print.

Our research found that one in five people have experienced a problem with such contracts in the last year. Harm can arise when a small print term alters the deal from what consumers understand it to be, or if the way the contract is presented makes it difficult for consumers to understand and assess the deal properly, in effect hiding unfair terms from plain view.

As part of the study we developed a systematic framework for prioritising our future enforcement action on those cases that result in significant consumer detriment.

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<sup>7</sup> [www.offt.gov.uk/shared\\_offt/market-studies/AoP/OFT1291.pdf](http://www.offt.gov.uk/shared_offt/market-studies/AoP/OFT1291.pdf)

## Corporate insolvency

Our study of corporate insolvency, published in June 2010 found that while the market often works well, it may not work in the best interests of all creditors.

Each year insolvency practitioners (IPs) in the UK realise about £5 billion worth of assets and earn approximately £1 billion in fees from corporate insolvency procedures.

To address the concerns, increase trust in the system, and deter IPs from sharp practices, we recommended fundamental changes to the regulatory system, which is currently unable to effectively protect the interests of small creditors. These include an industry-funded independent complaints handling body, reform of the regulatory system, objectives for the regulatory regime, and streamlining decision making in the regulatory regime.

The report also recommended changes to the regulations to increase transparency and enhance the ability of unsecured creditors to oversee IP fees and actions.

## Outdoor advertising

Our report into outdoor advertising, which concluded in February 2011, found potential barriers to entry and expansion for media owners. As a result, we have opened an investigation into contracts between two media owners.

We launched the market study in May 2010, to study both the structure of, and competition within, the sector.

During the study we also found some potential for rebates to distort how campaigns are booked and increase the price that advertisers pay. We provided guidance to advertisers on steps that they should take to ensure that media agencies and specialist buyers of outdoor advertising act in their best interests. We recommended that advertisers consider negotiating contracts which explicitly set out how rebates are to be treated.

## Equity underwriting

Following concerns raised by corporate users of the equity underwriting market, in June 2010 we announced plans to undertake a market study into this sector which examined equity underwriting services for different types of share issue used by listed companies to raise capital in the UK, including rights issues, placings and other types of follow-on offer.

We concluded, in January 2011, that the market lacks effective competition on price and that there had been a significant increase in the fees paid to investment banks since the onset of the financial crisis. We recommended that companies and institutional shareholders apply greater pressure on equity underwriting fees, as our concerns around the level of fees could be tackled most effectively and efficiently by those parties, rather than further intervention by the competition authorities.

## Aggregates

In September 2010, the OFT launched a market study into the aggregates sector. We are investigating how factors such as high barriers to entry, increasing concentration at the local level, and Government involvement influence competitive conditions. It is also looking at whether the market delivers good value for money to consumers and to taxpayers, given the significance of public expenditure on the construction of physical and social infrastructure. In February 2011, we expanded the scope of our market study to include cement and ready-mix concrete given the close links between the three product markets.

The market study is expected to be completed by July 2011.

## Organic waste

Following consideration of a proposal and request from Ofwat, we launched a market study looking at the treatment of organic waste in January 2011. Building on our experience in conducting market studies and previous work on the waste sector, and supported by Ofwat, the study aims to assess whether the markets for organic waste treatment services, and in particular sewage sludge treatment services, are working well and, if not, what might be done to improve them. In doing so, the market study considers, amongst other issues, the impact of economic and other types of regulation on competition dynamics.

We expect to publish our report in late summer, in time for any recommendations to inform Ofwat's further review of regulation in the water and sewerage sector.

## Mobility aids

We launched a market study into mobility aids in February 2011, following consultation on the scope.

We are examining four issues:

- can consumers make informed choices and help drive vigorous competition amongst firms?
- are consumers being treated fairly by traders and suppliers, and if not what can best be done to address any unfairness?
- is competition in the wheelchair sector working well for consumers?
- are consumers being treated fairly by traders?

The study covers the following products: wheelchairs, scooters, stair lifts, bath aids, hoists, adjustable beds and specialist seating.

This sector has attracted a large number of complaints and requests for advice to Consumer Direct. In 2010, over 4,500 calls were made about mobility aids. We are working together with interested parties, and aim to report our findings in September 2011.

### **Private healthcare**

In March 2011, the OFT launched a market study into private healthcare, examining the nature of competition in the market, and whether the market is fully competitive.

Our preliminary research, and information received from participants across the sector have raised questions about whether the market is working well for private healthcare patients.

The private healthcare market, which is currently worth more than £5.5 billion, is of growing importance to the UK economy due to an ageing population, improved medical outcomes and higher life expectancy. It is also important to the NHS as it currently accounts for almost one quarter of revenues paid to private healthcare providers.

We are exploring five possible areas of concern:

- the nature of competition in the provision of private healthcare
- the level of concentration amongst providers of private healthcare
- the existence of any barriers preventing private healthcare providers from entering or expanding in the market
- the existence of any restrictions on the ability of consultants and other medical professionals to practice

- how consumers access and assess information, and how they exercise choice in the provision of private healthcare

The market study is expected to be completed by the end of 2011.

### **Off-grid energy**

We launched a market study in March 2011 into off-grid energy which covers both consumer and competition issues. It is also considering the main energy sources available to the 3.6 million households not currently connected to the main gas grid in the UK.

The study is investigating whether the markets for off-grid domestic energy are working competitively, efficiently and fairly and, if not, what improvements can be made.

We expect to conclude our market study in October 2011.

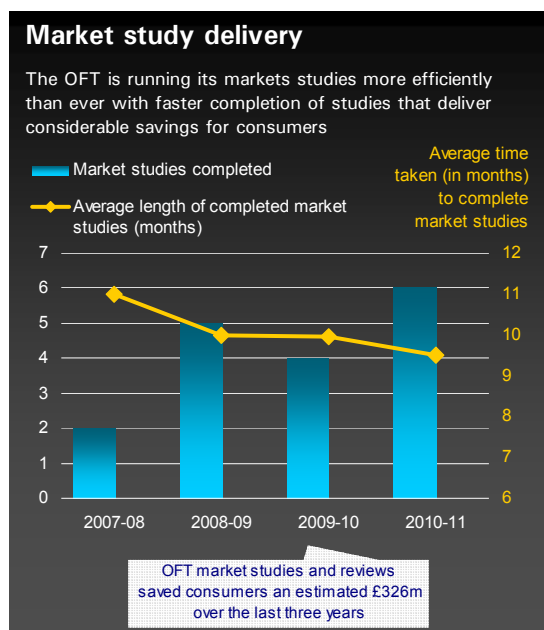
### **Extended warranties**

The OFT launched a review into certain white and brown domestic electrical goods in November 2010.

Following concerns about competition for repairs of, and extended warranties on, domestic electrical goods, we invited comments from interested parties on whether we should conduct a market study into aftermarkets for domestic electrical goods. In April 2011, following an assessment of the comments received, we decided to launch a short market study into extended warranties across all domestic electrical goods. This market study focuses on whether competition for warranties is sufficiently effective to ensure consumers get value for money.

We intend to conclude both the review and the market study during summer 2011.

**Figure 1 – Market study delivery**



## Other market-related work

### Stock-take of infrastructure ownership and control

We launched a stock-take of the UK's economic infrastructure in May 2010. The key aims were to map ownership and control across the economic infrastructure such as ports, airports, energy and water networks, and assess whether ownership affects outcomes for consumers in these markets.

In our report published in December 2010 we explored different forms of ownership, including infrastructure funds and not-for-profit structures. We noted that change of ownership often benefits consumers, and that encouraging foreign investment could bring greater competitive pressure.

We explored four sectors in more detail – ports, waste, toll roads and car parks. In each case we looked at ownership trends and at the potential for market power. We clarified the types of cases where we might intervene in future, and made policy recommendations in specific infrastructure sectors to help make these markets work more effectively.

### Personal current accounts (PCA)

Real progress is being made towards personal current accounts that work well for consumers,

with significant developments expected in the market over the next two years.

The developments, including new banking industry commitments on unarranged overdrafts, follow a 2008 OFT study that identified major problems in the market - costs that were not transparent, real and perceived difficulties over switching accounts, and the way in which unarranged overdrafts functioned.

Improvements in the market already seen since the OFT's study and test case began in 2007 include:

- unpaid item charges, levied when a bank refuses to make a payment, falling from an average of around £34 in 2007 to around £17 in 2010
- per transaction paid item charges, levied when an unarranged overdraft is granted, falling from an average of around £30 in 2007 to around £22 in 2010
- the majority of PCA providers are now using Faster Payments for standing orders and one off payments. This enables consumers to have greater control, and payments between bank accounts are made within hours rather than days

As part of our ongoing monitoring of the market, we published two short updates on progress in the PCA market, in September 2010 and March 2011. The September report noted progress in the areas of switching, transparency and unarranged overdrafts, as well as highlighting further changes we expect to see in the market. The March report noted further progress in improving consumer control over the use of unarranged overdrafts, in particular, the production of standards and guidance on the offering of an 'opt out' from unarranged overdraft facilities and the treatment of customers in (or at risk of) financial difficulty. These standards and guidance were included in the revised Lending Code which was published on 31 March 2011.

### Review of barriers to entry in retail banking

We launched the review of barriers to entry, expansion and exit in retail banking in May 2010 to identify any obstacles blocking firms from entering the sector or from successfully competing against existing firms, as well as factors preventing inefficient firms from exiting the market and being replaced by more efficient

ones. Our report was published in November 2010.

A copy of the review was submitted to the Independent Commission on Banking (which is examining issues of competition and stability in the banking market) and to the Treasury Select Committee inquiry on competition and choice in the banking sector.

While the review found that most prospective entrants are able to meet regulatory requirements and source the necessary inputs to offer retail banking services, new providers face difficulties in attracting customers and expanding market share. In particular, personal and business current account customers are reluctant to switch providers, are loyal to established brands, and prefer banks with a local branch.

The review also explored whether there were specific issues around barriers to entry, expansion and exit in England, Scotland, Northern Ireland and Wales. While the review did not find significant differences in relation to most of the themes covered, it did find that brand loyalty to incumbent national brands in Scotland and Northern Ireland may be greater than elsewhere in the UK.

### **Home repairs and improvements research project**

Following informal consultation with key partners, we launched this project in August 2010. It builds on commissioned research looking at how the home repairs and improvements market is working.

This multi-faceted market is of importance, both for consumers and the UK economy at large. It covers a wide range of internal and external services such as plumbing, kitchens and bathrooms, decorating, roofing and guttering. Every year around 70,000 consumers contact Consumer Direct about general home improvements and repairs, an additional 30,000 make calls specifically about the glazing sector.

Our overall objective is to assist those considering or continuing interventions in the market (including enforcement, education and schemes designed to raise business standards), by producing evidence that:

- provides a better understanding of the sector
- helps identify areas of focus and how interventions can be as effective as possible

We expect to publish the report in June 2011 and are continuing to engage with TSS, who have provided extensive input into the project, and other key partners.

### **Review of accountancy and audit market**

Since 2002, we have been keeping the accountancy and audit market under review.

In September 2010, we made a submission to the House of Lords Select Committee on Economic Affairs in relation to its inquiry into 'Auditors: market concentration and their role'. An additional submission was made in March 2011.

We found low levels of switching of audit contracts, very high market concentration, potentially high fees and significant concerns arising from the potential impact of an audit firm failing. These findings were made in a submission to the European Commission in response to its Green Paper on audit policy, in December 2010.

In May 2011 the OFT provisionally decided that there are competition problems in the audit market that pass the statutory test for referral to the CC. However, it is now to discuss with interested bodies whether, in practice, potential remedies exist that could allow the CC to resolve these problems.

### **Super-complaints**

Super-complaints can be made to the OFT by certain designated consumer bodies if they consider that a feature, or combination of features, of a market is significantly harming the interests of consumers.

#### **Supply of beer to pubs**

In October 2010 we issued our final decision in response to a super-complaint by the Campaign for Real Ale (CAMRA).

A key issue in CAMRA's complaint was the impact of the 'beer tie', which requires pub lessees to purchase beer solely through their pub-owning company landlord.

We concluded that there are insufficient grounds to justify further action as the pub sector in the UK is competitive overall and we found no evidence of competition problems that are having a significant adverse impact on consumers.

We first responded to the super-complaint in October 2009 but decided to consult on the

findings contained in that response following an appeal by CAMRA to the Competition Appeal Tribunal. A number of consultation responses were received and we undertook additional information gathering and analysis in response.

Following this research, we concluded that consumers benefit from considerable competition and choice between pubs and that this competition prevents the 'beer tie' from being used to inflate pub beer prices beyond competitive levels. We also found that the 'beer tie' has not prevented tied pubs from offering a wide choice of beers to consumers, having found that pub-owning companies generally source beer from a considerable range of suppliers, including smaller brewers.

### **Cash ISAs**

After a 90-day investigation, we secured agreement from the industry to publish the interest rates clearly on the face of each cash individual savings accounts (ISA) statement, and revise industry guidelines on how long cash ISA transfers should take.

New industry guidelines (which came into effect on 1 January 2011) implemented the final recommendations of our report, which will, among other things, ensure that consumers do not lose any interest owed to them during the switching process.

Furthermore, to reinforce industry action, we also recommended that:

- HM Revenue and Customs and the Financial Services Authority (FSA) change their guidance to reflect the revised industry guidelines
- the FSA considers taking regulatory action if the industry fails to keep to the new timescales
- providers ensure that, if delays occur, consumers are no worse off than they would have been if the timelines had been met

Our findings follow the super-complaint on cash ISAs we received in March 2010 from Consumer Focus, asking us to look at concerns including the time that it takes to transfer a cash ISA, the transparency of interest rates and introductory bonus rates.

### **Cold-calling and upfront-charging practices**

We received a super-complaint from Citizens Advice in March 2011 relating to marketing and charging practices which Citizens Advice

suggests may be used by businesses offering credit brokerage and debt management services.

The Citizens Advice has identified two business practices which it has asked us to look at. They are:

- firms cold-calling consumers by telephone and text to promote consumer credit products and ancillary services, including debt management
- firms taking upfront fees for credit services, often by persuading consumers to give them their banking details, sometimes taking unauthorised deductions

We published a response to the super-complaint on 1 June 2011.

### **Retailers' payment surcharges**

In March 2011, we received a super-complaint from Which? relating to surcharges that are payable when customers use a debit or credit card.

Which? identified two areas of concern:

- transparency – are consumers informed that the surcharge will be payable before they commit to making a purchase?
- charge – is the surcharge proportionate to the cost incurred by the business for processing the payment?

We will publish a response by 27 June 2011.

### **Consumer Codes Approval Scheme**

Our Consumer Codes Approval Scheme (CCAS) aims to promote and safeguard consumers' interests by helping them identify better businesses and to encourage those businesses to raise their standards of customer service beyond the basic requirements of consumer law.

During the year, one code achieved our approval, the Institute of Professional Willwriters (IPW).

The IPW is a trade body for will writers whose members provide consumers with will-writing services, assistance in estate planning and related legal services.

Following the Government's decision, in October 2010, to consult on the proposed consumer protection reforms and the subsequent uncertainty of the impact on our ability to operate the CCAS in the long term, we have temporarily suspended the scheme to new applicants.

## Policy and research work

### Drivers of compliance

During 2010 - 11 we published two related documents on the drivers of compliance for businesses.

The report 'Drivers of Compliance and Non-Compliance with Competition Law' (published in May 2010) presents findings from the OFT's qualitative research into what motivates businesses to comply with competition law and what has been found to work well to achieve this. It also highlights competition challenges that businesses might face in spite of their compliance efforts and includes examples of the compliance activities undertaken by respondent businesses in order to provide ideas to businesses designing or refreshing their competition law compliance strategy and to share best practice. Following this report, the OFT consulted in autumn 2010 on draft guidance on competition law compliance and directors' duties under competition law.

The report 'Consumer Law and Business Practice' (published June 2010), focused on the drivers of compliance with consumer protection laws. It draws on a number of sources to identify four themes: the importance of business reputation and the influence of consumers in driving compliance, business awareness of, and attitudes towards, consumer protection laws, guidance and support for business and the influence of competitor behaviour. We hosted a workshop event in September 2010 in order to understand more fully how to utilise the findings to increase compliance.

Following this, in April 2011 the OFT published 'The OFT's approach to promoting business compliance with consumer protection law'. This policy statement sets out how the OFT, through our own actions and in partnership with others, will seek to raise compliance across markets.

### Mapping UK consumer redress

The OFT has undertaken a project to analyse the strengths and weaknesses of the current UK consumer redress landscape and highlight policy issues to be considered further. The project focused on consumer redress mechanisms in the business-to-consumer context only.

We found that consumers have a number of options: the trader's in-house complaints procedure where it exists, followed by an

Alternative Dispute Resolution (ADR) mechanism or to court proceedings.

A map of the ADR schemes found during our research has been compiled and is available on our website. In total, 95 discrete schemes across 35 sectors are included in the map.

Our research also found that the provision of ADR in some sectors has improved over recent years, with the introduction of statutory redress mechanisms, for example, in relation to estate agents and consumer credit.

### Land agreements

We have provided guidance to business on the application of competition law to land agreements in advance of the Government withdrawing the exclusion order that had meant that land agreements fell outside the scope of Chapter I of the CA98.

### Public transport ticketing schemes block exemption

We recommended to the Secretary of State for the Department for Business, Innovation & Skills (BIS) that the UK block exemption for Public Transport Ticketing Schemes be extended for five years. The Secretary of State accepted this recommendation and adopted an order extending the block exemption until 29 February 2016.

## International

Through international engagement, the OFT is able to cooperate with other national agencies in the enforcement of competition and consumer cases that cross national borders. International dialogue also allows agencies to learn better practices from each other, leading to convergence between national competition and consumer regimes to the benefit of consumers and businesses globally.

### International Competition Network

The OFT's chief executive, John Fingleton, chairs the International Competition Network (ICN) steering group, a global network of 117 competition agencies. The ICN provides a forum for maintaining regular contact with our international counterparts and facilitates more effective international co-operation on competition cases. It also serves to build consensus and convergence towards sound

competition enforcement and policy around the world.

### **OECD**

We continued to engage in the Organisation for Economic Co-operation and Development (OECD) through our Competition Committee and working parties on competition, regulation, co-operation and enforcement as well as in the Global Forum on Competition. Discussions in 2010 - 11 covered topics such as information exchange between competitors, crisis cartels, cross-border merger control, quantification of harm to competition and green growth issues.

### **Co-operation on EU competition rules**

The OFT has continued to play a key role in the European Competition Network, engaging with EU member states and the EC on a range of enforcement and policy issues. We also continued to participate in the EC's Advisory Committees on antitrust and mergers.

### **Co-operation on consumer enforcement**

We continued to work closely with international counterparts on consumer issues, both bilaterally and through the Consumer Protection Co-operation Network (CPC) and the International Consumer Protection Enforcement Network (ICPEN). This included collaborative work on

specific enforcement cases and sharing best practices and intelligence.

### **Influencing consumer policy**

We have continued to work with BIS and other interested parties in the UK on the EC's draft Consumer Rights Directive, and also on other areas of developing policy and law such as the implementation of the Timeshare Directive and the upcoming review of the Unfair Commercial Practices Directive.

### **Reviews of block exemptions**

We were involved in providing input into the European Commission's (EC) review of the EU rules applicable to horizontal co-operation agreements (the Research and Development and Specialisation Block Exemptions and the Commission's guidelines for assessing co-operation agreements between competitors). Our objective was to ensure that the revised rules reflected recent legal and economic developments and provided as much practical help as possible to assist businesses and their advisers self-assess the compatibility of their co-operation agreements with competition law. The new regulations came into force in December 2010.

## 6 ADVOCACY, ADVICE AND GUIDANCE

Alongside our enforcement and markets work, we engaged with businesses, consumers and Government to ensure that the benefits of strong competition and consumer protection were fully realised and behaviours were changed. We provided consumers with targeted advice on high risk purchases, and knowledge to enable them to make informed decisions, and we developed, in consultation with businesses, innovative guidance to facilitate compliance with competition and consumer legislation.

### Advocacy

The OFT continued its broad programme of work looking at competition in public markets, building on its track record of delivering market-based solutions that benefit users, and its previous experience of examining the role of Government in markets. The OFT is currently working with Government departments undertaking reviews of, and reform initiatives related to, commissioning and procurement. As part of this we have carried out two pieces of work on public services procurement and public services through choice-tools: 'public services procurement' and 'empowering consumers of public services through choice-tools'.

#### Public services procurement

In December 2010 we launched a study into commissioning and competition in the provision of public services, designed to help government buyers promote competition in markets in order to realise better value for money.

Our report was published in March 2011. We found that having an open, transparent and competitive tender process is not enough on its own to ensure that public services markets are open and contestable, both over the short-term and long-term. Achieving effective competition in public services must also involve reducing barriers to entry and exit, encouraging a diverse supplier base and ensuring suppliers have the right incentives to make efficiency savings, raise quality and innovate.

#### Empowering consumers of public services through choice-tools

Choice-tools are sources of information, such as price comparison websites, patient feedback forums and education league tables, which support consumer decision-making and can foster greater competition and choice in public services. The OFT held a roundtable discussion, in conjunction with the Cabinet Office, to explore

how government can best support the development and use of such tools.

We published a paper to provide a summary of the key competition and consumer protection issues raised at the event, as well as suggestions on how these concerns can be mitigated through the design of the choice-tool and enforcement of competition and consumer regulations.

### Consumer advice

#### Consumer Direct

Consumer Direct (CD) is a publicly funded national telephone and online advice service for consumers. It is managed by the OFT and delivered in partnership with TSS.

It aims to provide clear, practical and impartial advice to enable consumers to exercise their rights. It also benefits legitimate businesses by helping to maintain a level playing field, and the information collected helps the OFT, TSS and other bodies build intelligence and focus resources.

According to our estimates, the general Consumer Direct service (excluding complaints relating to energy and post) generated £119.8 million in consumer benefits over 2010 - 11. Given its cost base of £11.1 million, this represents a benefit-to-cost ratio of over 10:1. Consumer Direct advisors answered over 1.7 million calls and emails in 2010 - 11. These included 836,000 complaint cases. They also included 149,000 calls and emails regarding energy and post during the year. More than 82 per cent of calls were answered within 20 seconds and customer satisfaction levels remained high at 82 per cent. The Consumer Direct website welcomed 1.7 million visitors. Our project to enter into a new contract for the delivery of Consumer Direct up to 2016 was

suspended in June 2010 as a result of the Government's moratorium on significant ICT spend. It was later cancelled altogether on the announcement by the Department for Business Innovation and Skills that responsibility for delivering consumer advice and information would pass to the Citizens Advice service by March 2012. Following the announcement we renegotiated our contracts with a number of our existing suppliers to ensure continuity of service, until responsibility for CD transfers to Citizens Advice, and to bring costs within our reduced budget for 2011 - 12.

Citizens Advice are developing their own model for delivering consumer advice and information from March 2012. We are committed to working with them to ensure a seamless transition to the new service.

## Campaigns and Education

### Scams Awareness

#### Just Tick It

In June 2010 we ran the Just Tick It campaign to increase consumer awareness of fake ticketing websites and provide ticket buyers with helpful and practical advice on how to avoid being scammed. Independent evaluation by the Central Office of Information of the financial benefits for consumers of Just Tick It have indicated a £2.50:1 return on investments.

#### Scams Awareness Month

The OFT's Scams Awareness Month ran through February 2011 in conjunction with International Fraud Prevention Month, and consisted of three themes. These were 'Scamnesty' (an initiative run with TSS to encourage people to collect scam mailings and drop them into designated boxes in local libraries and other public areas), bogus holiday clubs and ticket scams.

### Know your Consumer Rights

#### Buying a used car

In September 2010, we launched a campaign to help people know their rights when they buy a used car from a dealer. This was run as a result of the OFT used car market study, which found many car-owners end up fixing unresolved faults that are the dealer's obligation to correct, costing each of them an estimated average of £425.

The campaign achieved 63 pieces of media coverage and the partnership with 'Whatcar' generated a further 18. A week on week comparison of web visitors to 'buying a car' pages on Consumer Direct increased by 216 per cent. This campaign has also been used as a case study for delivering a campaign using free or low-cost channels by the Government Communications Network.

#### Doorstep selling

During the reporting period, the OFT worked with a range of partners to warn people, particularly those in later life, the vulnerable and their friends and family, of rogue doorstep traders. The campaign was led by Esther Rantzen and generated 138 pieces of media coverage.

### Consumer Education

#### Save Xmas

For the fourth year running, we coordinated the Save Xmas campaign on behalf of HMT, to raise awareness of the options available for saving for important events, particularly Christmas. The OFT provided practical advice to people wishing to avoid the financial strain they may have faced.

#### Skilled to Go

Skilled to Go is a toolkit for teachers that develops consumer skills, knowledge and confidence alongside numeracy and literacy. Skilled to Go now has over 7,500 registrations, made up of:

- 58 per cent of UK further education institutions have at least one registered user
- 60 per cent of secondary schools in Scotland have at least one registered user
- 60 per cent of TSS across the UK have at least one registered user.

Independent Evaluation of the financial benefits for consumers of Skilled to Go (again performed by the Central Office of Information) has indicated a return on investment of just below 5:1, with significantly higher returns possible in the coming years.

### Business Campaigns

#### Sale of Goods Act (SOGA) hub

In September 2010, the OFT launched a new online resource to help sales staff comply with

the Sale of Goods Act when customers buy or return goods.

The hub is a free online resource for retailers and includes an at-a-glance guide to the law, detailed explanations, practical example and training materials and a quiz. The materials can either be used as they are or incorporated into existing staff training programmes, making them suitable for both small and large firms.

Initial qualitative research has indicated that businesses using the hub have found their staff to be more comfortable and better able to field initial queries and problems and have reduced costs in managing complaints. A further financial evaluation will be carried out in 2011 - 12.

## **Business Guidance**

### **Car dealers**

The OFT published new guidelines for second-hand car dealers setting out their legal obligations to customers under consumer protection laws. The new guidance and checklist is intended to support TSS in their engagement with second hand car dealers and promote compliance with two important pieces of consumer legislation, the Consumer Protection from Unfair Trading

Regulations 2008 and the Sale of Goods Act 1979.

The checklist highlights some of the practical steps dealers should take to help ensure compliance, including clear dos and don'ts relating to pre-sale history and mileage checks, checking the vehicle's mechanical condition, providing customers with important information before the sale and dealing with complaints and issues around faulty vehicles.

## **General enquiries**

The OFT's Enquiries and Reporting Centre (ERC) responds to telephone and written enquiries from consumers and businesses on almost every facet of the OFT's activities. During the year, ERC handled approximately 60,000 telephone calls and 19,000 letters and emails, and provided consistent, up-to-date and timely replies. We achieved our target of responding to 90 per cent of all written correspondence within 10 working days. We also successfully reduced the number of avoidable contacts to ERC by introducing facilities such as 'Frequently Asked Questions' pages to the OFT website.

## 7 IMPROVING THE WAY WE WORK

Improving our performance and transparency as an organisation remained an area of focus for the OFT, as challenging economic conditions reinforced obligations on the OFT to provide 'more for less'. Through evaluation of our interventions, we made good use of our resources to achieve high-impact outcomes for consumers, and demonstrate a benefit to cost ratio of 7:1. We developed our people and the working environment to enhance our ability to deliver. We used our understanding of competition and consumer issues to provide input into Government consultations on reforming the regimes.

### Consultations on the regime

In March 2011 the Government published a consultation on reform of the competition regime, which will be followed by a consultation on reform of the consumer regime. The OFT will work with the Government to help ensure that this reform meets its aims and builds on the successful features of the existing system. Whilst the current competition and consumer regime is already regarded as world class, we agree with the Government that there is still room for further improvement, and, while redesigning the regime will inevitably present significant challenges, reform will bring opportunities for some real and important gains for the UK. For example, a move to a single competition and markets authority (CMA) could make for a much more streamlined regime and better use of the finite resources available, with more consistency in policy and approach and accordingly reduced burdens on business.

We also believe that it is essential for the CMA to be able to exercise a full range of both competition and consumer protection powers, so that it can take appropriate and proportionate action against the most harmful conduct while minimising unnecessary burdens on businesses.<sup>8</sup>

### Transparency

During 2010, we continued initiatives to improve the OFT's transparency. This was the latest stage in a project begun in 2008.

In May 2010, we published a statement setting out our commitments to those involved and interested in our work in terms of how we will

engage and what information we will provide throughout the life of a case or project.<sup>9</sup> The statement came into effect in July 2010. In May 2010, we launched a restructured website with defined 'landing pages' for key areas of work and with a new dedicated transparency section.

Details of our transparency work can be found at: [www.of.gov.uk/about-the-oft/accessing-information/transparency/](http://www.of.gov.uk/about-the-oft/accessing-information/transparency/)

In March 2011, following public consultation, we published CA98 procedural guidance. This gives businesses and their advisers better clarity around our processes and should help us conclude our investigations more quickly. At the same time, in response to comments made to the OFT during the consultation on draft CA98 procedural guidance we announced a one-year trial of a Procedural Adjudicator role. The purpose of the trial is to provide a swift, efficient and cost effective mechanism for resolving disputes between parties and the case teams in respect of certain procedural matters.

In December 2010 we published our 2011 - 15 (SR10) Business Plan outlining our contribution to the Government's system of democratic accountability, including our 'Transparency: information strategy', the inputs that go into the services we are responsible for and the indicators we will publish to demonstrate the impact we are having on public services.

### Evaluation

Careful evaluation of our activities helps us prioritise, target, conduct and follow-up our work

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<sup>8</sup> [www.of.gov.uk/news-and-updates/press/2011/37-11](http://www.of.gov.uk/news-and-updates/press/2011/37-11)

<sup>9</sup> The statement mainly relates to CA98 cases, consumer enforcement cases – excluding credit – markets studies and some policy projects

to maximise our impact. It also helps us demonstrate whether we are delivering on our objectives and doing so cost-effectively.

### Positive impact estimation

Our performance target with HM Treasury commits us to delivering direct financial benefits to consumers of at least five times our cost to the taxpayer.

Our performance against this target is monitored by our positive impact estimates, with the most recent estimates, being published in July 2011, showing a benefit-to-cost ratio of 7:1.<sup>10</sup> The methodologies underlying these estimates are explained in the OFT impact estimation guide, published in 2010.

### Independent evaluations of interventions

As part of our programme of in-depth independent evaluations of OFT interventions, we undertook and completed several evaluations in 2010 - 11 including:

- evaluation of competition enforcement activities in the construction sector, which found significant improvements in awareness and understanding of competition law and changes in business behaviour
- evaluation of the impact of three codes within the OFT's Consumer Codes Approval Scheme. The research found that customers of Carpet Foundation code members (an OFT approved code), were more satisfied than customers of non-member competitors. For the members of codes not yet approved, results were mixed
- evaluation of the 2005 market study into care homes for older people, which found improvements in the provision of information to consumers, and estimated consumer benefits in the region of £6-10 million per year, with further evidence of other, non-quantifiable, benefits. It also identified room for improvement, with only 60 per cent of care homes providing information to residents on complaints procedures
- evaluation of the 2001 CA98 case against Napp pharmaceuticals for abuse of dominance in the sustained release drug market. We analysed the market to understand how it had

changed since 2001. We found that Napp's market share had reduced significantly since the intervention and estimated average savings to the NHS of around £1.5 million per year

- evaluation of consumer education and awareness campaigns undertaken by the Central Office of Information (see pages 35-36)

We also undertake or commission research to analyse the wider impact of our work on consumers such as the deterrent effect of our interventions or our impact on consumer confidence. For instance, in 2010 - 11, we undertook research to gain a better understanding of the factors driving business compliance with consumer protection law and the deterrent effect of consumer law enforcement.

Full details of our evaluation programme, including evaluation reports, can be found at: [www.of.gov.uk/advice\\_and\\_resources/resource\\_base/evaluation/](http://www.of.gov.uk/advice_and_resources/resource_base/evaluation/)

## Engagement

### Consumer organisations

We continue to chair and administer the Consumer Concurrences Group to provide a forum for our regulatory partners and ourselves to share best practice, facilitate consistency and discuss common and upcoming themes within the consumer arena.

We continued to liaise closely with consumer groups, including Which?, Citizens Advice and Consumer Focus on a wide range of issues from campaigning activities and market studies to our shared concerns about the effect on vulnerable consumers of the economic downturn.

### Discussion events

Our broad range of responsibilities mean we continually strive to better understand the relationships between consumers, firms and markets. To help us do this we launched a programme of three events between September 2009 and April 2010 to discuss a range of issues that are important to our work with a wider set of stakeholders and at an earlier stage than would otherwise be the case. Our aims were to inform the OFT's work and that of others present, to develop common understanding of these issues through discussion, and to reduce the need for regulation and intervention further down the line.

The OFT's Dynamics of Customer Decisions event, held on 26 April 2010, drew together advanced thinking and insights on the theme of

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<sup>10</sup> Our impact estimates and underlying assumptions and methodologies are audited by an independent academic consultant – Professor Stephen Davies.

consumer decision-making, looking at the issues involved from a range of different perspectives.

Summaries of this event, and others arranged by the OFT, can be found at:

[www.offt.gov.uk/news/events/](http://www.offt.gov.uk/news/events/)

### **Devolved administrations**

Through the Office in Scotland we have further developed the range and depth of OFT relationships across the devolved nations, contributing to economic growth with work on the role of Government in markets and associated public markets themes.

Interest groups in Northern Ireland collaborated with OFT in a seminar to raise awareness of competition and regulation and CEO John Fingleton addressed the Belfast CBI Annual dinner on using competition to drive the Northern Ireland economic recovery.

We participated in a range of initiatives, including better regulation fora in Scotland and Wales, and projects such as the Welsh data collection project. The Welsh regulators forum highlighted OFT's data collection and its practical application as intelligence for TSS.

We are engaged in discussions across the devolved nations on the distinctive features that will need to be reflected in the new consumer and competition landscapes, helping to inform partners preparing to take on new responsibilities

The OFT's earlier market study, Property managers in Scotland, published in February 2009, has informed the Scottish Property Managers Act and the current study on off-grid energy supply is effectively building on interest and evidence from stakeholders in Scotland, Wales and Northern Ireland.

## **International comparison**

### **Global Competition Review rating**

In its annual survey of the world's leading competition authorities in June 2010, Global Competition Review (GCR) gave the OFT four-and-a-half stars out of a possible five, retaining its joint fourth position in the survey alongside the European Commission's Directorate General for Competition. A wide range of factors contributes to the performance of competition authorities. The GCR survey takes account of a selection of these.

The GCR report was positive, particularly praising:

- the quality of our merger work

- the improvements in our cartel enforcement and the speed with which we resolve cartel cases (in part by the use of our early settlement programme, where we seek to resolve cases without the need to complete a full administrative procedure by agreeing with one or more parties a reduced penalty in return for specific admissions of liability and other types of co-operation)
- our increasing use of economic analysis
- our investigation into the market for the distribution of newspapers and magazines
- our creative response in the referral of the bus market to the CC

A concern raised by GCR related to lack of abuse of dominance cases last year. After the OFT's 2008 decision against Cardiff Bus for predatory behaviour, the GCR felt there has been little action in this area, although it did recognise the investigation into pharmaceuticals company Reckitt Benckiser, against whom we have now taken an abuse of dominance decision and imposed a penalty of £10 million (see page 18).

## **Working with TSS**

Over the past year the OFT has continued to work closely with TSS to deliver better outcomes for consumers. TSS have been closely involved in OFT market studies, enforcement cases and policy projects to ensure they reflect the needs of local consumers and the wider enforcement community.

### **Intelligence Management**

We launched a database in March 2010 that allows the OFT and TSS to collate, analyse and share intelligence. Based on a partnership with the TSS Regional Intelligence Network, the database is available to all TSS in the UK.

To provide TSS with quick and accurate intelligence on criminal activity, we also negotiated with the Association of Chief Police Officers to allow TSS direct access to the Police National Computer (PNC).

Access to the PNC will be rolled out to TSS in 2011 - 12.

### **Civil Sanctions plans**

In December 2010, the OFT and the Local Better Regulation Office (LBRO) published a consultation on their proposed approach to the use of new powers which would enable the OFT and a number of participating TSS to trial a range of new civil sanctions as an alternative to criminal

prosecution. The new powers would provide proportionate sanctions to business and provide traders, where appropriate, with the option of voluntarily restoring the position of consumers adversely affected by a breach of consumer law, thereby reducing the regulatory burden they are exposed to.

The powers are likely to include fixed penalties of up to £3,000 for minor breaches, variable penalties of up to £500,000 or one per cent of turnover for more serious offences, enforcement undertakings, stop notices and other discretionary requirements. These include the power to require traders to put right problems suffered by consumers as a result of the law being breached.

The objective of the trial is to test the effectiveness of the powers to secure compliance with consumer law and to encourage traders voluntarily to offer redress to consumers who suffer detriment as a result of unsafe products, or unfair and misleading business practices.

At the time of writing the roll out of civil sanctions powers had been paused across departments subject to further Government discussion.

## Developing our people

### Recruitment

During the year, we recruited 69 new staff. At 31 March 2011, the OFT had 609 staff in post compared with 642 at the same point in 2010.

We adhere to the Civil Service Recruitment Principles of open and fair competition and selection on merit. Fifteen candidates were recruited during the year under the arrangements for permitted exceptions to the Principles.

Following the Civil Service wide recruitment freeze, and wider budgetary constraints, the OFT ran three voluntary exit programmes throughout the reporting period, resulting in the departure of 42 people.

### Talent Management, Leadership Development

To improve our ability to attract, retain, develop and motivate talented staff, we carried out a range of activities including:

- assessing the performance and potential of staff at Grade 7 and 6 and Senior Civil Servants
- running development centres and rolling out a pilot mentoring programme for Grade 7 staff. Twenty Directors were trained as mentors as part of this programme

- reviewing our management development programme which now includes a targeted three level programme for new, established and senior managers across the OFT
- working in partnership with the private sector – four places funded on Whitehall Industry Group (WIG) leadership programme
- continuing to facilitate lateral moves for senior staff to other areas of the OFT to help them broaden their experience

The career management framework, launched in 2010, developed OFT competencies for all grades including positive and negative behaviours, and determined the skills, knowledge and experience required across most roles and/or professional communities in the OFT.

Among other things, the framework helps staff and managers identify training needs and construct development plans, supports quality career and performance conversations, supports staff in building skills quickly (for example through managed moves) and captures most roles around the office, accommodating specialists and generalists equally.

We have completed the second stage of the OFT online Career Portal. This gives staff access to career management tools and e-learning courses and provides managers with management and leadership information to use in discussion with individuals and team about their performance, development and career progression. The career portal has enjoyed a strong uptake to date across the OFT.

We have introduced a new tool on the portal to help staff who are interested in a career move to another part of the office. Staff can now self-assess their skills against the key skills required for different roles across the office to assist with preparing for lateral or promotional opportunities as they arise. We have also started work on developing professional homes for all roles across the OFT to give staff more guidance on how to develop their professional skills for career progression.

### Employee engagement and Investors in People

The OFT's engagement index rose from 62 per cent to 63 per cent in 2010, seven points above the Civil Service average, placing it into the Civil Service high-performance group, with these positive results achieved during a time of change and SR10 budget restrictions. We developed

employee engagement further during the year, concentrating on three main areas:

- My Work
- Leadership and Managing Change
- Organisational Objectives

An engagement project was set up to lead improvements throughout the OFT and each group had a local engagement plan to address the three main areas and contribute to corporate areas. Project team members worked with each group with a below average score to support their action plans. A continued focus on Investors in People (IIP) standards has contributed to the overall increase in the OFT's survey scores.

In addition, the OFT promoted in-year recognition awards for staff to help motivate and reward staff whilst demonstrating value for money during the pay freeze.

### Diversity and equality

The focus of our work this year has been on developing an organisational wide understanding of the Equality Act. We held a series of presentations throughout the year aimed at

increasing awareness and setting out key responsibilities. Furthermore we have refined our approach to Equality Impact Assessments, moving away from a prescriptive formula to articulating the positive impact of our work. Equality and Diversity is now also included as a standard component of the OFT corporate induction programme.

On an individual level, we funded places on Stonewall's management development programme and the National School for Government's Leaders Unlimited programme and support the Race for Opportunity mentoring scheme.

### IT

Like most organisations, our front line services required effective IT to facilitate their work. During 2010/11, the OFT began an investment programme to modernise its technology platform. However, a major IT outage in June 2010 delayed the full implementation of the new IT platform which is now expected to complete in November 2011.

### Diversity of staff, March 2011

	Women	From ethnic minorities <sup>†</sup>	With disabilities <sup>††</sup>
All staff* (580)	51.0%	21.0%	3.3%
Senior civil servants	36.5%	7.3%	2.4%
Senior managers	48.8%	8.9%	1.4%
Executive staff	54.9%	28.0%	4.3%
Clerical and support staff	65.1%	39.4%	6.0%

\* All active staff in OFT on 31 March 2011, excluding staff seconded into the OFT

<sup>†</sup> Percentage is of those who stated their ethnic background. 8.8 per cent of staff have not declared their ethnic background

<sup>††</sup> Percentage is of those who stated their disability status. 17.7 per cent of staff have not declared their disability status

### Diversity of new staff recruited in 2010-2011

	Percentage of all staff recruited (65)
Women	60.0%
From ethnic minorities <sup>†</sup>	23.0%
With disabilities <sup>††</sup>	1.5%

<sup>†</sup> Percentage is of those who stated their ethnic background. 27.6 per cent of staff have not declared their ethnic background

<sup>††</sup> Percentage is of those who stated their disability status. 23.0 per cent of staff have not declared their disability status

## 8 OPERATING AND FINANCIAL REVIEW

Our activities are funded by Parliamentary Vote. Funding for 2010 - 11 already included a reduction of five per cent on the previous year in real terms, but this was further reduced by three per cent in May 2010, following the election of the Coalition Government. Our final Total Net Resource Requirement was £64.3 million.

Actual outturn for the year was £58.9 million, an underspend of £5.4 million (eight per cent). Of this, £1.2 million relates to the non-take up of provisions. A further £0.5 million relates to our litigation budget which is ring-fenced. The remaining £3.7 million (5.8 per cent) relates to our day-to-day operations and is primarily due to Government Spending Restrictions.

Net operating costs for the year were £58.4 million. The difference between net resource outturn and net operating costs relates to allowable income collected by the OFT and surrendered to the Consolidated Fund.

Our income included £9.2 million in respect of fees and charges levied on external customers in respect of licence fees charged for the administration of the Consumer Credit Act 1974 and £1.2 million in respect of fees charged for registration under the Money Laundering Regulations 2007. We also received £1.0 million from the Department for Business, Innovation and Skills as re-imbusement to Consumer Direct in respect of energy and post contacts handled. Total income exceeded the Estimate by £0.4 million. This excess income is surrenderable to the Consolidated Fund.

We invested £0.6 million in capital additions in the year, all of which were IT-related. This spend was against a budget of £1.3 million. The underspend was primarily due to the prioritisation of non-capital projects in our Business Services department.

### Auditors

Our resource accounts have been audited by the Comptroller and Auditor General, who has been appointed under statute and is responsible to Parliament. The cost of the audit (notional fee) was £82,000, which included £10,000 for the audit of the Trust Statement, which is published at Chapter 11, and £4,000 for the audit of the Whole of Government Accounts return.

The Accounting Officer has taken all the steps that he ought to have taken to make himself aware of any relevant audit information, and to establish that our auditors are aware of that information. So far as he is aware, there is no relevant audit information of which our auditors are unaware.

Our internal audit was provided independently by PriceWaterhouseCoopers, but managed by the Head of Internal Audit who is a member of our staff.

### Creditor payment, policy and performance

We aim to pay suppliers in accordance with the Government's payment performance target. This target is to pay all invoices not in dispute within three working days, after allowing two days on top of the invoice date to cover transit time. In 2010 - 11 we paid 23.6 per cent of invoices within this target. Our current systems and processes do not support strong performance against the Government's target. We are making changes, which we expect will improve our performance in 2011 - 12.

In 2009 - 10 this target was to pay all invoices not in dispute within eight working days. In 2009 - 10 we paid 52.1 per cent of invoices within that target. Measured against this same target in 2010 - 11 we would have paid 54.8 per cent of invoices in time.

### Report of personal data related incidents

We, along with other government departments, are required by Cabinet Office to report annually on the following:

- protected personal data related incidents formally reported to the Information Commissioner's Office in 2010 - 11
- centrally recorded protected personal data related incidents not formally reported to the Information commissioner's Office in 2010 - 11.

There were no protected personal data related incidents reported to the Information Commissioner's Office during the reporting period.

A total of 33 non-reportable incidents occurred during the year.

Many of our information security risks relate to the commercially sensitive data we handle and

process in carrying out our investigatory and enforcement work.

We continue to work towards meeting the requirements of the Government's Security Policy Framework to improve the way we identify, assess and manage our information security risks.

### **Sickness absence**

After allowing for normal leave entitlement, 2.9 per cent of the total available working days were lost due to staff sickness absence.

## 9 FOCUSING ON THE FUTURE

Our work in 2011 - 12 will centre around two key themes –

- high impact enforcement work that delivers the maximum compliance with competition and consumer law
- engaging with businesses, consumers and Government to ensure that the benefits of strong competition and consumer protection are fully realised

These themes are underpinned by an integrated approach to consumer and competition tools, and recognition of the need to remove unnecessary burdens on business.

Across both of these areas, we will focus on issues that are important for growth in the economy and for the quality of life of consumers, including those consumers who are particularly vulnerable. We will also maintain successful initiatives such as our work to improve business compliance, and continue to introduce innovations such as the Procedural Adjudicator role for CA98 cases that we are currently trialling.

Key strategic areas for OFT in the next year will include markets for public services, economic infrastructure, high innovation sectors and online commerce, as well as those involving new

business models, affecting vulnerable consumers, and affected most by commodity price rises. We will continue with existing work in financial services, but having undertaken considerable work in this area we now consider it timely to rebalance our portfolio of new work towards other areas that are strategically important to growth - not least public markets.

2011 - 12 will see OFT again needing to do more with less, given the reduction in the resource available to us under our spending settlement for the next four years. It will also see us working in a context of continued uncertainty around the future of the competition, consumer and credit regimes as the Government looks to introduce reforms. We will continue to effectively deliver across all of our functions, and will be ready to adapt to these shifting circumstances whilst retaining the focus and commitment to better outcomes for consumers that has been the key foundation for our successes in the past.

More details of our commitments and plans for the future are set out in our Business Plan for 2011 - 15 and our Annual Plan for 2011 - 12.

## 10 RESOURCE ACCOUNTS

### Auditable Sections

In accordance with the requirements of Schedule 7A of the Companies Act 1985 (as amended), only certain sections of the Remuneration Report have been subject to full external audit. These comprise the sections on salary and pension entitlements.

### Remuneration Policy

The remuneration of senior civil servants is set by the Prime Minister following independent advice from the Review Body on Senior Salaries.

The Review Body also advises the Prime Minister from time to time on the pay and pensions of Members of Parliament and their allowances, on Peers' allowances, and on the pay, pensions and allowances of Ministers and others whose pay is determined by the Ministerial and Other Salaries Act 1975.

In reaching its recommendations, the Review Body has regard to the following considerations:

- the need to recruit, retain and motivate suitably able and qualified people to exercise their different responsibilities
- regional/local variations in labour markets and their effects on the recruitment and retention of staff
- Government policies for improving the public services including the requirement on departments to meet the output targets for the delivery of departmental services
- the funds available to departments as set out in the Government's departmental expenditure limits
- the Government's inflation target.

The Review Body takes account of the evidence it receives about wider economic considerations and the affordability of its recommendations.

The Chairman's, Chief Executive's and non-executive board members' remuneration and other terms and conditions of service are determined by the Secretary of State for Business, Innovation and Skills.

The OFT remuneration committee approves the salaries paid to Senior Civil Servants within the OFT. During 2010 - 11 the committee comprised Philip Collins, John Fingleton, Alan Giles and Philip Marsden.

Further information about the work of the Review Body can be found at [www.ome.uk.com/](http://www.ome.uk.com/).

### Service Contracts

The Constitutional Reform and Governance Act 2010 requires Civil Service appointments to be made on merit on the basis of fair and open competition. The Recruitment Principles published by the Civil Service Commission specify the circumstances when appointments may be made otherwise.

Unless otherwise stated below, the officials covered by this report hold appointments which are open-ended. Early termination, other than for misconduct, would result in the individual receiving compensation as set out in the Civil Service Compensation Scheme.

Further information about the work of the Civil Service Commissioners can be found at [www.civilservicecommissioners.org.uk](http://www.civilservicecommissioners.org.uk).

## Remuneration (including salary) and pension entitlements

The following sections provide details of the remuneration and pension interests of the most senior management (that is, Board members) of the OFT

### Remuneration (salary and payments in kind)

	2010-11		2009-10	
	Salary	Benefits in kind (rounded to the nearest £100)	Salary	Benefits in kind (rounded to the nearest £100)
<b>Senior management</b>	<b>£000</b>	<b>£</b>	<b>£000</b>	<b>£</b>
<b>John Fingleton</b> Chief Executive	275 – 280	–	275– 280	–
<b>Jonathan May</b> Executive Director <sup>1</sup>	55 – 60 (full year equivalent 135 – 140)	5 – 10	135– 140	15 – 20
<b>Vivienne Dews</b> Executive Director <sup>2</sup>	125 – 130	5 – 10	125 – 130	5 – 10
<b>Robert Laslett</b> Executive Director <sup>3</sup>	80 – 85 (full year equivalent 125 – 130)	–	–	–
<b>Clive Maxwell</b> Executive Director <sup>4</sup>	70 – 75 (full year equivalent 120 – 125)	–	–	–

1 Jonathan May was Executive Director for Policy and Strategy, and Markets and Projects until 31 August 2010.

2 Vivienne Dews is Executive Director for Corporate Services, including Consumer Direct and Consumer Credit Licensing.

3 Robert Laslett was appointed Executive Director for Cartels and Criminal Enforcement, Infrastructure and Consumer Markets Groups from 6 August 2010.

4 Clive Maxwell was appointed Executive Director for Mergers, Goods and Services Groups from 1 September 2010

No Executive Board members received any benefits in kind in 2010 - 11 or 2009 - 10.

	2010-11		2009-10	
	Salary	Benefits in kind	Salary	Benefits in kind
<b>Non-Executive Board Members:</b>	<b>£000</b>	<b>£</b>	<b>£000</b>	<b>£</b>
<b>Philip Collins</b> Chairman	175 – 180	–	175 – 80	–
<b>Alan Giles</b>	35 – 40	–	20 – 25	–
<b>Frédéric Jenny</b>	20 – 25	–	20 – 25	–
<b>Anthony Lea</b>	20 – 25	–	20 – 25	–
<b>James Hart</b>	35 – 40	–	20 – 25	–
<b>Philip Marsden</b>	50 – 55	–	20 – 25	–
<b>Alan Cook</b>	20 – 25	–	–	–
<b>William Moyes</b>	20 – 25	–	–	–
<b>Norman Blackwell</b>	–	–	20 – 25	–

The remuneration figures for Alan Giles, James Hart and Philip Marsden includes payments for extra duties carried out on behalf of OFT in addition to their contracted attendance. Non-Executive directors are also reimbursed with the cost of travelling to and from the OFT including for attending OFT Board and other

meetings. These reimbursements totalled £20,059 in 2010 - 11 (2009 - 10: £15,627) and the OFT meets the resulting tax liability on behalf of those Directors.

Non-Executive Board Members appointment details are as follows:

	<b>Date:</b> (A) appointed (R) reappointed	Appointment expires or date of leaving
<b>Philip Collins</b>	(R) 1 October 2009	30 September 2013
<b>Alan Giles</b>	(R) 1 April 2011	31 March 2014
<b>Frederic Jenny</b>	(A) 1 April 2007	31 March 2012
<b>Anthony Lea</b>	(A) 1 April 2008	31 March 2012
<b>James Hart</b>	(A) 1 April 2008	31 March 2011
<b>Philip Marsden</b>	(A) 1 October 2008	31 March 2013
<b>William Moyes</b>	(A) 1 April 2010	31 March 2013
<b>Alan Cook</b>	(A) 1 April 2010	7 April 2011

James Hart's appointment ended on 31 March 2011, Alan Cook resigned with effect from 7 April 2011.

### Salary

'Salary' includes gross salary, overtime, reserved rights to London weighting or London allowances, recruitment and retention allowances, private office allowances and any other allowance to the extent that it is subject to UK taxation. This report is based on payments made by the OFT and thus recorded in these accounts.

### Benefits in kind

The monetary value of benefits in kind covers any benefits provided by the OFT and treated by HM Revenue and Customs as a taxable emolument.

No Board members received any benefits in kind during 2010 - 11.

### Bonuses

Bonuses are based on performance levels attained and are made as part of the appraisal process. The bonuses reported in 2010 - 11 relate to performance in 2009 - 10 and the comparative bonuses reported for 2009 - 10 relate to the performance in 2008 - 09.

## Pension Benefits

	Accrued pension at pension age as at 31 March 2011 and related lump sum	Real increase in pension and related lump sum at pension age	CETV at 31 March 2011	CETV at 31 March 2010 <sup>5</sup>	Real increase in CETV
	£000	£000	£000	£000	£000
John Fingleton Chief Executive	20 – 25	2.5 – 5.0	256	199	32
Vivienne Dews Executive Director	55 – 60 plus lump sum of 175 - 180	0 – 2.5 plus lump sum of 0 – 2.5	1,301	1,208	-
Robert Laslett Executive Director	25– 30	2.5 – 5.0	435	376	48
Clive Maxwell Executive Director	25 – 30 plus lump sum of 75 - 80	2.5 – 5.0 plus lump sum of 12.5 – 15.0	269	212	49
Jonathan May Executive Director	65 – 70 plus lump sum of 200 – 205	0 plus lump sum of 0	1,544	1,537	3

<sup>5</sup> The actuarial factors used to calculate CETVs were changed in 2010 - 11. The CETVs at 31 March 2010 and 31 March 2011 have both been calculated using the new factors, for consistency. The CETVs at 31 March 2010 therefore differ from the corresponding figures in the Remuneration Report for 2009 - 10 which were calculated using the previous factors.

Neither the Chairman nor the other non-executive Board members are members of PCSPS. They have no pension entitlements with OFT.

## Civil Service Pensions

Pension benefits are provided through the Civil Service pension arrangements. From 30 July 2007, civil servants may be in one of four defined benefit schemes, either a 'final salary' scheme (**classic**, **premium** or **classic plus**), or a 'whole career' scheme (**nuvos**). These statutory arrangements are unfunded with the cost of benefits met by monies voted by Parliament each year. Pensions payable under **classic**, **premium**, **classic plus** and **nuvos** are increased annually in line with Pensions Increase legislation. Members joining from October 2002 may opt for either the appropriate defined benefit arrangement or a 'money purchase' stakeholder pension with an employer contribution (**partnership** pension account).

Employee contributions are set at the rate of 1.5 per cent of pensionable earnings for **classic** and 3.5 per cent for **premium**, **classic plus** and **nuvos**. Benefits in **classic** accrue at the rate of 1/80th of final pensionable earnings for each year of service. In addition, a lump sum equivalent to three years initial pension is payable on retirement. For **premium**, benefits accrue at the rate of 1/60th of final pensionable earnings for each year of service. Unlike **classic**, there is no automatic lump sum. **Classic plus** is essentially a hybrid with benefits for service before 1 October 2002 calculated broadly as per **classic** and benefits for service from 1 October 2002 worked out as in **premium**. In **nuvos** a member builds up a pension based on their pensionable earnings during their period of scheme membership. At the end of the scheme year (31 March) the member's earned pension account is credited with 2.3 per cent of their pensionable earnings in that scheme year and the accrued pension is uprated in line with Pensions Increase legislation. In all cases members may opt to give up (commute) pension for a lump sum up to the limits set by the Finance Act 2004.

The **partnership** pension account is a stakeholder pension arrangement. The employer makes a basic contribution of between 3 per cent and 12.5 per cent (depending on the age of the member) into a stakeholder pension product chosen by the employee from a panel of three providers. The employee does

not have to contribute but where they do make contributions, the employer will match these up to a limit of 3 per cent of pensionable salary (in addition to the employer's basic contribution). Employers also contribute a further 0.8 per cent of pensionable salary to cover the cost of centrally provided risk benefit cover (death in service and ill health retirement).

The accrued pension quoted is the pension the member is entitled to receive when they reach pension age, or immediately on ceasing to be an active member of the scheme if they are already at or over pension age. Pension age is 60 for members of **classic**, **premium** and **classic plus** and 65 for members of **nuvos**.

Further details about the Civil Service pension arrangements can be found at the website:

[www.civilservice.gov.uk/my-civil-service/pensions/index.aspx](http://www.civilservice.gov.uk/my-civil-service/pensions/index.aspx)

### **Cash Equivalent Transfer Values**

A Cash Equivalent Transfer Value (CETV) is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any contingent spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which disclosure applies.


The figures include the value of any pension benefit in another scheme or arrangement which the member has transferred to the Civil Service pension arrangements. They also include any additional pension benefit accrued to the member as a result of their buying additional pension benefits at their own cost. CETVs are worked out within the guidelines and framework prescribed by the Institute and Faculty of Actuaries and do not take account of any actual or potential reduction to benefits resulting from Lifetime Allowance Tax which may be due when pension benefits are taken.

### **Real increase in CETV**

This reflects the increase in CETV that is funded by the employer. It does not include the increase in accrued pension due to inflation, contributions paid by the employee (including the value of any benefits transferred from another pension scheme or arrangement) and uses common market valuation factors for the start and end of the period.

### **Compensation for loss of office**

No payments were made as compensation for loss of office to any Board Member during 2010 - 11.



**John Fingleton**

Chief Executive and Accounting Officer

23 June 2011

## Statement of Accounting Officer's Responsibilities

Under Section 5 of the *Government Resources and Accounts Act 2000*, HM Treasury has directed OFT to prepare, for each financial year, resource accounts detailing the resources acquired, held or disposed of during the year and the use of resources by the department during the year. The accounts are prepared on an accruals basis and must give a true and fair view of the state of affairs of OFT and of its net resource outturn, income and expenditure, changes in taxpayers' equity and cash flows for the financial year.

In preparing the accounts, the Accounting Officer is required to comply with the requirements of the *Government Financial Reporting Manual* and in particular to:

- observe the Accounts Direction issued by HM Treasury, including the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis
- make judgements and estimates on a reasonable basis
- state whether applicable accounting standards as set out in the *Government Financial Reporting Manual* have been followed, and disclose and explain any material departures in the accounts
- prepare the accounts on a going concern basis

HM Treasury has appointed the Chief Executive as Accounting Officer of OFT. The responsibilities of an Accounting Officer, including responsibility for the propriety and regularity of the public finances for which the Accounting Officer is answerable, for keeping proper records and for safeguarding the OFT's assets, are set out in *Managing Public Money*, published by HM Treasury.

## Statement on Internal Control

### Scope of responsibility

As Accounting Officer, I have responsibility for maintaining a sound system of internal control that supports the achievement of OFT's policies, aims and objectives, whilst safeguarding the public funds and departmental assets for which I am personally responsible, in accordance with the responsibilities assigned to me in *Managing Public Money* and under the principles of operation described in the code of good practice *Corporate Governance in Central Government Departments*, both produced by HM Treasury.

### The system of internal control

The system of internal control is designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve policies, aims and objectives, it can therefore only provide reasonable and not absolute assurance of effectiveness.

The system of internal control is based on an ongoing process designed to identify and prioritise the risks to the achievement of departmental policies, aims and objectives, to evaluate the likelihood of those risks being realised and the impact should they be realised, and to manage them efficiently, effectively and economically.

The system of internal control has been in place in OFT for the year ended 31 March 2011 and up to the date of approval of the annual report and accounts, and accords with HM Treasury guidance.

### Roles and responsibilities

The OFT Board, which has a majority of non-executive members, has overall responsibility for determining OFT's system of internal control and for reviewing its effectiveness, and annually approves and reviews the risk policy and strategy.

The Audit Committee, a sub-committee of the Board, advises me on the adequacy of the audit arrangements and on assurances received in respect of risk management and internal control. The Audit Committee is structured in line with the Treasury Audit Committee Handbook. A non-executive Board member chairs the Committee, with the other members being non-executive Board members. The Audit Committee met six times between 1 April 2010 and 31 March 2011.

The Executive Committee (ExCo) operates under delegated authority from the Board and, as such, has responsibility for the setting of policies on risk management and internal control. I chair the committee,

whose members (since September 2010) comprise: Executive Director of Corporate Services, Executive Director of Services, Infrastructure and Public Markets and Mergers Group, Executive Director of Goods, Consumer, Cartels and Criminal Enforcement Group, General Counsel, Chief Economist and Senior Director, Strategy and Communications.

During the year the structure of sub-committees that supports ExCo changed, with a Finance and Risk Committee (FRC) replacing the Operations Committee (OpCo). The FRC is chaired by the Executive Director, Corporate Services and attended by the two other Executive Directors and other senior managers. This new committee took over the risk management responsibilities of its predecessor (OpCo) as well as expanding corporate oversight of the risk and control framework.

## **The risk and control framework**

### **Summary of framework**

Risks are identified at corporate, group, project and team level. Group, project and team risks are held on risk registers at the appropriate level and are the responsibility of the relevant group, project and team leaders, who are required to identify, manage, review and escalate them as required. These risks are brought together at ExCo level as the responsibility of the ExCo members. Corporate risks are held on the corporate risk register, with owners all being ExCo members.

Each ExCo member is required to review and maintain oversight over the arrangements for identifying and managing risk in the areas for which they are responsible and to report as appropriate to ExCo and the Board, in addition to giving an annual letter of assurance to me, as Accounting Officer, about the arrangements.

### **Managing corporate risks**

The FRC revised the corporate risk register in December 2010. It reviews the corporate risk register at every meeting, taking a specific corporate risk and investigating the relevance of the risk to the business, testing the mitigations in place and reviewing whether the plans in place are sufficient or should be adapted to take into account changes in circumstances.

The Board monitors working-level risks through a monthly report on key developments, and the complete corporate risk register is reviewed quarterly as part of the Executive's performance report.

### **Assurance mapping**

Progress was made during the year in documenting and mapping sources of assurance, including a presentation on assurance mapping delivered to all OFT Directors to raise awareness.

### **Internal Audit review of risk management**

Internal Audit reviewed OFT's risk management arrangements and concluded that during 2010 - 11 there had been significant progress made in strengthening the systems, controls and processes over risk and assurance framework at OFT. A 'high' level of assurance was given.

### **Information assurance**

The OFT has assigned the role of Senior Information Risk Owner to the Director of Business Services, supported by a Departmental Security Officer. The policies and standards that apply to government protective security and risk management are set out in *HMG Security Policy Framework (SPF)*, which includes *Information Assurance Standard No. 6. Protecting Personal Data and Managing Information and Managing Information Risk*. The OFT has developed a structured programme of information security improvements in order to comply fully with the Framework.

We currently comply with 91 per cent of SPF standards. Over the next year we will focus on addressing gaps in the following areas to achieve full compliance with SPF requirements:

- developing an integrated process for assessing information security impact levels and regularly reviewing our information assurance risks
- improving the use and application of the government protective marking system

- ensuring availability of information through improvements to our business continuity and IT DR arrangements
- establishing a counter-terrorism policy

## **Review of effectiveness**

As Accounting Officer, I have responsibility for reviewing the effectiveness of the system of internal control. My review is informed by the work of the internal auditors and the executive managers within OFT who have responsibility for the development and maintenance of the internal control framework, and comments made by the external auditors in their management letters and other reports. I have also received from ExCo members letters of assurance describing the arrangements for managing risk within each area of command. I have also been advised on the implications of the result of my review by the Board, ExCo, FRC and the Audit Committee which reviews and, where it considers necessary, advises on mechanisms for the assessment and management of internal control and risk.

### **Internal Audit**

OFT's internal audit function is provided by an in-house Head of Internal Audit (HIA) supported by PriceWaterhouseCoopers who deliver internal audits under her direction. The function operates in accordance with the criteria laid down in Government Internal Audit Standards. The HIA has overseen a programme of risk-based audit work augmented by supplementary projects to arrive at an overall audit opinion.

Eight planned assurance audits were completed with an additional three reviews added to the programme and completed during the year. The audit programme included three financial control audits and three IT audits, two audits covering planning and forecasting processes, an audit of quality assurance processes in front-line service delivery work, and a risk management and a governance audit. During the year, internal audit work identified weaknesses in the design and operation of controls and instances of non-compliance, which could have put the achievement of some OFT objectives at risk. These instances were in general isolated to specific activities, functions or departments and in the opinion of the HIA, these are not systemic in nature. Action was taken to strengthen control on most of the highest rated risks, but there are still discrete areas outstanding which require improvement to ensure any impact on the organisation's objectives is minimised. These areas, which have formally been brought to my attention, relate entirely to IT and include: local resilience, IT standards and controls, IT business continuity management, and IT asset management. The control environment in the IT function of the Business Services Department, continues to be a focus for internal audit and management.

The system of internal control is complemented by further improvement in the risk management and assurance framework to manage strategic, financial and operational risks to which the organisation is exposed, and to support this Statement. Further effort on the assurance framework has been highlighted for inclusion on the 2011 - 12 audit programme.

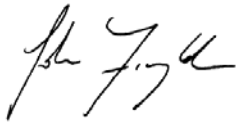
The HIA's professional opinion is that moderate assurance can be given that there is basically a sound system of internal control, and that controls are being applied consistently. This is a lower level of assurance than that given in the previous year and reflects the issues identified during the year in the financial controls over month end close, accounting reconciliations and cash management, which were rectified before the year-end, and those issues identified during the year around the OFT's Information Technology (IT) systems of which four key control gaps listed above remain.

## **Significant Internal Control Issues**

In June 2010 the OFT suffered an outage of its systems. There was a component failure in the storage area network (SAN) which corrupted some disks and disabled key OFT systems for several days. A project was urgently established to implement a technical solution to address the weaknesses and strengthen local IT resilience. The systems were restored and subsequent data integrity testing confirmed that there had been no data loss or corruption. The outage has not recurred and the incident had minimal operational impact

beyond those days. A complete review of the way IT services are managed and delivered is also part of a Business Services Improvement Programme (BSIP). The BSIP, which has identified the work necessary to ensure stable IT processes, comprises a comprehensive programme of work mapping out the necessary improvements, this is in progress.

In May 2010, the OFT decided to withdraw its criminal proceedings against four current and former British Airways executives for price fixing (R v Burns and others). The case arose out of an investigation by the OFT into alleged price fixing of fuel surcharges for long haul passenger flights by British Airways and Virgin Atlantic Airways. The findings and recommendations of an OFT Board-led Review into the events leading up to the collapse of the criminal trial were published in December 2010. The majority of the recommendations have been implemented. ExCo has emphasised its commitment to ensuring that criminal cartel investigations and prosecutions are conducted robustly, efficiently and fairly and to ensuring that the lessons learned in this case are fully captured.



**John Fingleton**

Chief Executive and Accounting Officer

23 June 2011

## **The Certificate and Report of the Comptroller and Auditor General to the House of Commons**

I certify that I have audited the financial statements of the Office of Fair Trading for the year ended 31 March 2011 under the Government Resources and Accounts Act 2000. These comprise the Statement of Parliamentary Supply, the Statement of Comprehensive Net Expenditure and the Statement of Financial Position, the Statement of Cash Flows, the Statement of Changes in Taxpayers' Equity and the related notes. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Remuneration Report that is described in that report as having been audited.

### **Respective responsibilities of the Accounting Officer and auditor**

As explained more fully in the Statement of Accounting Officer Responsibilities, the Accounting Officer is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. My responsibility is to audit, certify and report the financial statements in accordance with the Government Resources and Accounts Act 2000. I conducted my audit in accordance with International Standards on Auditing (UK and Ireland). Those standards require me and my staff to comply with the Auditing Practices Board's Ethical Standards for Auditors.

### **Scope of the Audit of the Financial Statements**

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the Department's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Department; and the overall presentation of the financial statements. In addition, I read all the financial and non-financial information in the Annual Report to identify material inconsistencies with the audited financial statements. If I become aware of any apparent material misstatements or inconsistencies I consider the implications for my certificate.

In addition I am required to obtain evidence sufficient to give reasonable assurance that the expenditure and income reported in the financial statements have been applied to the purposes intended by Parliament and the financial statements conform to the authorities which govern them.

### **Opinion on Regularity**

In my opinion, in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

### **Opinion on financial statements**

In my opinion:

- the financial statements give a true and fair view of the state of the Department's affairs as at 31 March 2011 and of its net cash requirement, net resource outturn and net operating cost for the year then ended; and
- the financial statements have been properly prepared in accordance with the Government Resources and Accounts Act 2000 and HM Treasury directions issued thereunder.

### **Opinion on other matters**

In my opinion:

- the part of the Remuneration Report to be audited has been properly prepared in accordance with HM Treasury directions issued under the Government Resources and Accounts Act 2000; and
- the information given in the "The Board", "Enforcement" and the "Operating and Financial Review" for the financial year for which the financial statements are prepared is consistent with the financial statements

### **Matters on which I report by exception**

I have nothing to report in respect of the following matters which I report to you if, in my opinion:

- adequate accounting records have not been kept, or
- the financial statements and the part of the Remuneration Report to be audited are not in agreement with the accounting records or returns, or
- I have not received all of the information and explanations I require for my audit; or
- the Statement on Internal Control does not reflect compliance with HM Treasury's guidance

### **Report**

I have no observations to make on these financial statements.

#### **Amyas C E Morse**

Comptroller and Auditor General  
National Audit Office  
157-197 Buckingham Palace Road  
Victoria  
London  
SW1W 9SP  
27 June 2011

## Statement of Parliamentary Supply

### Summary of Resource Outturn 2010 - 11

2010-11								2009-10
Estimate				Outturn				Outturn
	Gross expenditure	A-in-A	Net total	Gross expenditure	A-in-A	Net total	Net total outturn with Estimate saving/ (excess)	
	£000	£000	£000	£000	£000	£000	£000	£000
<b>RFR : Advancing and safeguarding the economic interests of UK consumers</b>								
Total Resources (note 2)	75,451	11,201	64,250	70,064	11,201	58,863	5,387	63,219
<b>Net cash requirement 2010-11</b>								
Net cash Requirement (note 4)	-	-	61,926	-	-	59,103	2,823	61,016

### Summary of income payable to the Consolidated Fund

In addition to appropriations-in-aid, the following income relates to the OFT and is payable to the Consolidated Fund (cash receipts being shown in italics):

	Note	2010-11 Forecast		2010-11 Outturn	
		Income	Receipts	Income	Receipts
		£000	£000	£000	£000
<b>Total</b>	5	-	-	424	<i>224</i>

An explanation of the variance between Estimate and Outturn is given in the Operating and Financial Review.

The notes on pages 61 to 79 form part of these accounts.

## Statement of Comprehensive Net Expenditure

for the year ended 31 March 2011

		2010-11	2009-10
	Note	£000	re-stated £000
<b>Administration Costs:</b>			
Staff Costs	9	39,212	38,211
Other Administration Costs	10	28,569	37,954
Operating Income	12	(11,625)	(14,772)
<b>Programme Costs:</b>			
Expenditure	11	2,283	1,085
<b>Net Operating Cost</b>	<b>3</b>	<b>58,439</b>	<b>62,478</b>
<b>Other Comprehensive Expenditure</b>			
Net total (gain)/loss on actuarial review of by-analogy pension scheme		(66)	349
<b>Total Comprehensive Expenditure</b>		<b>58,373</b>	<b>62,827</b>

All income and expenditure are derived from continuing operations.

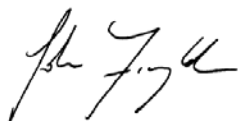
Operating income for 2009 - 10 has been re-stated to remove merger fees which are now reported in the Trust Statement (see pages 80 to 92).

The notes on pages 61 to 79 form part of these accounts.

## Statement of Financial Position

as at 31 March 2011

		31 March 2011	31 March 2010 re-stated
	Note	£000	£000
<b>Non-current assets:</b>			
Property, plant and equipment	14	4,469	6,378
Intangible assets	15	236	508
<b>Total non-current assets</b>		<b>4,705</b>	<b>6,886</b>
<b>Current assets:</b>			
Trade and other receivables	18	4,135	3,523
<b>Total current assets</b>		<b>4,135</b>	<b>3,523</b>
<b>Total assets</b>		<b>8,840</b>	<b>10,409</b>
<b>Current liabilities:</b>			
Cash and cash equivalents	19	(1,086)	(1,287)
Trade and other payables	20	(8,115)	(9,727)
<b>Total current liabilities</b>		<b>(9,201)</b>	<b>(11,014)</b>
<b>Total assets less current liabilities</b>		<b>(361)</b>	<b>(605)</b>
<b>Non-current liabilities</b>			
Provisions	21	(2,899)	(3,214)
<b>Total non-current liabilities</b>		<b>(2,899)</b>	<b>(3,214)</b>
<b>Assets less liabilities</b>		<b>(3,260)</b>	<b>(3,819)</b>
<b>Taxpayers' Equity:</b>			
General Fund		(3,462)	(3,895)
Revaluation reserve		31	76
Donated asset reserve		171	-
<b>Total taxpayers' equity</b>		<b>(3,260)</b>	<b>(3,819)</b>



**John Fingleton**

Chief Executive and Accounting Officer

23 June 2011

The notes on pages 61 to 79 form part of these accounts.

**Statement of Cash Flows**  
for the year ended 31 March 2011

		2010-11	2009-10
			re-stated
	Note	£000	£000
<b>Cash flows from operating activities:</b>			
Net operating cost		(58,439)	(62,478)
Adjustment for non-cash transactions	10	3,680	3,748
(Increase) in trade and other receivables	18	(612)	(816)
Less movements in receivables relating to items not passing through the SOCNE		(201)	-
(Decrease)/increase in trade and other payables	20	(1,612)	418
Less movements in payables relating to items not passing through the SOCNE		(323)	1,832
Use of provisions	21	(910)	(384)
<b>Net outflow from operating activities</b>		<b>(58,417)</b>	<b>(57,680 )</b>
<b>Cash flows from investing activities</b>			
Purchase of property, plant and equipment	14	(585)	(2,238)
Purchase of intangible assets	15	-	(289)
<b>Net cash outflow from investing activities</b>		<b>(585)</b>	<b>(2,527)</b>
<b>Cash flows from financing activities</b>			
From the Consolidated Fund – current year		58,017	59,285
From the Consolidated Fund – prior year		1,287	-
<b>Net financing</b>		<b>59,304</b>	<b>59,285</b>
<b>Net increase in cash and cash equivalents in the period before adjustment for receipts and payments to the Consolidated Fund</b>			
		<b>302</b>	<b>(922)</b>
Receipts due to the Consolidated Fund which are outside the scope of the Department's activities			
		-	-
Payments of amounts due to the Consolidated Fund			
		(101)	(810)
<b>Net increase/(decrease) in cash and cash equivalents in the period after adjustment for receipts and payments to the Consolidated Fund</b>			
		<b>201</b>	<b>(1,732)</b>
Cash and cash equivalents at the beginning of the period	19	(1,287)	445
Cash and cash equivalents at the end of the period	19	(1,086)	(1,287)

The notes on pages 61 to 79 form part of these accounts.

## Statement of Changes in Taxpayers' Equity

for the year ended 31 March 2011

	Note	General Fund £000	Revaluation Reserve £000	Donated Asset Reserve £000	Total Reserves £000
<b>Balance at 31 March 2009</b>		<b>(2,245)</b>	<b>975</b>	<b>9</b>	<b>(1,261)</b>
<b>Changes in taxpayers' equity for 2009-10 re-stated</b>					
Release of reserves to the operating cost statement		-	-	(9)	(9)
Transfer between reserves		899	(899)	-	-
Non-cash charges – auditor's remuneration	10	71	-	-	71
Actuarial loss	21b	(349)	-	-	(349)
Net operating cost for the year		(62,478)	-	-	(62,478)
<b>Total recognised income and expense for 2009-10</b>		<b>(61,857)</b>	<b>(899)</b>	<b>(9)</b>	<b>(62,765)</b>
Net Parliamentary Funding – drawn down		59,285	-	-	59,285
Net Parliamentary Funding – deemed		444	-	-	444
Supply receivable adjustment		1,287	-	-	1,287
CFERs payable to the Consolidated Fund		(809)	-	-	(809)
		<b>60,207</b>	<b>-</b>	<b>-</b>	<b>60,207</b>
<b>Balance at 31 March 2010 re-stated</b>		<b>(3,895)</b>	<b>76</b>	<b>-</b>	<b>(3,819)</b>
<b>Changes in taxpayers' equity for 2010-11</b>					
Transfer between reserves		45	(45)	-	-
Non-cash charges – auditor's remuneration	10	82	-	-	82
Donated assets addition	14	-	-	171	171
Actuarial loss	21b	66	-	-	66
Net operating cost for the year		(58,439)	-	-	(58,439)
<b>Total recognised income and expense for 2010-11</b>		<b>(58,246)</b>	<b>(45)</b>	<b>171</b>	<b>(58,120)</b>
Net Parliamentary Funding – drawn down		58,017	-	-	58,017
Supply receivable adjustment		1,086	-	-	1,086
CFERs payable to the Consolidated Fund		(424)	-	-	(424)
		<b>58,679</b>	<b>-</b>	<b>-</b>	<b>58,679</b>
<b>Balance at 31 March 2011</b>		<b>(3,462)</b>	<b>31</b>	<b>171</b>	<b>(3,260)</b>

The notes on pages 61 to 79 form part of these accounts.

## Notes to the Resource Accounts

### 1 Statement of accounting policies

These financial statements have been prepared in accordance with the 2010 - 11 *Government Financial Reporting Manual (FReM)* issued by HM Treasury. The accounting policies contained in the FReM apply International Financial Reporting Standards (IFRS) as adapted or interpreted for the public sector. Where the FReM permits a choice of accounting policy, the accounting policy which is judged to be most appropriate to the particular circumstances of the OFT for the purpose of giving a true and fair view has been selected. The particular policies adopted by the OFT are described below. They have been applied consistently in dealing with items that are considered material to the accounts.

In addition to the primary statements prepared under IFRS, the FReM also requires the OFT to prepare an additional primary statement. The Statement of Parliamentary Supply and supporting notes show outturn against Estimate in terms of the net resource requirement and the net cash requirement.

#### 1.1 Accounting convention

The accounts have been prepared under the historic cost convention modified to account for the revaluation of property, plant and equipment, and intangible assets.

#### 1.2 Property, plant and equipment

Expenditure on property, plant and equipment, including leasehold improvements, which satisfy the OFT's capitalisation criteria, including the threshold of £5,000, is capitalised at cost in the month of purchase. Grouping of assets which would otherwise fall below the OFT's capitalisation threshold, is only permitted where omission would have a significant impact on the true and fair status of the accounts. All property, plant and equipment is reviewed annually for impairment and is carried at fair value. All non-property operational assets are deemed to be short-life or low-value assets and are, therefore, valued on the basis of depreciated replacement cost as an approximation of fair value.

#### 1.3 Donated assets

Donated tangible assets are capitalised at their current value on receipt and this value is credited to the Donated Asset Reserve. Each year, an amount equal to the depreciation charge on the asset is released from the Donated Asset Reserve to the operating cost statement.

#### 1.4 Intangible non-current assets

Purchased software licences are capitalised as intangible non-current assets where expenditure of £5,000 or more is incurred. Software licences are amortised over the shorter of the term of the licence and the useful economic life.

#### 1.5 Depreciation

Property, plant and equipment are depreciated at rates calculated to write them down to estimated residual value on a straight-line basis over their estimated useful lives.

Asset lives are normally in the following ranges:

Furniture, fixtures and fittings	- 7 to 10 years
IT Hardware	- 3 to 5 years
Software	- 5 to 12 years
Software licenses	- 4 to 10 years
Leasehold improvements	- amortised over the term of the lease

## 1.6 Research and development

Expenditure on research is charged to the Statement of Comprehensive Net Expenditure as incurred. Expenditure on development in connection with a product or service which is to be supplied on a full cost recovery basis is capitalised if it meets the criteria specified in IAS 38. Other development expenditure is capitalised if it meets the criteria specified in the FReM which are adapted from IAS 38 to take account of the not-for-profit context. Expenditure which does not meet the criteria for capitalisation is charged to the Statement of Comprehensive Net Expenditure as it is incurred.

## 1.7 Operating income

Operating income is income which relates directly to the operating activities of the OFT. It principally comprises fees and charges to external customers under the Consumer Credit Act 1974 and Money Laundering Regulations 2007. It includes both income appropriated in aid of the Estimate and due to the Consolidated Fund, known as Consolidated Fund Extra Receipts, which in accordance with the FReM is treated as operating income.

Income is analysed in the notes between that which, under the administration cost-control regime, is allowed to be offset against gross administration costs in determining the outturn against the administration cost limit, and that which is not.

Income received which relates to services not carried out by the end of the financial year, is moved to the Statement of Financial Position as deferred income and released when the service is subsequently provided.

## 1.8 Administration and programme expenditure

The Statement of Comprehensive Net Expenditure is analysed between administration and programme income and expenditure. Administration costs reflect the costs of running the OFT. Programme costs relate to litigation costs arising from OFT decisions. The classification of expenditure and income as administration or programme follows the definition of administration costs set by HM Treasury.

## 1.9 Foreign exchange

Transactions that are denominated in a foreign currency are translated into sterling at the exchange rates ruling at the dates of the transactions.

## 1.10 Financing

The OFT is primarily resourced by funds approved by Parliament through the annual Appropriation Act. Resources are drawn down each month to meet expenditure requirements and are credited to the General Fund. Some of the OFT's resource requirement is met by charging fees for certain activities, such as the issuing of Credit Licences and Anti-Money Laundering registrations. The level of income that can be used in support of the OFT's activities (Appropriations in Aid) is approved by Parliament in the Appropriation Act. Income earned in excess of the approved level cannot be used in support of the OFT's activities and has to be paid over to the Consolidated Fund as excess Appropriations in Aid in accordance with *Managing Public Money*.

## 1.11 Trade receivables

Trade receivables are recognised initially at fair value less provision for impairment. A provision for impairment of trade receivables is established when there is objective evidence that the OFT will not be able to collect all amounts due according to the original terms of the receivables.

## 1.12 Staff costs

Under IAS19 Employee Benefits legislation, all staff costs must be recorded as an expense as soon as the organisation has an obligation to pay them. This includes the cost of any untaken leave as at the year end. The cost of untaken leave has been determined using data sampling across the organisation.

### 1.13 Pensions

Most past and present employees are covered by the provisions of the Principal Civil Service Pension Schemes (PCSPS) which are described at Note 9. The defined benefit schemes are unfunded and non-contributory except in respect of dependants' benefits. The OFT recognises the expected cost of these elements on a systematic and rational basis over the period during which it benefits from employees' services by payment to the PCSPS of amounts calculated on an accruing basis. Liability for payment of future benefits is a charge on the PCSPS. In respect of the defined contribution schemes, the OFT recognises the contributions payable for the year.

The OFT has a separate scheme for the previous Chairman and Director Generals, which is 'by analogy', or similar to, the PCSPS. Provision has been made for the future cost of benefits under this scheme. The current Chairman and the other non-executive Board members are not members of the PCSPS and do not receive pension benefits from the OFT.

### 1.14 Early departure costs

The OFT is required to meet the additional cost of benefits beyond the normal PCSPS benefits in respect of employees who retire early, unless the retirement is on approved medical grounds. The OFT provides in full for the costs when early retirement for an individual is agreed and takes effect.

### 1.15 Provisions

The OFT provides for legal or constructive obligations which are of uncertain timing or amount at the balance sheet date on the basis of the best estimate of the expenditure required to settle the obligation. Where the effect of the time value of money is significant, the estimated risk-adjusted cash flows are discounted using the real rate set by HM Treasury of 1.8 per cent (2009 - 10: 2.2 per cent); where it is not significant estimated cash flows are not discounted.

Financing charges in the Statement of Comprehensive Net Expenditure in respect of end of lease provisions will include adjustments to amortise one year's discount rate and restate liabilities to current price levels.

### 1.16 Contingent Liabilities

In addition to contingent liabilities disclosed in accordance with IAS 37, the OFT discloses for parliamentary reporting and accountability purposes certain statutory and non-statutory contingent liabilities where the likelihood of a transfer of economic benefit is remote, but which have been reported to Parliament in accordance with the requirements of *Managing Public Money*.

Where the time value of money is material, contingent liabilities required to be disclosed under IAS 37 are stated at discounted amounts and the amount reported to Parliament separately noted. Contingent liabilities that are not required to be disclosed by IAS 37 are stated at the amounts reported to Parliament.

### 1.17 Value Added Tax (VAT)

Most of the OFT's activities are outside the scope of VAT and, in general, output tax does not apply and input tax on purchases is not recoverable. Irrecoverable VAT is charged to the relevant expenditure category or included in the capitalised purchase costs of non-current assets. Where output tax is charged or input tax is recoverable, the amounts are stated net of VAT.

### 1.18 Operating leases

Operating lease rentals are charged to the Statement of Comprehensive Net Expenditure in equal amounts over the lease term.

### 1.19 Financial Instruments

The OFT does not hold any complex financial instruments. The only financial instruments included in the accounts are receivables and payables (Notes 18 and 20). Trade receivables are recognised initially at fair value less provision for impairment. A provision for impairment is made when there is evidence that the OFT will be unable to collect an amount due in accordance with agreed terms.

## 1.20 Impending application of newly issued accounting standards not yet effective

OFT provides disclosure that it has not yet applied a new accounting standard, and known or reasonably estimable information relevant to assessing the possible impact that initial application of the new standard will have on its financial statements.

## 1.21 Statement of Parliamentary Supply

In line with HM Treasury advice, a Prior Period Adjustments (PPA) arising from the removal of the cost of capital charge was not included in the Spring Supplementary Estimate for 2010 - 11, other than as a note, on the basis that the PPA number could have been misleading. The removal of the cost of capital charge has the following effect on Resource Outturn for 2009 - 10. The Statement of Parliamentary Supply and related notes have not been restated for this effect.

	2009-10
	£000
Net Resource Outturn (Statement of Parliamentary Supply)	63,219
Removal of the cost of capital charge	68
<b>Adjusted Net Resource Outturn</b>	<b>63,287</b>

## 1.22 Re-statement due to introduction of Trust Statement

In accordance with the Accounts Direction 2010 - 11, OFT is required to produce a Trust Statement for income collected by the Department as an agent for others. Merger fees and CA98 penalties are regarded as income collected on behalf of the Consolidated Fund. Therefore, such income is no longer reported within the OFT's Resource Accounts and as a consequence any transactions relating to these income streams, including payments to the Consolidated Fund, have been removed from the comparative data for 2009 - 10.

The impact of this change on the 2009 - 10 Resource Accounts is as follows:

	Note	As per 2009-10 published accounts	Adjustments	As shown in 2010-11 accounts
		£000	£000	£000
<b>Comprehensive Net Expenditure:</b>				
Gross expenditure		77,182	68	77,250
Operating income	12	(16,482)	1,710	(14,772)
<b>Net expenditure</b>		<b>60,700</b>	<b>1,778</b>	<b>62,478</b>
<b>Statement of Financial Position:</b>				
Receivables	18	19,446	(15,923)	3,523
Payables	20	(26,110)	16,383	(9,727)
Cash and cash equivalents	19	(827)	(460)	(1,287)

## 2 Analysis of net resource outturn by section

	2010-11					2009-10		
	Admin	Other current	Gross resource expenditure	A-in-A	Net total	Estimate	Net total outturn compared to estimate	Prior-year outturn re-stated
	£000	£000	£000	£000	£000	£000	£000	£000
Resource Outturn	67,781	2,283	70,064	(11,201)	58,863	64,250	5,387	63,219

## 3 Reconciliation of outturn to net operating cost and against Administration Budget

### 3.1 Reconciliation of net resource outturn to net operating cost

	2010-11		2009-10
	Note	£000	re-stated £000
Net Resource Outturn	2	58,863	63,219
Effect of accounting policy change	1.21	-	68
Non-Supply income (CFER)	5	(424)	(809)
Net operating cost		58,439	62,478

### 3.2 Outturn against final Administration Budget

	2010-11		2009-10
	Budget £000	Outturn £000	Outturn £000
Gross Administration Budget	70,786	67,781	76,097
Income allowable against the Administration Budget	(11,201)	(11,201)	(13,963)
<b>Net outturn against final Administration Budget</b>	<b>59,585</b>	<b>56,580</b>	<b>62,134</b>

## 4 Reconciliation of net resource outturn to cash requirement

	Note	Estimate	Outturn	Net total outturn compared with Estimate saving/(excess)
		£000	£000	£000
<b>Resource Outturn</b>	2	64,250	58,863	5,387
<b>Capital:</b>				
Acquisition of non-current assets Investments	14,15	1,298	585	713
<b>Non-operating A-in-A:</b>				
Proceeds of non-current asset disposals		-	-	-

**Accruals adjustments:**

Non-cash items	10	(4,234)	(3,680)	(554)
Changes in working capital other than cash		612	2,748	(2,136)
Changes in payables falling due after more than one year		-	-	-
Excess A-in-A to be surrendered to the Consolidated Fund	5	-	(323)	323
Use of provisions	21	-	910	(910)
<b>Net Cash Requirement</b>		<b>61,926</b>	<b>59,103</b>	<b>2,823</b>

**5 Analysis of income payable to the Consolidated Fund**

In addition to appropriations in aid, the following income relates to the OFT and is payable to the Consolidated Fund (cash receipts being shown in italics):

	Note	Forecast 2010-11		Outturn 2010-11	
		Income £000	Receipts £000	Income £000	Receipts £000
Operating income and receipts – excess A-in-A		-	-	323	<i>123</i>
Other operating income and receipts not classified as A-in-A		-	-	101	<i>101</i>
<b>Sub-total</b>	<b>6</b>	<b>-</b>	<b>-</b>	<b>424</b>	<b><i>224</i></b>
Other amounts collectable on behalf of the Consolidated Fund		-	-	-	-
<b>Total income payable to the Consolidated Fund</b>		<b>-</b>	<b>-</b>	<b>424</b>	<b><i>224</i></b>

**6 Reconciliation of income recorded within the Statement of Comprehensive Net Expenditure to operating income payable to the Consolidated Fund**

	Note	2010-11 £000	2009-10 re-stated £000
Operating income	12	11,625	14,772
Income authorised to be appropriated-in-aid		(11,201)	(13,963)
<b>Operating income payable to the Consolidated Fund</b>	<b>5</b>	<b>424</b>	<b>809</b>

**7 Consolidated Fund Income**

Consolidated Fund income in note 6 above does not include any amounts collected by OFT where it is acting as an agent of the Consolidated Fund rather than as principal. Full details of income collected as agent for the Consolidated Fund are in the department's Trust Statement, published at Chapter 11 to these financial statements on pages 80 to 92.

**8 Non-operating income – excess A-in-A**

The OFT does not have any non-operating income that is in excess of Appropriations-in-Aid.

## 9 Staff numbers and related costs

### 9 (a) Staff costs

Staff costs comprise:

	2010-11			2009-10
	Total	Permanently employed staff	Others	Total
	£000	£000	£000	£000
Wages and salaries	29,991	27,183	2,808	30,362
Social security costs	2,441	2,441	-	2,351
Pension costs	5,346	5,346	-	4,965
<b>Sub-total</b>	<b>37,778</b>	<b>34,970</b>	<b>2,808</b>	<b>37,678</b>
Other staff costs	1,888	1,888	-	883
Less recoveries in respect of outward secondments	(454)	(454)	-	(350)
<b>Total net costs*</b>	<b>39,212</b>	<b>36,404</b>	<b>2,808</b>	<b>38,211</b>

\* Of the total, nil has been charged to capital.

The Principal Civil Service Pension Scheme (PCSPS) is an unfunded multi-employer defined benefit scheme but OFT is unable to identify its share of the underlying assets and liabilities. The Scheme Actuary valued the scheme as at 31 March 2007 and details can be found in the accounts of the Cabinet Office: Civil superannuation ([www.civilservice.gov.uk/my-civil-service/pensions](http://www.civilservice.gov.uk/my-civil-service/pensions))

For 2010 - 11, employer contributions of £5,212,788 were payable to the PCSPS (2009 - 10 restated: £4,835,033) at one of four rates in the range 16.7 per cent to 24.3 per cent of pensionable pay, based on salary bands. The Scheme Actuary reviews employer contributions usually every four years following a full scheme valuation. The contribution rates are set to meet the cost of the benefits accruing during 2010 - 11 to be paid when the member retires and not the benefits paid during this period to existing pensioners.

Employees can opt to open a **partnership** pension account, a stakeholder pension with an employer contribution. Employer's contributions of £123,824 (2009 - 10: £120,903) were paid to one or more of the panel of three appointed stakeholder pension providers. Employer contributions are age-related and range from 3 to 12.5 per cent of pensionable pay. Employers also match employee contributions up to 3 per cent of pensionable pay. In addition, employer contributions of £9,690 (0.8 per cent; 2009 - 10: £8,742, 0.8 per cent) of pensionable pay were payable to the PCSPS to cover the cost of the future provision of lump sum benefits on death in service or ill health retirement of these employees. Contributions due to the partnership pension providers at the balance sheet date were nil (2009 - 10: nil). Employer contributions prepaid at that date were nil (2009 - 10: nil).

## 9 (b) Number of persons employed

The average number of whole-time equivalent persons employed during the year was as follows:

	2010-11			2009-10 restated
	Total	Permanent staff	Others	Total
Competition and Consumer Enforcement and Protection	194	180	14	186
Credit Licensing and Anti-Money Laundering	126	117	9	128
Consumer Direct*	50	42	8	59
Mergers	26	26	-	29
Professional Support **	164	156	8	179
Back Office ***	95	87	8	102
<b>Total</b>	<b>655</b>	<b>608</b>	<b>47</b>	<b>683</b>

\* This includes Enquires and Reporting Centre Staff

\*\* Professional Support includes: legal services, economists, communications and policy.

\*\*\* Back Office includes: finance, human resources, procurement, IT and facilities management.

## 9 (c) Reporting of Civil Service exit packages

Exit package cost band	Total number of exit packages by cost band	
	2010-11	2009-10
< £10,000	4	0
£10,000 - £25,000	9	1
£25,000 - £50,000	13	3
£50,000 - £100,000	9	5
£100,000 - £150,000	4	3
£150,000 - £200,000	2	2

All departures were voluntary exits.

Redundancy and other departure costs have been paid in accordance with the provisions of the Civil Service Compensation Scheme, a statutory scheme made under the Superannuation Act 1972. Exit costs are accounted for in full in the year of departure. Where OFT has agreed early retirements, the additional costs are met by OFT and not by the Civil Service pension scheme. Ill-health retirement costs are met by the pension scheme and would not be included in the table if they occurred. There were no retirements on the grounds of ill-health in 2010 - 11 (2009 - 10: nil).

## 10 Other Administration Costs

	2010-11		2009-10 restated	
	£000	£000	£000	£000
Rentals under operating leases:				
Hire of plant and machinery	64		67	
Other operating leases	3,774		3,878	
		3,838		3,945
Research expenditure		998		1,059
Non-cash items:				
Depreciation of non-current assets -				
Tangible non-current assets (note 14)	2,019		2,088	
Intangible non-current assets (note 15)	134		112	
Released from the donated asset reserve	-		(9)	
Loss on disposal of non-current assets	-		8	
Impairment of non-current assets	784		510	
Auditor's remuneration and expenses	82		71	
Provisions -				
Amounts provided for in year	814		1,123	
Amounts not required written back	(153)		(155)	
Total non-cash costs		3,680		3,748
Other expenditure:				
Consumer Direct Contact Centres	10,570		13,587	
Rates	1,062		1,135	
Utilities	293		527	
Other premises costs	572		632	
Professional services	987		2,200	
Training	714		898	
Publicity and campaigns	728		2,952	
Maintenance	332		515	
Travel and subsistence	342		482	
Recruitment	26		487	
Telecoms	505		434	
IT (including maintenance)	2,969		3,901	
Publications	292		357	
Printing, copying and mailing	203		262	
Other expenditure	458		833	
Provision for impairment of trade receivables	-		-	
Total other expenditure		20,053		29,202
		28,569		37,954

The auditor's remuneration and expenses reflects the notional fee for the NAO statutory audit, which comprises three elements: the accounts audit fee of £68,000 (2009 - 10: £60,000), the audit of the Whole of Government Accounts return £4,000 (2009 - 10: £4,000) and the audit fee for the audit of the Trust Statement (published as an annex to this

document) of £10,000 (the 2009 - 10 fee also included £7,000 for the re-statement to IFRS format). The OFT did not purchase any non-audit services.

## 11 Programme Costs

	2010-11	2009-10
	£000	£000
Litigation costs	2,283	1,085
<b>Total programme expenditure</b>	<b>2,283</b>	<b>1,085</b>

## 12 Income

### 12 (a) Analysis of operating income

	2010-11	2009-10
	£000	re-stated £000
Fees for the administration of the Consumer Credit Act 1974	9,232	10,239
Fees for the administration of Money Laundering Regulations 2007	1,154	1,216
Proceeds of Crime Act income	64	316
Appeal costs reimbursed	36	308
Consumer Direct costs reimbursed	1,016	1,881
Other income	123	812
<b>Total income</b>	<b>11,625</b>	<b>14,772</b>

**Of which, administration income amounts to** 11,625 14,772

#### Payable to the Consolidated Fund:

Excess appropriations-in-aid	323	-
Other income	101	809
<b>Total payable to the Consolidated Fund</b>	<b>424</b>	<b>809</b>

**Total appropriations-in-Aid** 11,201 13,963

In addition to the income shown above, OFT collects fees on behalf of, and pays them over to, the Financial Ombudsman Service (FOS). The amount collected in 2010 - 11 was £1,603,650 (2009 - 10: £1,844,480). OFT is able to retain a small administration charge for each fee collected and this is included in other income in the table above. The amount retained in 2010 - 11 was £53,555 (2009 - 10: £61,485). Income from the Proceeds of Crime Act is an allocation of funds under the Government's Asset Recovery Incentivisation Scheme. Under the scheme, money is normally received by HM Courts Service, as a result of Confiscation Orders, which allow for the seizure and disposal of assets held by criminals. The income collected is then distributed between the Home Office, the Ministry of Justice and the relevant financial investigator and the prosecuting authority (for example, OFT). The money OFT receives is used to further improve enforcement capabilities.

## 12 (b) Fees and charges

The OFT is required, in accordance with HM Treasury's *Managing Public Money*, to disclose results for the areas of its activities where fees and charges were made. The following analysis is not intended to meet the requirements of IFRS 8 – Operating Segments.

2010-11					
	Gross cost	Income	(Surplus)/ shortfall	Actual recovery	Target recovery
	£000	£000	£000	%	%
Consumer Credit Licensing	9,523	9,232	291	96.9	100.0
Anti-Money Laundering	1,143	1,154	(11)	101.0	100.0
2009-10					
	Gross cost	Income	(Surplus)/ shortfall	Actual recovery	Target recovery
	£000	£000	£000	%	%
Consumer Credit Licensing	10,129	10,239	(110)	101.1	100.0
Anti-Money Laundering	1,216	1,216	-	100.0	100.0

In 2010 - 11 income for Consumer Credit Licensing includes an amount of £53,555 (2009 - 10: £61,485) which is the retention of administration charges for the handling of fees on behalf of the Financial Ombudsman Service (see note 12(a)).

Fee levels for Consumer Credit Licensing (CCL) and Anti-Money Laundering (AML) are set to fully recover the cost of the service provided. Minor fluctuations may occur between the target recovery and actual recovery achieved, normally due to timing differences caused by workload scheduling.

## 13 Analysis of Comprehensive Net Expenditure by operating segment

Comprehensive Net Expenditure is analysed by operating segment in accordance with IFRS 8 as follows:

Segment	Expenditure	Income	Net
	£000	£000	£000
CCG/AML	10,666	(10,386)	280
Consumer Direct	18,621	(1,016)	17,605
Mergers	4,996	-	4,996
Competition and Consumer Enforcement and Protection	35,781	-	35,781
Unallocated	-	(223)	(223)
<b>Totals</b>	<b>70,064</b>	<b>(11,625)</b>	<b>58,439</b>

## 14 Property, plant and equipment

### Current year:

	Leasehold Improvements	Information Technology	Furniture and Fittings	Assets under construction	Total
	£000	£000	£000	£000	£000
<b>Cost or valuation:</b>					
At 1 April 2010	3,215	13,432	677	1,974	19,298
Additions	-	463	-	293	756
Disposals	-	(2,643)	(60)	-	(2,703)
Reclassification	-	2,361	-	(2,267)	94
At 31 March 2011	3,215	13,613	617	-	17,445
<b>Depreciation:</b>					
At 1 April 2010	3,215	9,078	627	-	12,920
Charged in year	-	2,001	18	-	2,019
Revaluation	-	-	-	-	-
Disposals	-	(1,917)	(46)	-	(1,963)
At 31 March 2011	3,215	9,162	599	-	12,976
<b>Net book value at 31 March 2011</b>	<b>-</b>	<b>4,451</b>	<b>18</b>	<b>-</b>	<b>4,469</b>
<b>Net book value at 31 March 2010</b>	<b>-</b>	<b>4,354</b>	<b>50</b>	<b>1,974</b>	<b>6,378</b>

### Prior year:

	Leasehold Improvements	Information Technology	Furniture and Fittings	Assets under construction	Total
	£000	£000	£000	£000	£000
<b>Cost or valuation:</b>					
At 1 April 2009	3,236	17,910	2,583	367	24,096
Additions	-	631	-	1,607	2,238
Disposals	(21)	(5,109)	(1,906)	-	(7,036)
At 31 March 2010	3,215	13,432	677	1,974	19,298
<b>Depreciation:</b>					
At 1 April 2009	3,141	12,350	1,886	-	17,377
Charged in year	92	1,700	296	-	2,088
Disposals	(18)	(4,972)	(1,555)	-	(6,545)
At 31 March 2010	3,215	9,078	627	-	12,920
<b>Net book value at 31 March 2010</b>	<b>-</b>	<b>4,354</b>	<b>50</b>	<b>1,974</b>	<b>6,378</b>
<b>Net book value at 31 March 2009</b>	<b>95</b>	<b>5,560</b>	<b>697</b>	<b>367</b>	<b>6,719</b>

## Asset financing

All assets are owned by OFT. The leasehold improvements relate to costs incurred in making alterations to Fleetbank House, which is occupied via an operating lease. A new lease came into force on 29 September 2009, therefore, as this asset related to the previous lease, it was written down to zero during 2009 - 10.

## 15 Intangible Assets

### Current year:

	Software Licences £000	Total £000
<b>Cost or valuation:</b>		
At 1 April 2010	1,310	1,310
Additions	-	-
Disposals	(222)	(222)
Reclassification	(94)	(94)
At 31 March 2011	994	994
<b>Amortisation:</b>		
At 1 April 2010	802	802
Charged in year	134	134
Disposals	(178)	(178)
At 31 March 2011	758	758
<b>Net book value at 31 March 2011</b>	<b>236</b>	<b>236</b>
<b>Net book value at 31 March 2010</b>	<b>508</b>	<b>508</b>

### Prior year:

	Software Licences £000	Total £000
<b>Cost or valuation:</b>		
At 1 April 2009	1,080	1,080
Additions	289	289
Disposals	(59)	(59)
At 31 March 2010	1,310	1,310
<b>Amortisation:</b>		
At 1 April 2009	722	722
Charged in year	112	112
Disposals	(32)	(32)
At 31 March 2010	802	802
<b>Net book value at 31 March 2010</b>	<b>508</b>	<b>508</b>
<b>Net book value at 31 March 2009</b>	<b>358</b>	<b>358</b>

## 16 Impairments

Following a physical audit of all property, plant and equipment a number of discrepancies were found between the records per the asset register and the items actually identified throughout the building. The net

book value of these items was £165,000, which has been charged to the Statement of Comprehensive Net Expenditure. In addition, a review of software licences and packages maintained on the asset register revealed several instances of redundant software and expired licences. A revised process for recording intangible assets is being implemented to avoid a recurrence of this problem. The net book value of these items was £469,000, which has been charged to the Statement of Comprehensive Net Expenditure.

## 17 Financial Instruments

As the cash requirements of the OFT are met through the Estimate process, financial instruments play a more limited role in creating and managing risk than would apply to a non-public sector body of a similar size. The majority of financial instruments relate to contracts for non-financial items in line with the OFT's expected purchase and usage requirements and the OFT is, therefore, exposed to little credit, liquidity or market risk.

## 18 Trade receivables and other current assets

### 18.1 Analysis by type

	2010-11	2009-10 re-stated
<b>Amounts falling due within one year:</b>	<b>£000</b>	<b>£000</b>
Trade receivables	146	479
Deposits and advances	128	114
Other receivables	7	21
VAT	978	1,307
Amounts due from the Consolidated Fund in respect of Supply	1,086	1,287
Prepayments and accrued income	1,790	315
<b>Total</b>	<b>4,135</b>	<b>3,523</b>

### 18.2 Intra-Government balances

	2010-11	2009-10 re-stated
<b>Amounts falling due within one year:</b>	<b>£000</b>	<b>£000</b>
Balances with other central government bodies	2,152	3,053
Balances with local authorities	7	7
Balances with public corporations and trading funds	-	-
<b>Sub-total intra-government balances</b>	<b>2,159</b>	<b>3,060</b>
Balances with bodies external to government	1,976	463
<b>Total</b>	<b>4,135</b>	<b>3,523</b>

## 19.1 Cash and cash equivalents

	2010-11	2009-10 re-stated
	£000	£000
Balance at 1 April	(1,287)	445
Net change in cash balances	201	(1,732)
<b>Balance at 31 March</b>	<b>(1,086)</b>	<b>(1,287)</b>
<b>The following balances at 31 March were held at:</b>		
Office of HM Paymaster General	(1,125)	(1,433)
Cash in hand and locally banked receipts	39	146
<b>Balance at 31 March</b>	<b>(1,086)</b>	<b>(1,287)</b>

The bank balance is shown net of outstanding liabilities for instruments of payment due to be encashed against the Department's bank account.

## 19.2 Reconciliation of Net Cash Requirement to increase/(decrease) in cash

	2010-11
	£000
Net Cash Requirement	(59,106)
From the Consolidated Fund (Supply) – current year	58,020
From the Consolidated Fund (Supply) – prior year	1,287
<b>Increase in cash</b>	<b>201</b>

As this is the first time this table has been produced no comparative figures are provided.

## 20 Trade payables and other current liabilities

### 20.1 Analysis by type

	2010-11	2009-10 re-stated
	£000	£000
<b>Amounts falling due within one year</b>		
Taxation and social security	841	1,091
Trade payables	873	2,439
Other payables	580	1,133
Amounts due to the Consolidated Fund – excess Appropriations-in-Aid	323	-
Accruals and deferred income	5,498	5,064
<b>Total</b>	<b>8,115</b>	<b>9,727</b>

## 20.2 Deferred income

Monies received for which the work had yet to be undertaken at the year end are shown below:

	2010-11	2009-10 re-stated
	£000	£000
Fees for administration of the Consumer Credit Act 1974	249	296
Other income received in advance	-	73
<b>Total deferred income</b>	<b>249</b>	<b>369</b>

These amounts will be recognised as income in the following year when the corresponding work has been carried out

## 20.3 Intra-Government balances

	2010-11	2009-10 re-stated
	£000	£000
<b>Amounts falling due within one year</b>		
Balances with other central government bodies	1,471	1,209
Balances with local authorities	6	48
Balances with public corporations and trading funds	-	-
<b>Sub-total intra-government balances</b>	<b>1,477</b>	<b>1,257</b>
Balances with bodies external to government	6,638	8,470
<b>Total</b>	<b>8,115</b>	<b>9,727</b>

## 21 Provisions for liabilities and charges

	Early Departure Provision	Pension Provision	Total
	£000	£000	£000
Balance at 1 April 2010	1,459	1,755	3,214
Provided in year	741	73	814
Actuarial gain	-	(219)	(219)
Provisions utilised in year	(822)	(88)	(910)
<b>Balance at 31 March 2011</b>	<b>1,378</b>	<b>1,521</b>	<b>2,899</b>

### Analysis of expected timing of cash flows

	Early Departure Provision	Pension Provision	Total
	£000	£000	£000
Not later than one year	406	90	496
Later than one year and not later than five years	855	361	1,216

Later than five years	117	1,070	1,187
<b>Balance at 31 March 2011</b>	<b>1,378</b>	<b>1,521</b>	<b>2,899</b>

### 21 (a) Early Departure Provision

The OFT meets the additional costs of benefits beyond the normal PCSPS benefits in respect of employees who retire early by paying the required amounts annually to the PCSPS over the period between early departure and normal retirement date. The OFT provides for this in full when the early retirement programme becomes binding, by establishing a provision for the estimated payments discounted by the Treasury discount rate of 1.8 per cent in real terms. There were thirteen new early retirees during the year (2009 - 10: nine).

### 21 (b) Pension Provision

The pension provision is unfunded, with benefits being paid as they fall due and guaranteed by OFT for the previous Chairman and Directors General. There is no fund and therefore no surplus or deficit. An actuarial valuation was carried out by the Government Actuary's Department (GAD) at 31 March 2011.

The financial assumptions used in the calculation of the liability as at 31 March 2011 are as follows:

- the gross rate of increase in salaries is 4.90 per cent per annum (2009 - 10: 4.29 per cent per annum)
- the gross rate used to discount scheme liabilities is 5.60 per cent per annum (2009 - 10: 4.60 per cent per annum)
- the gross rate of increase for pensions in payment and deferred pensions is 2.65 per cent per annum, (2009 - 10: 2.75 per cent per annum)
- in nominal terms, these assumptions imply price inflation of 2.65 per cent per annum (2009 - 10: 2.75 per cent per annum)

Other amounts to be disclosed in order to understand the change in provision:

	£000
- Overnight increase in liabilities (change in real return)	-
- Current service cost (net of employee contributions)	-
- Employee contributions	-
- Interest cost	73
- Past service cost	(153)
- Actuarial gain	(66)
	(146)
- Benefits paid	(88)
Decrease in provision	(234)

## 22 Capital commitments

	2010-11	2009-10
	£000	£000
Contracted capital commitments at 31 March 2011 not otherwise included in these financial statements:		
Property, plant and equipment	65	88

## 23 Commitments under leases

### 23.1 Operating leases

	2010-11		2009-10	
	Buildings £000	Other £000	Buildings £000	Other £000
At 31 March 2011 obligations under operating leases for the following periods comprise:				
Not later than one year	3,878	2	3,792	-
Later than one year and not later than five years	16,402	4	16,041	11
Later than five years	34,967	-	39,205	-
<b>Total</b>	<b>55,247</b>	<b>6</b>	<b>59,038</b>	<b>11</b>

### 23.2 Finance leases

The OFT does not have any finance lease commitments.

## 24 Other financial commitments

The department has no non-cancellable contracts (which are not leases or PFI contracts).

### 24.1 Financial Guarantees, Indemnities and Letters of Comfort

The OFT has not entered into any Financial Guarantees and Indemnities, or provided Letters of Comfort. However, on 11 March 2002 the entity then known as the Department for Trade and Industry issued a personal liability indemnity to the OFT Chairman and Board Members. Parliament approved the Minute which gives the Chairman and Board Members of the OFT the equivalent indemnity to that given to civil servants under the Civil Service Management Code. Therefore, the Crown accepted responsibility for the personal civil liabilities, including costs, of the chairman and other Board Members.

## 25 Contingent liabilities disclosed under IAS 37

Where appeals are made against OFT decisions there is a possibility of a transfer of economic benefits to third parties. Other than amounts that are already provided for, any liabilities are too remote and cannot be reasonably quantified.

## 26 Losses and Special Payments

*Managing Public Money* requires a statement showing losses and special payments by value and by type to be shown where they exceed £250,000 in total and those that individually exceed £250,000.

In 2010 - 11 there were no cases in excess of £250,000 (2009 - 10: nil).

### 26.1 Losses statement

There were no reported losses in 2010 - 11 (2009 - 10: nil).

## 26.2 Special payments

	2010-11		2009-10	
	Cases	£000	Cases	£000
Total number of cases	-		6	
<b>Total amount</b>		-		240

## 27 Related-party transactions

The OFT had a small number of transactions with other government departments and other central government bodies. Most of these transactions have been with the Department for Business, Innovation and Skills and the Central Office of Information. None of the Board Members, key managerial staff or other related parties has undertaken any material transactions with the OFT during the year.

## 28 Events after the reporting period

In accordance with the requirements of IAS 10 Events after the Reporting Period, post balance sheet events are considered up to the date on which the accounts are authorised for issue. This is interpreted as the date of the Certificate and Report of the Comptroller and Auditor General. The financial statements do not reflect events after this date.

## 11 TRUST STATEMENT

### Foreword

This is the first Trust Statement OFT has prepared under an Accounts Direction issued by HM Treasury in December 2010. The purpose of the Trust Statement is to report the collection of money on behalf of HM Treasury and the subsequent transfer of that money to the Consolidated Fund.

There are two prime sources of income reported in the Trust Statement: merger fees and penalties imposed under the Competition Act 1998 (CA98). Merger fees are collected in accordance with Article 9 of the Enterprise Act 2002. CA98 penalties are imposed on undertakings where it is found that an agreement has infringed the Chapter I prohibition, or conduct has infringed the Chapter II prohibition, and that infringement has been committed intentionally or negligently.

### Financial penalties

In 2009 - 10 OFT imposed penalties for CA98 infringements on a number of construction companies and recruitment companies involved in the construction industry. Some of these companies paid their penalty while others appealed to the Competition Appeals Tribunal (CAT). The appeals were heard during 2010 and the CAT handed down its judgments in March and April 2011. For those handed down in March 2011 the penalties have been recognised in this Trust Statement as 2010 - 11 income.

Penalties were also imposed on two tobacco firms and ten retailers for unlawful practices relating to tobacco retail pricing. Again, several companies paid their penalty and others have appealed.

A penalty was also imposed on Royal Bank of Scotland (RBS) for engaging in anti-competitive practices in conjunction with Barclays Bank. RBS paid the penalty during the year, but Barclays Bank brought the infringement to the OFT's attention and, under the OFT's leniency policy, was not fined.

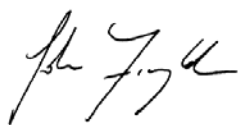
### Mergers

During the year 77 merger cases were reviewed, with eight being referred to the Competition Commission for further investigation. Merger fees are set at three rates, the amount payable being determined by the UK turnover of the business being acquired.

Further details of activities related to CA98 and Mergers can be found in the OFT's Annual Report.

### Auditors

These financial statements are audited by the Comptroller and Auditor General. As far as the Accounting Officer is aware, there is no relevant audit information of which the National Audit Office is unaware, and the Accounting Officer has taken all the steps that he ought to have taken to make himself aware of any relevant audit information and to establish that the auditors are aware of that information.



**John Fingleton**

Chief Executive and Accounting Officer

23 June 2011

### **Statement of the Principal Accounting Officer's Responsibilities**

Under section 7 (2) of the Government Resources and Accounts Act 2000, HM Treasury has directed the Office of Fair Trading (OFT) to prepare for each financial year a Trust Statement in the form and on the basis set out in the Accounts Direction.

HM Treasury has appointed the Chief Executive as Accounting Officer of OFT with overall responsibility for preparing the Trust Statement and for transmitting it to the Comptroller and Auditor General

The responsibilities of an Accounting Officer, including responsibility for the propriety and regularity of the public finances for which an Accounting Officer is answerable, for keeping proper records and for safeguarding OFT's assets, are set out in the Accounting Officers' Memorandum issued by HM Treasury and published in *Managing Public Money*.

The Trust Statement is prepared on an accruals basis and must give a true and fair view of the state of affairs of fees levied and penalties imposed by OFT, together with the net amount surrendered to the Consolidated Fund.

In preparing the Trust Statement, the Accounting Officer is required to comply with the requirements of the Government Financial Reporting Manual prepared by the Treasury and, in particular, to:

- observe the Accounts Direction issued by HM Treasury, including the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis
- make judgements and estimates on a reasonable basis
- state whether applicable accounting standards, as set out in the Government Financial Reporting Manual have been followed, and disclose and explain any material departures in the account
- prepare the Trust Statement on a going concern basis

### **Statement on Internal Control**

The OFT's Statement on Internal Control, covering both the Resource Accounts and the Trust Statement, is shown on pages 50 to 53.

## **The Certificate and Report of the Comptroller and Auditor General to the House of Commons**

I certify that I have audited the Office of Fair Trading's Trust Statement for the year ended 31 March 2011 under the Government Resources and Accounts Act 2000. The Trust Statement comprises the Statement of Revenue, Other Income and Expenditure, the Statement of Financial Position, the Statement of Cash Flows and the related notes. The Trust Statement has been prepared under the accounting policies set out within the notes to the Statement.

### **Respective responsibilities of the Principal Accounting Officer and auditor**

As explained more fully in the Statement of the Principal Accounting Officer's Responsibilities in respect of the Trust Statement, the Accounting Officer is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. My responsibility is to audit, certify and report on the financial statements in accordance with the Government Resources and Accounts Act 2000. I conducted my audit in accordance with International Standards on Auditing (UK and Ireland). Those standards require me and my staff to comply with the Auditing Practices Board's Ethical Standards for Auditors.

### **Scope of the audit of the Trust Statement**

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the circumstances of the Trust Statement and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Department; and the overall presentation of the financial statements. In addition I read all the financial and non-financial information in the Annual Report to identify material inconsistencies with the audited financial statements. If I become aware of any apparent material misstatements or inconsistencies I consider the implications for my certificate.

In addition, I am required to obtain evidence sufficient to give reasonable assurance that the revenue and expenditure reported in the financial statements have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

### **Opinion on Regularity**

In my opinion, in all material respects the revenue and expenditure have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

### **Opinion on Financial Statements**

In my opinion:

- the financial statements give a true and fair view of the state of affairs relating to the collection of fees and penalties imposed by the Office of Fair Trading as at 31 March 2011 and of its net revenue for the year then ended; and
- the financial statements have been properly prepared in accordance with the Government Resources and Accounts Act 2000 and HM Treasury directions issued thereunder.

### **Opinion on other matters**

In my opinion, the information given in the Accounting Officer's Foreword to the Trust Statement for the financial year in which the financial statements are prepared is consistent with the financial statements.

### **Matters on which I report by exception**

I have nothing to report in respect of the following matters which I report to you if, in my opinion:

- adequate accounting records have not been kept, or
- the financial statements are not in agreement with the accounting records or returns, or
- I have not received all of the information and explanations I require for my audit, or
- the Statement on Internal Control does not reflect compliance with HM Treasury's guidance

### **Report**

I have no observations to make on these financial statements.

### **Amyas C E Morse**

Comptroller and Auditor General  
National Audit Office  
157-197 Buckingham Palace Road  
Victoria  
London  
SW1W 9SP  
27 June 2011

## Statement of Revenue, Other Income and Expenditure

for the year ended 31 March 2011

	2010-11	2009-10
		re-stated
	Note	
	£000	£000
<b>INCOME:</b>		
<b>Fines and penalties:</b>		
Penalties imposed under the Competition Act 1998	100,483	51,901
<b>Other income:</b>		
Fees received under the Enterprise Act 2002	2,895	2,070
<b>TOTAL REVENUE FOR THE YEAR</b>	<b>103,378</b>	<b>53,971</b>
<b>EXPENDITURE:</b>		
Debts written off or otherwise impaired	7,473	3,886
<b>Net revenue for the Consolidated Fund</b>	<b>95,905</b>	<b>50,085</b>

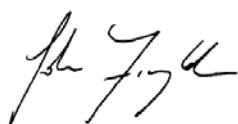
There were no recognised gains or losses accounted for outside the above Statement of Revenue. All operations are continuing.

The notes on pages 87 to 92 form part of these accounts.

## Statement of Financial Position

as at 31 March 2011

		31 March 2011	31 March 2010	31 March 2009
	Note	£000	£000	£000
Receivables falling due after more than one year	2.1	2,427	9,784	-
<b>Current assets:</b>				
Receivables	2.2	12,553	6,034	87
Accrued fees and penalties	2.2	300	465	105
Cash at bank and in hand	3	2,481	460	447
<b>Total current assets</b>		<b>15,334</b>	<b>6,959</b>	<b>639</b>
<b>Current liabilities:</b>				
Payables	4	(150)	-	-
<b>Total current liabilities</b>		<b>(150)</b>	<b>-</b>	<b>-</b>
<b>Total assets less current liabilities</b>		<b>17,611</b>	<b>16,743</b>	<b>639</b>
<b>Represented by:</b>				
Balance on Consolidated Fund Account	5	<b>17,611</b>	<b>16,743</b>	<b>639</b>



**John Fingleton**

Chief Executive and Accounting Officer

23 June 2010

The notes on pages 87 to 92 form part of these accounts.

## Statement of Cash Flows

for the year ended 31 March 2011

		2010-11	2009-10
	Note	£000	£000
Net cash flow from operating activities	A below	(97,058)	(33,994)
Amounts paid to the Consolidated Fund	5	95,037	33,981
<b>Increase in cash in the period</b>		<b>2,021</b>	<b>13</b>

### Note to the Cash Flow Statement

#### A: Reconciliation of Net Cash flow to Movement in Net Funds

Net revenue for the Consolidated Fund	(95,905)	(50,085)
(Decrease) / Increase in non-cash assets	(1,003)	16,091
Increase in current liabilities	(150)	-
<b>Net cash flow from operating activities</b>	<b>(97,058)</b>	<b>(33,994)</b>

#### B: Analysis of Changes in Net Funds

Increase in cash in the period	2,021	13
Net funds at 1 April (Net cash at bank)	460	447
<b>Net funds at 31 March (Closing balance)</b>	<b>2,481</b>	<b>460</b>

The notes on pages 87 to 92 form part of these accounts.

## Notes to the Trust Statement

### 1 Statement of accounting policies

#### 1.1 Basis of accounting

The Trust Statement is prepared in accordance with the accounts direction issued by HM Treasury under section 7 of the Government Resource and Accounts Act 2000 and the accounting policies detailed below. The policies have been developed with reference to International Financial Reporting Standards (IFRS) as adapted or interpreted for the public sector, and other relevant guidance. They have been applied consistently in dealing with items that are considered material to the accounts.

The income contained in the Trust Statement is that flow of funds which OFT handles on behalf of the Consolidated Fund and where it is acting as agent rather than principal.

The financial information contained in the statements is rounded to the nearest £000.

#### 1.2 Accounting convention

The Trust Statement has been prepared in accordance with the historic cost convention.

#### 1.3 Revenue recognition

Fees and penalties are measured in accordance with IAS 18. They are measured at the fair value of amounts received or receivable net of repayments.

For merger fees, if an anticipated merger is notified by way of a statutory merger notice the fee is recognised when the OFT has investigated the intended merger and issued its decision. Until then it is treated as deferred income, as the fee will be refundable if the merger does not meet the required criteria. In all other merger cases income is recognised when the decision is reached and accrued where necessary.

For CA98 penalties, revenue is recognised when a penalty is validly imposed and an obligation to pay arises. When a penalty is imposed the entity concerned is given two calendar months in which to appeal the decision if it chooses. Where no appeal is lodged or when the period for appeal has expired, the full value of the penalty is recognised as a valid debt. Where an appeal is lodged recognition of the debt does not occur until the appeal process has been completed.

#### 1.4 Impairment of receivables

A review is made annually of all outstanding CA98 Penalties receivables, to determine recoverability and a provision is set up in the event that recovery of the receivable is in doubt. The provision serves to reduce the receivable in the Statement of Financial Position, but also reduces the Balance on Consolidated Fund Account. The creation of this provision and any subsequent movement, or any write-offs which have not been previously provided for, register in the Statement of Income and Expenditure.

If a party has been offered the option to pay their penalty by instalments and subsequently defaults on their payments for any reason, for example if they enter Administration, every step is taken to pursue the debt. However, an impairment provision is created for any outstanding balance and maintained until such time as the recovery process has been completed, at which time any unused provision is released. This also applies where a penalty is imposed on a party that has already entered Administration, or does so before payment of the penalty can be made.

#### 1.5 Receivables

Receivables are shown net of impairments in accordance with the requirements of IAS 39.

#### 1.6 Value Added Tax (VAT)

Merger fees and CA98 Penalties are outside the scope of VAT.

## 2 Receivables

### 2.1 Non-current receivables

	2010-11	2009-10	2008-09
<b>Amounts falling due after one year:</b>	<b>£000</b>	<b>£000</b>	<b>£000</b>
Competition Act 1998 penalties	2,427	9,784	-
<b>Total</b>	<b>2,427</b>	<b>9,784</b>	<b>-</b>

### 2.2 Current receivables

	2010-11	2009-10	2008-09
<b>Amounts falling due within one year:</b>	<b>£000</b>	<b>£000</b>	<b>£000</b>
Competition Act 1998 penalties	23,908	9,916	87
Less provision for impairment	(11,355)	(3,882)	-
Net Competition Act 1998 penalties	12,553	6,034	87
Accrued income – merger fees	300	465	105
<b>Total</b>	<b>12,853</b>	<b>6,499</b>	<b>192</b>

In certain circumstances parties that have been penalised under CA98 are offered the option to pay their penalty over an extended period. This creates both current and long-term receivables.

## 3 Cash at bank and in hand

	2010-11	2009-10	2008-09
	<b>£000</b>	<b>£000</b>	<b>£000</b>
Balance held at Citibank at 1 April	460	346	529
Net change in cash balances	2,021	114	(82)
Balance held at Citibank at 31 March	<b>2,481</b>	<b>460</b>	<b>447</b>

## 4 Current payables

	2010-11	2009-10	2008-09
	<b>£000</b>	<b>£000</b>	<b>£000</b>
Deferred income	150	-	-
<b>Total current payables</b>	<b>150</b>	<b>-</b>	<b>-</b>

## 5 Balance on the Consolidated Fund Account

	2010-11	2009-10
	£000	£000
Balance on Consolidated Fund Account as at 1 April	16,743	639
Net revenue for the Consolidated Fund	95,905	50,085
Less amount paid to the Consolidated Fund	(95,037)	(33,981)
<b>Balance on Consolidated Fund Account as at 31 March</b>	<b>17,611</b>	<b>16,743</b>

## 6 Events after the reporting period

In accordance with the requirements of IAS 10 Events after the Reporting Period, post balance sheet events are considered up to the date on which the accounts are authorised for issue. This is interpreted as the date of the Certificate and Report of the Comptroller and Auditor General. The financial statements do not reflect events after this date.

A number of parties to the Construction and Construction Recruitment Forum cases appealed the decision against them, issued in 2009 - 10. These parties had their appeals heard by the Competition Appeals Tribunal (CAT) and the CAT announced its judgments on the appeals during March and April 2011. The OFT has confirmed it will not be appealing the judgments. As a result, the revised penalties imposed by the CAT on appeals resolved in March 2011 have been recognised in this Trust Statement. The remaining penalties will be recognised in the Trust Statement for 2011 - 12.

## ACCOUNTS DIRECTION GIVEN BY HM TREASURY IN ACCORDANCE WITH SECTION 7(2) OF THE GOVERNMENT RESOURCES AND ACCOUNTS ACT 2000

1. This direction applies to those government departments listed in appendix 2.
2. The Department shall prepare a Trust Statement ('the Statement') for the financial year ended 31 March 2011 for the revenue and other income collected by the department as an agent for others, in compliance with the accounting principles and disclosure requirements of the edition of the Government Financial Reporting Manual by HM Treasury ('FReM') which is in force for 2010 - 11.
3. The Statement shall be prepared, as prescribed in appendix 1, so as to give a true and fair view of (a) the state of affairs relating to the collection and allocation of taxes, licence fees, fines and penalties by the Department as agent and of the expenses incurred in the collection of those taxes, licence fees, fines and penalties insofar as they can properly be met from that revenue and other income, (b) the revenue and expenditure, and (c) the cash flows for the year then ended.
4. The statement shall also be prepared so as to provide disclosure of any material expenditure or income that has not been applied to the purposes intended by Parliament or material transactions that have not conformed to the authorities which govern them.
5. When preparing the Statement, the Department shall comply with the guidance given in the FReM (Chapter 13). The Department shall also agree with HM Treasury the format of the Principal Accounting Officer's Foreword to the Statement, and the supporting notes, and the accounting policies to be adopted, particularly in relation to revenue recognition. Regard shall also be given to all relevant accounting and disclosure requirements in Managing Public Money and other guidance issued by HM Treasury, and to the principles underlying International Financial Reporting Standards.
6. Compliance with the requirements of the FReM will, in all but exceptional circumstances, be necessary for the accounts to give a true and fair view. If, in these exceptional circumstances, compliance with the requirements of the FReM is inconsistent with the requirement to give a true and fair view, the requirements of the FReM should be departed from only to the extent necessary to give a true and fair view. In such cases, informed and unbiased judgement should be used to devise an appropriate alternative treatment which should be consistent with both the economic characteristics of the circumstances concerned and the spirit of the FReM. Any material departure from the FReM should be discussed in the first instance with HM Treasury.
7. The Statement shall be transmitted to the Comptroller and Auditor General for the purpose of his examination and report by a date agreed with the Comptroller and Auditor General and HM Treasury to ensure compliance with the administrative deadline for laying the audited accounts before Parliament before the Summer Recess.
8. The Trust Statement, together with this direction (but with the exception of the related appendices) and the Report produced by the Comptroller and Auditor General under section 7(2) of the Government Resources and Accounts Act 2000 shall be laid before Parliament at the same time as the Department's Resource Accounts for the year unless the Treasury have agreed that the Trust Statement may be laid at a later date.

Chris Wobschall  
Head, Assurance and Financial Reporting Policy  
HM Treasury  
22 December 2010

## Appendix 1

Trust Statement for the year ended 31 March 2011

1. The Trust Statement shall include:

- a Foreword by the Principal Accounting Officer
- a Statement of the Principal Accounting Officer's Responsibilities
- a Statement on Internal Control
- a Statement of Revenue and Expenditure
- a Statement of Financial Position
- a Cash Flow Statement
- such notes as may be necessary to present a true and fair view

2. The Notes shall include among other items:

- the accounting policies, including the policy for revenue recognition and estimation techniques and forecasting techniques together with statements explaining any significant uncertainty surrounding estimates and forecasts
- a breakdown of material items within the accounts
- any assets, including intangible assets and contingent liabilities
- summaries of losses, write-offs and remissions
- post balance sheet events
- any other notes agreed with HM Treasury and the National Audit Office

## Appendix 2

No	Sponsoring Department	Income stream	Responsible Entity
01	DCLG	National Non- Domestic Rates	DCLG
02	DECC	Petroleum licenses	DECC
03	Office of Fair Trading	Competition Act penalties	OFT
04	Ofgem	Fossil Fuel Levy Fines and penalties	OFGEM
05	Water Services Regulatory Authority	Fines and penalties	OFWAT
06	DWP	Financial Assistance Scheme	DWP