

Market studies: Guidance on the OFT approach

Consultation paper

December 2003

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ENTERPRISE ACT - Public consultation on market studies guidance

The Office of Fair Trading (OFT) is conducting a public consultation on the guidance it intends to publish about the OFT's approach to carrying out market studies. A copy of the proposed guidance is attached. This can also be found on the OFT's website, www.oft.gov.uk.

The OFT has been carrying out market studies in their present form for two years. Following the commencement of relevant provisions of the Enterprise Act 2002 in June 2003 and experience gathered during the market studies already carried out, we think it is an opportune time to consult on the approach followed in selecting and carrying out market studies, and to publish guidance on market studies to provide further transparency and clarity for business, consumers and affected organisations. Information on market studies already completed or in hand can be found on the OFT website.

In addition to this consultation we are also commissioning an independent review of the approach used in market studies carried out to date; information received from this review will also feed into the final guidance publication.

We are keen to hear from all those who may have an interest in market studies. In your comments you might like to consider the following questions:

Consultation questions

1. Do you agree with the OFT's approach to market studies?
2. Do you find the guidance clear? If not what would help to make it clearer?
3. Is there anything within the guidance that you would change, what would that be and why would you change it?
4. Is there anything missing from the guidance? If so please explain what you think is missing and why it should be included.
5. Do you have any further comments on the OFT's approach to market studies?

Timing and how to respond

The consultation period began on 11 December 2003 and will run until 4 March 2004.

When responding, please state whether you are responding as an individual or representing the views of a larger organisation. If responding on behalf of an organisation, please make it clear who the organisation represents.

A list of those consulted is attached at annexe C. If you have suggestions of others who may wish to be involved in this process please contact us.

We will be taking queries by phone, but any suggested changes or comments should be submitted in writing (by letter or email as indicated below). We will reply to all written submissions or queries.

All responses and comments should be sent to:

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We hope that you will be able to assist.

Data use statement for responses:

Responses may be used in the performance of OFT's functions. In addition, responses may be made public in the course of this consultation in a summary of responses unless you tell us that you do not agree to this. If you are replying by email, these provisions override any standard confidentiality disclaimer that is generated by your organisation's IT system

SUMMARY

This booklet is designed to provide guidance to companies and their advisers and other interested parties on the procedures that the OFT will normally follow when selecting markets for study and in performing such studies. The OFT has published separate guidance on market investigation references and super-complaints, which may also be of interest.

This booklet is not intended to be comprehensive in that it cannot cover every possible set of circumstances. It aims to set out the general principles and framework of operation of the OFT so that firms which have an interest in markets that are being studied, or considered for study, and other stakeholders, including consumer bodies and Government will be aware of the broad processes that will be followed.

This guidance on procedures covers a range of topics and should not be regarded as a legal authority. While the booklet does set out certain legal requirements that must be adhered to, many of the processes are not subject to detailed regulations: our approach here is to be proportionate and, wherever possible, open. Where the law provides flexibility, the OFT reserves the right to depart from the general principles set out in this guidance. The OFT may also revise and reissue this guidance in the light of experience and other developments in law and practice.

Contents

<i>Chapter</i>	<i>Page</i>
1. Why does the OFT study markets?	1
2. How does the OFT choose markets to study?	5
3. Types of market study	10
 <i>Annexe</i>	
A Form for suggesting markets for the OFT to study	20
B Criteria for consultations by public bodies	22
C List of consultees	23

1 WHY DOES THE OFT STUDY MARKETS?

- 1.1 The OFT aims to make markets work well for consumers¹. We achieve this by promoting and protecting consumer interests throughout the UK, while ensuring that businesses are fair and competitive.
- 1.2 In the White Paper 'Productivity and Enterprise, a world class competition regime'², the Government stated its wish for competition authorities to take on a high profile advocacy role, both by advising on the impact of the Government's own laws and regulations on competition; and acting more widely to promote competition in the economy in a variety of ways. The Government saw strong competition contributing to productivity, innovation and economic growth – hence to long-run economic benefits as well as to more immediate and direct consumer benefits.
- 1.3 Market studies were introduced by the OFT³ as a means of identifying and addressing all aspects of market failure from competition issues to consumer detriment and the effect of Government regulations. As well as looking at particular economic markets, the studies may also relate to practices across a range of goods and services, e.g. doorstep selling. The term 'market studies' is therefore not limited to markets in the economic sense.
- 1.4 When working effectively, competition involves a process of rivalry between firms who strive to win business by achieving the lowest level of costs and prices, developing new products or services or exploiting their strengths, skills and other advantages to meet customer needs more effectively than competitors.

¹ This aim is published in the OFT's Annual Plan and on our website at www.offt.gov.uk/About/default.htm

² Cm 5233, DTI, July 2001

³ While sector regulators can receive Super-complaints and make Market Investigation References (and guidance on those subjects therefore applies also to them) they are not expected to undertake Market Studies in quite the same way as the OFT. That is because they have responsibility for specific sectors and will be monitoring markets in their sectors on an ongoing basis. Hence this market studies guidance applies only to the OFT.

This process is good for consumers and firms alike. Competition encourages innovation and diversity of offerings. It also gives a strong incentive for firms to compete on price and quality of customer service. When competition does not work effectively consumers can suffer.

- 1.5 Consumers can also suffer as a result of commercial misconduct such as misleading advertisements, can be disadvantaged by complicated contracts, or can make poor decisions when not given clear information. They can also suffer when products are mis-sold. Consumer protection legislation, which OFT and Trading Standards Departments enforce, covers these, and other issues.
- 1.6 Government regulations can adversely impact on markets and distort or restrict competition by, for example, creating unnecessary barriers to entry. They can have unintended consequences and affect market structures and dynamics, thereby holding back innovation and progress. OFT's role to advise Government on the effects of regulation is a key difference between market studies and other OFT work. It is given force by the Government's commitment to respond publicly to OFT advice within 90 days of the OFT report.
- 1.7 Market studies will usually be performed under Section 5 of the Enterprise Act 2002 in order to identify whether perceived problems should be addressed through OFT's other functions. There is a range of possible outcomes of a study including:
 - giving the market a clean bill of health (i.e. a decision that intervention is not appropriate on the evidence available)
 - publishing information to help consumers
 - encouraging firms to take voluntary action
 - encouraging a consumer code of practice
 - making recommendations to Government or regulators

- investigation, or enforcement action against companies or individuals suspected of breaching consumer law or competition law⁴
 - a market investigation reference⁵ to the Competition Commission
- 1.8 These outcomes are listed broadly in order of the degree of intervention required in the market. The OFT will wish to intervene at the level that it considers most appropriate to the nature of the problem. The legal basis, and nature of each of these outcomes will be explained in this guidance.
- 1.9 Market studies should not be confused with the market investigations carried out by the Competition Commission. The OFT is able to make a market investigation reference to the Competition Commission when it suspects that a feature or combination of features of a market prevents, restricts or distorts competition⁶. If a reference is made, the Competition Commission will conduct a detailed public investigation and reach its own conclusions about the market concerned. The Competition Commission has the power to impose remedies which go beyond the outcomes available from an OFT market study. Further details are available in the OFT's and Competition Commission's published guidance⁷.
- 1.10 Most OFT market studies can be classified as:
- Short studies (often fact-finding)
 - Full studies

The following diagram gives an overview of the linkages between these studies, preliminary reviews (to select studies) and Competition Commission references.

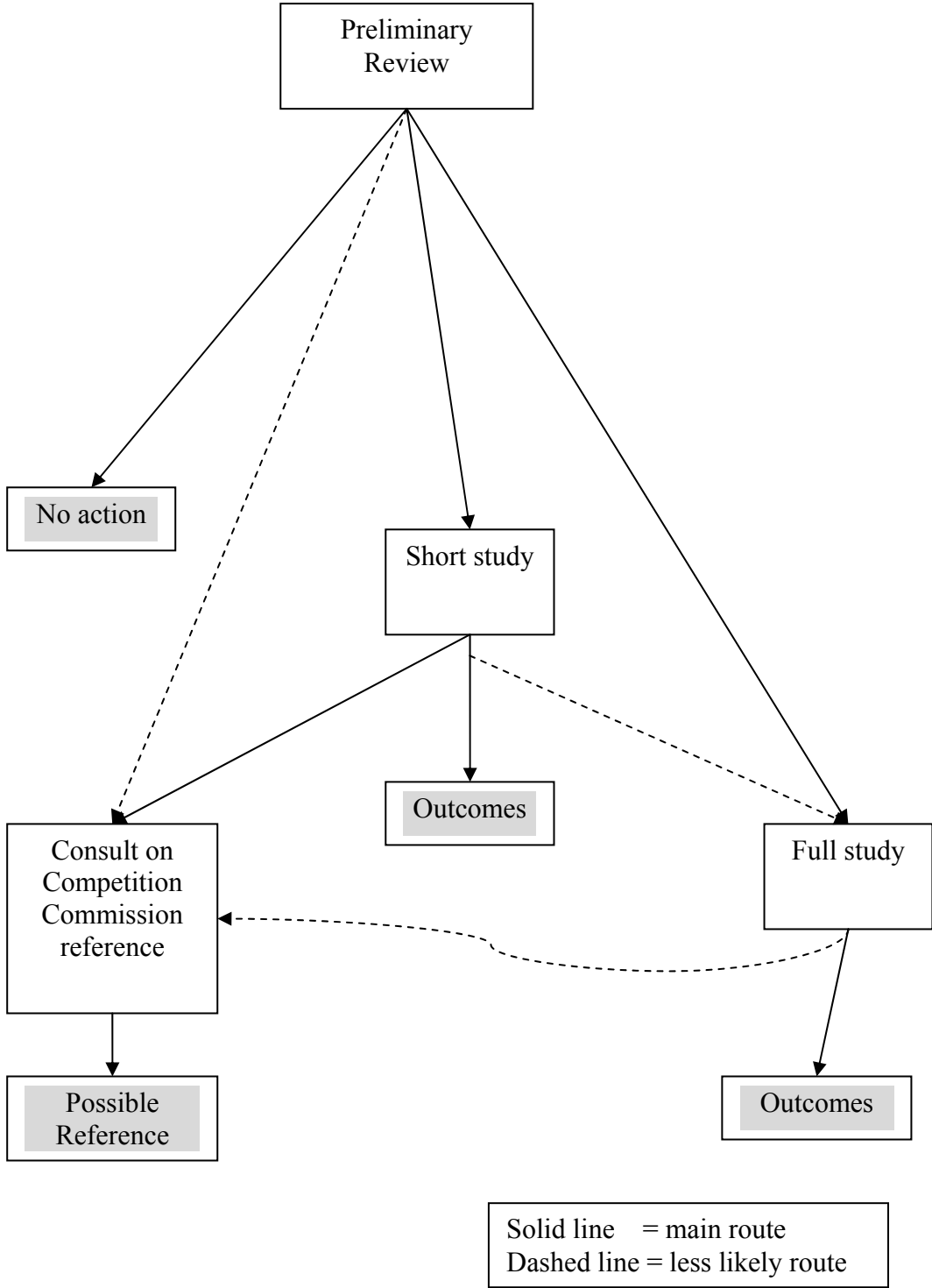
⁴ In this guidance we use the term 'competition law' to refer to the Competition Act 1998, Articles 81 and 82 of the EC Treaty and the criminal cartel offence under the Enterprise Act 2002.

⁵ The OFT may also accept undertakings in lieu of making a reference.

⁶ OFT published a guidance document on market investigation references in March 2003, product code OFT511. It is also available on the OFT web site.

⁷ Available at www.competition-commission.org.uk/rep_pub/rules_and_guide/index.htm

**Market studies
Process diagram**



2 HOW DOES THE OFT CHOOSE MARKETS TO STUDY?

Sources of candidates for studies

- 2.1 The OFT makes use of a wide range of sources to identify possible candidates for market studies. These may include the following:
- information acquired in the course of its own competition or consumer enforcement work;
 - evidence from enquiries and complaints to the OFT;
 - suggestions from other interested parties, such as businesses, trade associations or consumer groups;
 - suggestions made by other Government departments, trading standards departments, and regulatory bodies;
 - internal OFT research.
- 2.2 Market studies may also be launched in response to super-complaints by designated consumer bodies⁸.
- 2.3 Ideas may be generated through research work. In particular, the OFT has commissioned work aimed at examining the possible use of quantitative data (for example on concentration ratios, price changes, profitability, and productivity) to identify markets which might not be working well, and would thus be suitable candidates for study.
- 2.4 If it is more appropriate to remedy problems using the OFT's enforcement powers such action will be taken; however a market study approach may be adopted where, for example, the problems

⁸ see publication: OFT514 Super-complaints: guidance for designated consumer bodies

identified are industry-wide practices, or for some reason are not susceptible to enforcement action.

Selecting markets for review

2.5 From the list of ideas produced from these sources, the OFT will select those which appear to be the best candidates for study, and conduct a preliminary review into them. This initial selection will take into account factors such as the following:

- the scale and significance of the possible problems/ consumer detriment in the market, or significance to productivity and economic growth;
- the prospects of obtaining evidence and – should a study subsequently be launched – of identifying remedies;
- whether the likely benefits from a study would justify the possible cost and disruption to business;
- whether the OFT is the most appropriate body to undertake the study;
- whether a study is preferable to enforcement action.

2.6 At this stage, however, depending on the source of the idea, it is recognised that information on these questions may be limited. The nature of the initial selection for review is therefore of necessity relatively unsophisticated, and a high proportion of candidate areas which are selected for a preliminary review will not proceed to a market study.

Preliminary reviews

2.7 Preliminary reviews typically take about one month to complete, although this will depend on such factors as the complexity of the market involved, and the number of markets being considered at

any one time. Because of their preliminary nature, such reviews are not normally in the public domain, and the OFT will not normally contact external parties such as suppliers and customers in the market concerned. Rather, use will be made of publicly available information (such as company reports and websites, and market research reports), and knowledge of the market held within the OFT; the OFT may contact other Government departments, regulators and enforcement bodies. In particular it will contact relevant Government departments and devolved administrations where there are concerns about regulations distorting the workings of markets.

2.8 The kind of information to be collected is likely to vary according to the nature of the concerns which have given rise to the preliminary review, but will typically include the following:

- the value of the market, and profitability data;
- details of the firms operating in the market;
- the types of products and services offered and their prices;
- information on market entry and exit;
- the type of customers served;
- regulation affecting the market;
- other public sector involvement, particularly where there are multiple roles as purchaser, supplier, regulator, or related statutory functions;
- details of stakeholders, e.g. Government departments, trade bodies, consumer bodies with an interest;
- complaints of trading malpractices or anti-competitive conduct, and information on any enforcement action which has previously been considered or carried out.

2.9 Where appropriate, we will adopt a preliminary view of how the market might be defined on the basis of this information and an assessment will be carried out to determine whether there are grounds to believe that the market may not be working well. In particular, the OFT will take into account available evidence on any or all of the following issues:

- whether the market is highly concentrated - i.e. a small number of firms have a high combined market share
- whether market shares are static – i.e. there has been little change in market share over several trading periods
- whether there are high costs, or other barriers associated with market entry or market exit
- whether consumers would incur significant penalties (or whether there are significant other costs) associated with changing their suppliers for the goods or services concerned
- whether it is easy or difficult for consumers to gain the information they need about alternative suppliers
- whether consumers are at a disadvantage because markets operate using technical information, or terms of trade that are not transparent
- whether there has been a lack of innovation in the market
- the degree of variation in pricing in the market
- the degree of consistency, and stability in market prices
- whether gross profit margins appear high, or productivity appears low

2.10 Where information is available, comparisons may be drawn with similar markets in other countries.

- 2.11 The assessment will seek to establish the scale of any problem identified, taking into account factors such as the strength of the evidence described above, the size of the market, the number of consumers affected and the extent of the detriment to them, the level of complaints, and the level of concern expressed by third parties such as consumer bodies, business organisations and other sources.
- 2.12 The assessment will also reconsider the criteria listed in the previous section (scale and significance of the problem, whether the likely benefits outweigh the cost, prospect of obtaining evidence and finding remedies, whether OFT is the most appropriate body, and whether a market study is preferable to enforcement action) in the light of the further information gathered during the preliminary review.

The decision to launch a study

- 2.13 On the basis of the assessment made, OFT officials may determine that no further action would be warranted and the case will be closed. Where, on the other hand, significant issues do appear to arise, a short or full market study may be launched, and where appropriate, interested parties informed of the decision.
- 2.14 A decision to launch a short study will usually be made by the Director of the OFT's Markets and Policy Initiatives Division. Decisions to launch full studies will be made by the OFT Board.
- 2.15 Where possible, studies will be launched as soon as the necessary preparatory work can be carried out, within a week or two of the decision. In the event that more than one study has been approved and is waiting to be launched, studies will be prioritised on the basis of the assessment of the scale of the problem. The type of problem may also be a factor in any prioritisation, given the commitment in the OFT's Annual Plan to maintain a balanced portfolio of market studies as between those addressing consumer issues, business to business issues, and the impact of regulations on markets.

3 TYPES OF MARKET STUDY

Short or full study?

3.1 Most market studies can be categorised as either 'short' or 'full' market studies. The OFT aims to complete short studies in around three months, while full studies may take around a year. The decision whether to conduct a short or full study will take into account factors such as the following:

- the nature of the market in question;
- the breadth and complexity of the issues to be considered;
- the amount of information already available;
- the scale of the consultation and research (including external consultancy) to be conducted

3.2 The potential outcome of the study will also be a factor. In particular, a short study is more likely if it can be anticipated that – were the criteria to be met - a market investigation reference to the Competition Commission would be made.

3.3 A short study is also likely to be considered appropriate where a preliminary review has been unable to obtain enough information to determine what further action, if any, might be called for but where problems are still suspected. In such cases the study will be essentially fact-finding in nature. It is possible that a short study of this type will lead to a conclusion that a further, full, study should be conducted. In such cases the availability of the information gathered during the short study should mean that the subsequent full study should require less than a further year to complete.

Procedures

- 3.4 All studies will usually be announced at the outset with a press release. If the announcement could be market sensitive it will be made to the Stock Exchange through the Regulatory News Service (RNS). The OFT will usually publish an 'issues statement' which indicates the scope of the study and the particular points that interested parties are asked to address. The OFT may wish to examine particular issues in more detail, or may wish to consider related issues that emerged during the preliminary review but which could not be pursued in that context.
- 3.5 Early in the course of a study the OFT will write to all stakeholders who are associated with the market to seek factual information and views. The OFT will usually send detailed questionnaires to interested parties to gain a full understanding of how the particular markets work and to shed light on the issues raised and how concerns might be addressed. There will usually be a specified timetable for a reply, adherence to which will be highly desirable if the study is to be completed on time and to reach reliable conclusions.
- 3.6 The OFT may also conduct meetings, structured interviews and telephone surveys. In consumer markets the OFT may commission 'mystery shopping' exercises to gauge the way the market works in practice.
- 3.7 The OFT may commission specific research from consultants who will be selected by a competitive tender process. In selecting potential bidders, as well as in selecting contractors, the OFT will have regard to potential conflicts of interest. It will wish to ensure that contractors are able to demonstrate the capability to handle commercially sensitive information in accordance with the provisions of the Official Secrets Act 1989, Data Protection Act 1998 and Enterprise Act 2002.

3.8 The OFT will usually aim to reach conclusions for short studies in three months, and for full studies within one year, but the exact timing will depend on a number of factors. The process of a study may reveal new issues which require scrutiny, or contractors may be late in delivering key pieces of research for example. The OFT will aim to keep key stakeholders informed on timing issues.

Publication of reports

3.9 The OFT will publish a report of its findings in both a short and full study. If the sole outcome of a study is a market investigation reference the report will take the form of the reference document and the reasons for making a reference.

3.10 Members of the OFT project team may approach those who have given evidence to discuss the excision of potentially sensitive information⁹ prior to publication.

Legal basis for gathering information and publishing reports or decisions

3.11 The OFT will indicate the legal basis of any request it makes for information. Requests will usually be made under section 5(1) of the Enterprise Act 2002. This states that 'the OFT has the function of obtaining, compiling and keeping under review information relating to the carrying out of its functions'. These functions include, amongst others, the enforcement of consumer regulations, the promotion of consumer information and education, the enforcement of competition legislation and making market investigation references to the Competition Commission.

⁹ This will include information which if disclosed might significantly harm the interests of a business or an individual (s244(3) of the Enterprise Act 2002)

- 3.12 The OFT has functions of publishing information and advice for the benefit of the public¹⁰, publishing reports¹¹ and of making proposals or giving advice to ministers or public bodies.¹² When the OFT chooses to publish a report of its findings it will normally do so under one of these functions.
- 3.13 When a study appears to raise competition concerns the OFT may require information for the purpose of deciding whether to make a Market Investigation Reference to the Competition Commission, or for the purpose of deciding about undertakings in lieu of such a reference. If the relevant criteria are satisfied¹³ the OFT can require any person carrying on a business to provide information, including forecasts¹⁴.

Disclosure of information

- 3.14 Part 9 of the Enterprise Act 2002 and the Data Protection Act 1998 restrict the ability of the OFT to disclose information it receives in the course of its work. In particular, the Enterprise Act 2002 contains a general prohibition against the disclosure of information which relates to the affairs of a business or an individual, unless disclosure is otherwise permitted – for example because the parties have given their consent. It is a criminal offence to disclose information in breach of the Enterprise Act’s provisions and there are similar restrictions on disclosure in other relevant legislation.

Outcomes

- 3.15 The principal outcomes of market studies are
- giving the market a clean bill of health
 - publishing information to help consumers

¹⁰ Section 6 of the Enterprise Act 2002

¹¹ Section 4(4) of the Enterprise Act 2002

¹² Section 7 of the Enterprise Act 2002

¹³ see OFT511 Market Investigation References

¹⁴ Section 174 of the Enterprise Act 2002

- encouraging firms to take voluntary action
- encouraging a consumer code of practice
- making recommendations to Government or regulators
- investigation and enforcement action against companies suspected of breaching consumer law or competition law
- a market investigation reference to the Competition Commission

3.16 Any of these outcomes may follow either a short or full study. The OFT would, however, aim where practicable to avoid waiting until the end of a full study before deciding that either enforcement action using its own powers, or a market investigation reference to the Competition Commission – both of which would be likely to require significant further investigation, with consequences in terms of resources and continuing uncertainties for those concerned - was an appropriate way forward.

3.17 The following paragraphs discuss the circumstances in which the OFT may regard each of these outcomes as appropriate.

Clean bill of health

3.18 The OFT will study markets in order to test particular allegations or propositions, and may also examine new claims which are made during the study. If, as a result of our study we conclude that the allegations are unwarranted, or unsubstantiated, we will normally give the market a clean bill of health and will take no further action at that time. Such markets may be revisited, however, if new evidence is brought to our attention.

Information campaigns

- 3.19 The OFT may publish information and give media interviews to raise consumer awareness when it believes that they could make better purchasing decisions if they were better informed. We might publish information leaflets indicating the factors to consider before making particularly significant purchases, for example. We may also seek to inform consumers if a study suggests that consumers are unaware of their existing rights in a particular area.
- 3.20 Information campaigns may be the sole new activity to result from a market study but will often be conducted in conjunction with other outcomes, such as voluntary action by firms.

Voluntary action by firms

- 3.21 The OFT will encourage firms to take voluntary action where it perceives there is an issue to be addressed but does not believe enforcement action would be appropriate (or proportionate).

An example was the recommendation to firms selling PCs to give clearer information about the availability and costs of using telephone support services if customers needed advice following the purchase. This recommendation arose from a study which found that many consumers seriously underestimated their likely use, and hence the costs, of such support services.

Encouraging a Consumer Code of Practice

- 3.22 The OFT has the power to approve consumer codes of practice¹⁵ which are produced by code sponsors¹⁶ and which safeguard or promote the interests of consumers. There is a two stage process or approval, which is described in detail in OFT publications¹⁷. A key element of such codes is an independent mechanism for considering

¹⁵ Section 8 of the Enterprise Act 2002.

¹⁶ Code sponsors will usually be trade associations or similar bodies.

¹⁷ See OFT 390, "Core criteria for consumer codes of practice" and OFT 631, "Guidance for consumer organisations, enforcement bodies and advisory services".

complaints by consumers about particular retailers and deciding on redress (if appropriate).

- 3.23 The OFT is likely to encourage a code of practice if a market study finds that there is a significant problem with consumer complaints without a specific breach of competition or consumer law. We will also be likely to take this route if we consider that the industry concerned wants to make things better for consumers.

Making recommendations to Government or regulators

- 3.24 The OFT is likely to make recommendations to Government, regulators or other public bodies when it believes that they are best-placed to take action to remedy the problems identified in the study through changes to the law or regulatory practice.
- 3.25 There will be some instances, such as the report on the control of entry regulations affecting pharmacies¹⁸, in which an OFT study focused on the effect of particular regulations that only Government can change. It is self-evident that reports to Government are the most likely outcome from such studies.
- 3.26 But there will also be other circumstances in which the OFT may identify Government regulations or licensing as affecting the operation of particular markets even when the main focus of the study has concerned the behaviour of firms and their customers. In these circumstances the OFT may make recommendations for changes which it believes will improve the working of markets, having regard to any relevant published policy objectives.
- 3.27 It is important to note that a report to Government is not the only possible outcome of a study of a market affected by regulations. The OFT may make a market investigation reference if it has reasonable grounds to suspect that one or more features of the structure of the market prevents, restricts or distorts competition.

¹⁸ See <http://www.offt.gov.uk/Market+studies/Studies/pharmacies.htm>

Investigation and enforcement action

- 3.28 A market study may uncover evidence which indicates a breach of competition law or of consumer protection legislation. If so, the evidence may be transferred to the part of the OFT which deals with the legislation concerned, and we may investigate or take enforcement action under these other powers. We may also transfer such information to another public body (e.g. a sector regulator) with concurrent powers. In some cases this will be the principal action arising from a market study, while in others, there may be further action, or continuing study, relating to other aspects of the market.
- 3.29 We do not expect such action to occur regularly in OFT's own-initiative studies. The team responsible for preliminary reviews will contact the competition and consumer law investigatory teams before commencing a study. If there is a suspicion that competition law may be applicable there will **always** be a preliminary analysis by a competition law team before a market study is commenced.

Market investigation references to the Competition Commission

- 3.30 The OFT is able to make a market investigation reference to the Competition Commission when it has reasonable grounds to suspect that a feature or combination of features of a market prevents, restricts or distorts competition. Where the OFT needs greater certainty before making its decision on the way forward it may use its powers under s174 of the Enterprise Act 2002, before conducting a formal consultation with the main affected parties and then making its decision about a reference.
- 3.31 In considering whether a market should be the subject of a full OFT study or referred to the Competition Commission the OFT will weigh a number of factors including:
- the nature and significance of the competition problems that OFT suspects may exist in the market concerned;

- whether a reference would be a proportionate response to the scale of the competition problems identified;
 - whether remedies are likely to be available; and
 - whether OFT is in a position to fully address the concerns itself.
- 3.32 Where matters remain unclear at the end of a short study and appear to merit further investigation, the OFT will consider whether or not it is likely to gain significant insight itself during a full study, or whether the Competition Commission's powers to require information and impose remedies will be more appropriate (assuming the reference test is satisfied).
- 3.33 An OFT study will normally be appropriate if the outcome is perceived as likely to lead to action within the OFT's own areas of responsibility. In particular, where a study is considered likely to lead to OFT enforcement action, recommendations to consumers, or involve voluntary action by firms, including, perhaps, a code of practice, as the sole necessary outcomes, the OFT considers that a reference will not usually be appropriate.
- 3.34 Where the OFT considers that the likely outcome will be a report to Government recommending changes to regulation because of perceived competition problems it will consider whether to conduct a full study itself or to make a reference. OFT will often study such markets itself, when it considers there may be scope for consumer information campaigns as part of the outcome.
- 3.35 A market investigation reference may be appropriate if one of the remedies available to them¹⁹ appears to be a feasible outcome. Such remedies may not be available to the OFT except as undertakings in lieu of a reference, which requires the agreement of the parties. A reference may also be made where the greater resources the Competition Commission is able to apply to each investigation is

¹⁹ The possible remedies are listed in Schedule 8 to the Enterprise Act 2002.

needed, or where its more formal (and sometimes public) evidence-taking is felt to be particularly suitable.

- 3.36 A reference may also be made if the OFT has reasonable grounds to suspect a competition problem (see para 1.9), and believes this could not be addressed under competition law, or considers that action under that legislation would not be appropriate. Where the competition problem occurs in complex markets, a reference may be made because the Competition Commission has stronger, and more wide-ranging powers to require information than those available in an OFT market study. The Competition Commission is also able to apply greater resources to its investigations.
- 3.37 Before making any reference decision the OFT will ensure that in its opinion the legal test for reference is met and that the relevant procedures have been followed. These are discussed in our published guidance on market investigation references. Decisions to make market investigation references are taken by the OFT Board.

ANNEXES

A SUGGESTION FORM FOR MARKET STUDIES

- A.1 OFT welcomes reasoned suggestions of UK markets that it should consider for study. In order to facilitate the process of making such suggestions we reproduce below a form which may be used to submit them. An electronic version of this form is available on the OFT website, whereby suggestions can be emailed directly to the preliminary review team.
- A.2 As indicated in Chapter 2, the OFT receives suggestions for market studies from a variety of sources. All suggestions, from whatever source, are subject to scrutiny and a prioritisation process, so we cannot guarantee that any individual suggestion will be selected for study. Suggestions received from external sources will, however, be acknowledged, and we will contact you if we require further information or if we decide to carry out a study into the market you have suggested.

MARKET STUDIES: SUGGESTION FOR OFT CONSIDERATION
Electronic version available at www.offt.gov.uk
Please send to marketstudyideas@oft.gsi.gov.uk or Market Study Ideas (MPI4), Office of Fair Trading, Fleetbank House, 2-6 Salisbury Square, London EC4Y 8JX.
Your name, organisation and contact details: <i>(Please state if you would like your organisation's identity kept confidential)</i>

<p>Market for consideration:</p>
<p>Nature of the problem for consumers or working of the market:</p>
<p>Reasons why the problem and the market are important: <i>(E.g. indications of market size.)</i></p>
<p>Whether laws, regulations or public sector involvement are part of the problem: <i>(Please give details.)</i></p>
<p>Supporting information: <i>(Please attach any supporting evidence you have available, or set out sources if these are readily accessible)</i></p>
<p>Further assistance: <i>(Please indicate if you or your organisation would be able to offer further evidence or analysis – broadly along the lines required for Super-complaints – if this market area is felt to be a promising one for consideration)</i></p>

B THE CRITERIA FOR CONSULTATIONS BY PUBLIC BODIES

B.1 Public bodies are required to perform consultations in accordance with the following criteria wherever possible.

- 1. Consult throughout the process, allowing a minimum of 12 weeks for formal consultation at least once during the development of the policy.**
- 2. Be clear about who will be affected, what questions are being asked, and the timescale for responses.**
- 3. Ensure that your consultation is clear, concise and accessible.**
- 4. Give feedback regarding the responses received and how the consultation process influenced the policy.**
- 5. Monitor your department's effectiveness at consultation, including through use of a designated consultation co-ordinator.**
- 6. Ensure your consultation follows the principles of better regulation, including carrying out a Regulatory Impact Assessment if appropriate.**

B.2 The complete code is available on the Cabinet Office's website:
www.cabinet-office.gov.uk/regulation/consultation/introduction.htm

Comments or complaints

B.3 If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to:

Sue Cook,
OFT Consultation Co-ordinator
Room 5C/8, 2-6 Salisbury Square, London EC4Y 8JX
or telephone her on 020 7211 8308 or email sue.cook@oft.gsi.gov.uk

C CONSULTEES

The following organisations have been contacted regarding this consultation.

ABTA	House of Lords
Addleshaw Goddard	ICSTIS
Advertising Standards Authority	Incorporated Society of British Advertisers
Allen & Overy	Inland Revenue
Arnold & Porter	Institute of Chartered Accountants in England and Wales
Ashurst Morris Crisp	Institute of Consumer Affairs
Association of British Insurers	Institute of Directors
Association of Independent Financial Advisers	Joint Bar/Law Society Working Party on Competition Law
Baker & McKenzie	LACORS
Bank of England	LECG
Banking Code Standards Board	Legal Services Ombudsman
BBC	Lexecon Ltd
Berwin Leighton Paisner	Linklaters
Better Regulation Task Force	Local Government Association
Brick Court Chambers	London School of Economics and Political Science
Bristows	Lord Chancellors Department
British Bankers' Association	Lovells
British Brands Group	Mail Order Traders Association Ltd
British Chambers of Commerce	Ministry of Defence
British Cheque Cashers Association	Monckton Chambers
British Dental Association	Money Advice Association
British Insurance Brokers' Association	Money Advice Scotland
British Retail Consortium	Money Advice Trust
British Standards Institute	Morgan Cole
Building Societies Association	Nabarro Nathanson
Burges Salmon	National Assembly for Wales
Business Link	National Association of Estate Agents
Civil Aviation Authority	
Cabinet Office	
Chambers of Commerce	
Charles River Associates	

Charles Russell	National Association of Funeral Directors
Chartered Institute of Environmental Health	National Consumer Council
Citizens Advice	National Consumer Education Partnership
Citizens Advice Scotland	National Consumer Federation
Clifford Chance	National Independent Association of Estate Agents
CMS Cameron McKenna	NERA
Competition Appeal Tribunal	NI Office for Regulation of Gas & Electricity
Competition Commission	Nicholson Graham & Jones
Confederation of British Industry	Norton Rose
Consumer Credit Counselling Service	Office of the Deputy Prime Minister
Consumer Education Liaison Group	OECD
Consumers Association	OFCOM
Coopers & Lybrand	Office of Rail Regulator
Council of Mortgage Lenders	Office of the Director of Consumer Affairs
Credit Services Association	OFGEM
Debt Managers Standards Association	Ofreg
Dechert	OFWAT
DEFRA	OPRAF
Deloitte & Touche	Osborne Clarke
Denton Wilde Sapte	Oxera Consulting Limited
Department of Enterprise, Trade & Investment(NI)	Pinsents
DLA	POSTCOMM
Direct Marketing Association	Postwatch
Direct Selling Association	Price Waterhouse Coopers
Department of Trade and Industry	QUALITAS
Department of Culture, Media and Sport	Radiocommunication Agency
Department of Education and Skills	Rail Passengers' Council
Department of Health	RBB Economics
Department for Transport	Regulatory Policy Institute
Department for Environment, Food and Rural Affairs	Richards Butler
Department for Work and Pensions	Royal Bank of Scotland
Energy Watch	Scottish Consumer Council
Environment Agency	Scottish Motor Trade Association Ltd
	Scottish Parliament
	Shearman and Sterling

Ernst & Young	Simmons & Simmons
Europe Economics	Singletons
European Commission	SJ Berwin
European Policy Forum	Slaughter and May
Eversheds	Society of Business Economists
Federation of Information and Advice Centres	Society of Chief Trading Standards Officers
Federation of Small Businesses	Society of Local Authorities Chief Executives
Field, Fisher Waterhouse	Stephenson Harwood
Finance and Leasing Association	Strategic Rail Authority
Finance Industry Standards Association	Stringer Saul
Financial Ombudsman Service	Taylor Wessing
Financial Services Authority	The Chartered Institute of Arbitrators
Forestry Commission	The Consumer Credit Association UK
Freshfields	The Radio Authority
Frontier Economics	The Simkins Partnership
Food Standards Agency	Trade and Industry Select committee
Funeral Standards Council	Trade Association Forum
General Consumer Council for Northern Ireland	Trading Standards Institute
General Insurance Standards Council	Travers Smith Braithwaite
Guild of Professional Estate Agents	TUC
Hammond Suddards Edge	Water UK
Herbert Smith	WaterVoice
Health and Safety Executive	Welsh Consumer Council
HM Customs & Excise	Welsh Local Government Association
HM Treasury	Which Magazine
Holman, Fenwick & Willan	White and Case
House of Commons	