

# **Competition Law Compliance Survey**

**Prepared for the Office of Fair Trading by Synovate  
(UK) Ltd**

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# 1 EXECUTIVE SUMMARY

- 1.1 This research was commissioned by the Office of Fair Trading to update their understanding of businesses and their experience of potential breaches of competition law. Synovate was commissioned to conduct quantitative research to develop this understanding and to provide data for communications.
- 1.2 This research involved 2,009 telephone interviews with a representative sample of businesses in seven sectors (manufacturing, hotels and restaurants, transport, financial intermediation, real estate, and recreational, cultural and sporting activities). The main findings from the research are as below:
- Knowledge about the legislation is mixed. Spontaneous awareness of what competition law is trying to prevent is low. However, when questioned specifically about certain practices, businesses demonstrate they have some idea about which are legal or illegal.
  - A minority (20 per cent) claim to have directly come across breaches of competition law by others, and one in ten is not sure.
  - A very small proportion of businesses say they have abandoned or changed arrangements in the last two years (three per cent) because of the risk of infringing competition law.
  - A sizable minority (23 per cent) claim they either don't take action to ensure compliance with competition legislation, or simply do not know whether this happens (despite their position in the company – see explanation in Section 3.3).
- 1.3 There are no clear differences in opinion by region, and a few by sector. The main cause of difference in the opinions of UK businesses is size of organisation as detailed below.



### Micro businesses

(up to 9 employees):

Micro businesses tend to be least knowledgeable about competition law, less able to identify what the law is trying to prevent, and also relatively less well informed than larger businesses about which practices are legal or illegal.



### Small businesses

(10-19 employees)

Small businesses tend to hold similar views to micro businesses and the smaller medium sized businesses. They are less likely to perceive that their business has directly come across breaches of competition law by others compared with large businesses.



### Medium businesses

(20-249 employees)

More medium sized businesses claim to know 'a lot' or 'a fair amount' about competition law, they are reasonably well able to name things that the law is trying to prevent, they are slightly more aware of enforcement action compared with smaller businesses but slightly less aware than larger ones. They are also slightly less likely to take action than larger businesses. On the whole, their views are similar to those held by large businesses.



### Large businesses

(250+ employees)

Large businesses are more knowledgeable about competition law, what it is designed to prevent and also relatively more well informed than smaller businesses about which practices are legal or illegal. They are more likely to claim they take action to ensure compliance.

## **2 BACKGROUND TO AND OBJECTIVES OF THE RESEARCH**

### **Introduction**

- 2.1 Failure to comply with competition law can have very serious consequences: substantial penalties for both businesses and individuals, unenforceable business agreements, legal actions and exposure to claims for damages, plus severe disruption and reputational damage. Given the severe consequences, it is in all businesses' interests to ensure that they minimise their risks of breaching the law.
- 2.2 Most businesses aim to comply with competition law but their awareness levels of specific provisions of competition law and the action they take to mitigate against the risk of breaching competition law varies. There may be advantages to business in increasing their awareness of competition law so they can recognise potential breaches of competition law in their own sectors and take appropriate action.

### **OFT objective**

- 2.3 The OFT is the principal enforcement authority of competition law in the UK. The OFT places high importance on assisting business in achieving compliance and recognising when they may be suffering harm as a result of anti-competitive behaviour by other market players so that they can take appropriate action. There is a requirement to update OFT's knowledge and understanding of the levels of awareness of and compliance with competition law among UK businesses.

### **Specific research objectives**

- 2.4 Specific research objectives are to:
- establish the current level of awareness of competition law, and of the consequences of breaching the law
  - understand businesses' views on the level of potential anti-competitive activity within their sector

- ascertain where businesses go for advice and information on competition law.

### 3 RESEARCH DETAILS

#### Methodology

3.1 2,009 quantitative telephone interviews were conducted between 22 March and 14 April 2010. Interviews were of 10 minutes duration.

3.2 See Annexe A for the questionnaire.

#### Sample

3.3 Interviews were conducted with a sample of businesses from the Experian database.<sup>1</sup> The person responsible for legal matters, such as, the company secretary or Managing Director took part in the research. Interlocking quotas were applied on organisation category and size of organisation. Corrective weights were applied to the dataset to ensure that the views reported here are representative of the businesses in the sectors researched.

3.4 See Annexe B for the overall sample profile and Annexe C for the Standard Industry Classifications (SIC) for businesses researched.

3.5 For the purposes of reporting each organisation was assigned as either micro, small, medium or large depending on the number of employees as shown below:

Number of employees	Classification	Number of employees	Classification
0-4	Micro	50-99	Medium
5-9	Micro	100-249	Medium
10-19	Small	250+	Large
20-49	Medium		

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<sup>1</sup> Experian was considered to have better coverage of micro businesses than other sample suppliers.

## Notes on reporting

### Percentages

- 3.6 Throughout the report un-weighted base sizes are reported. Due to rounding some figures will not equal 100 per cent. All figures in charts and tables throughout the report are percentages.

### Small sample sizes

- 3.7 Care should be taken when drawing inferences on sample sizes with less than 100 respondents.

### Statistical significance

- significant differences at the 99 per cent confidence level are reported
- throughout the report only sub-groups with an un-weighted base of 100+ are reported (unless indicated)
- in charts and tables the following applies:



Indicates a figure that is significantly **higher** than the corresponding figure circled in red



Indicates a figure that is significantly **lower** than the corresponding figure circled in green

### Key comparisons between 2006 and 2010 surveys

- 3.8 We have included side by side comparisons of the total sample only:
- 2006 = 1,126 telephone interviews
  - 2010 = 2,009 telephone interviews.

3.9 Differences highlighted in the report should be treated with caution for the following reasons:

- sample composition is not identical:
  - 2006, all private sector businesses were represented
  - 2010, only businesses in specific private sector business categories, covering 60-70 per cent of all private sector businesses
- question ordering was not maintained between the 2006 and 2010 surveys (the context in which questions are answered is known to have an impact on response).

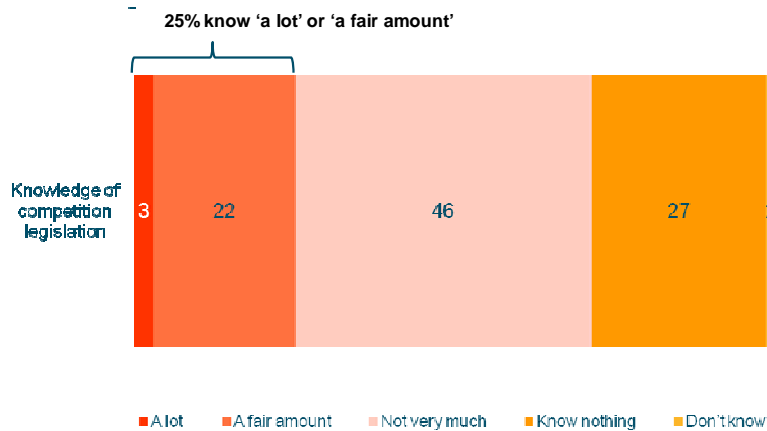
## **4 MAIN FINDINGS**

### **Awareness of and knowledge about the OFT, legislation and enforcement action**

- 4.1 In line with findings from 2006, awareness of the OFT is again high. The vast majority (95 per cent) of businesses are aware of the OFT (although the OFT was named as sponsor of the research in the introduction to the survey), a view that is equally spread across each business sector. However, most (as in 2006) claim to know little or nothing about competition legislation. Chart 1 illustrates results aggregated across all the businesses researched. 71 per cent of respondents claim to know something about competition legislation, with 25 per cent claiming to know a lot or a fair amount, 46 per cent claim to know not very much and 27 per cent claim to know nothing.
- 4.2 Levels of claimed knowledge about competition law has increased between 2006 and 2010: 25 per cent of businesses claim to know 'a lot' or 'a fair amount' about competition law, up from 12 per cent in 2006. This finding should be treated with caution due the incomparable sample composition and differences in question ordering between the 2006 and 2010 surveys.

## Chart 1: Knowledge about competition legislation

✓ 73% know 'not very much' or 'nothing'.



Source: Q1. Overall, how much would you say you know about competition legislation? Base: Total 2010 (n=2,009)

4.3 Knowledge about competition legislation is associated with organisation size. Knowledge is greatest among large businesses and decreases as the organisation gets smaller (see Table 1). Smaller organisations (that is, micro or small businesses) are much more likely to lack knowledge. Roughly three in ten businesses with up to four employees claim to 'know nothing' about the legislation. Fewer medium and large businesses (just over one in ten in each) claim to know nothing. When looking at the spread of businesses that claim to know 'a lot' or 'a fair amount' the reverse is true: larger organisations are more likely to be knowledgeable. Roughly 40 per cent of medium and large businesses claim to know 'a fair amount' or 'a lot' about competition law. Significantly fewer micro businesses (24 per cent) and small businesses (20 per cent) say this.

**Table 1:  
Size of organisation and knowledge about the Act**

Size of organisation	% that know nothing	% that know a lot or a fair amount
Micro (0-4)	31	24
Micro (5-9)	27	26
Small (10-19)	24	20
Medium (20-49)	12	34
Medium (50-99)	14	39
Medium (100-249)	14	37
Large (250+)	13	45

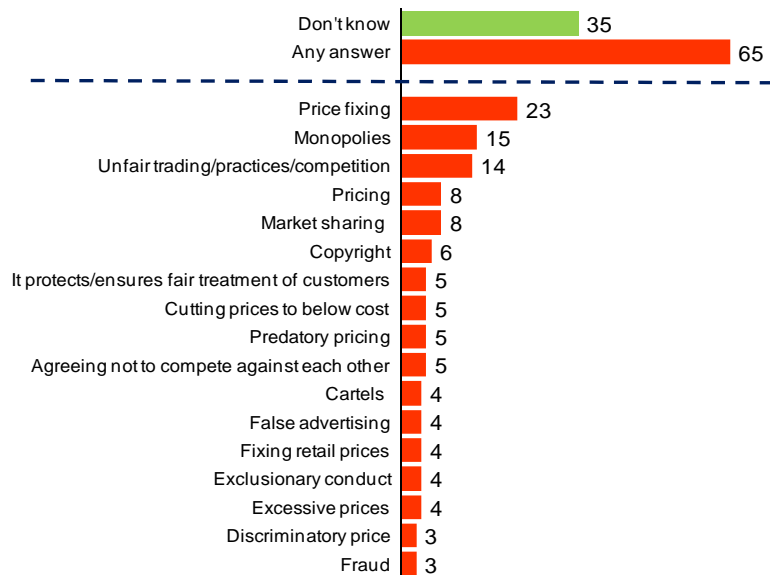
Source: Q1. Overall, how much would you say you know about competition legislation? Total 2010 (n=2,009)

- 4.4 Spontaneous answers to the question 'What sort of things do you think competition law is designed to prevent?' were recorded and coded into the following groups (Chart 2).
- 4.5 Answers reflect the lack of specific knowledge<sup>2</sup>. Over a third cannot name anything competition law does not allow businesses to do. The most popular answer is price fixing.

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<sup>2</sup> A full list can be found in the data tabulations.

## Chart 2: Things competition law is designed to prevent



Source: Q2. What sort of things do you think competition law is designed to prevent?  
Base: Total 2010 (n=2,009).  
Individual answers are based on those giving an answer (n=1,314) Answers with 3%+

4.6 Lack of knowledge about the things competition law is trying to prevent also varies by size of organisation. As organisations get bigger, the proportion that **cannot** spontaneously name something goes down. As shown in Table 2, the smaller of the micro businesses stands out against most others as being the least knowledgeable. The finance sector stands out as being knowledgeable about competition legislation compared with some of the others researched: fewer businesses in the finance industry are unable to name things that the legislation is trying to prevent.

**Table 2:**  
**Lack of knowledge about what competition legislation is designed to prevent**

Number of employees	% that don't know	Sector	% that don't know
Micro (0-4)	38	Manufacturing	31
Micro (5-9)	34	<b>Wholesale and retail trade, repairs</b>	39
Small (10-19)	27	<b>Hotels and restaurants</b>	40
Medium (20-49)	24	<b>Transport, storage and communications</b>	35
Medium (50-99)	25	Financial intermediation	20
Medium (100-249)	17	Real estate, renting and business activities	28
Large (250+)	13		

Source: Q2. What sort of things do you think competition law is designed to prevent? Base: Total 2010 (n=2,009)

### **Businesses' understanding of whether certain practices are legal or illegal**

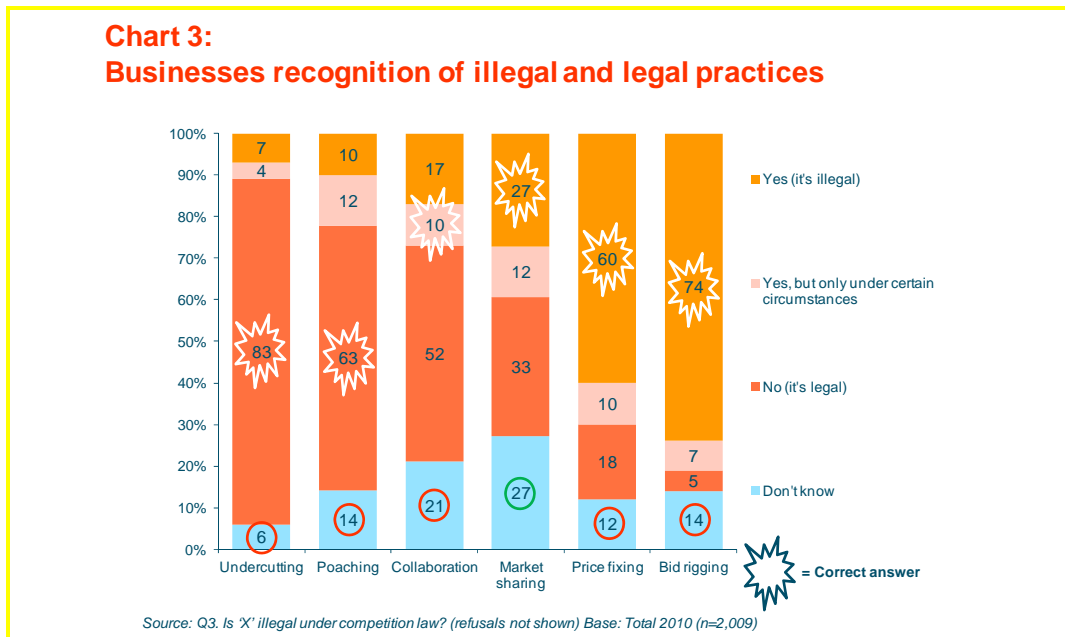
4.7 Some practices are generally illegal under competition law. To gain a deeper understanding of what businesses know about competition law, they were asked to say whether the following practices are illegal or not. The practices in **bold** are generally **illegal** under competition law, the others do not breach competition law.

- **Collaboration (but only illegal under certain circumstances)**
- **Market sharing**
- **Bid rigging**
- **Price fixing**
- Undercutting
- Recruiting sales staff

4.8 On the whole, among businesses there is a good deal of understanding about which of these practices are illegal or legal under competition law. Views about undercutting, poaching, bid rigging, and price fixing are

fairly clear. As Chart 3 demonstrates, most correctly identify whether these are illegal or not.

4.9 However, there is a fair amount of confusion about collaboration and market sharing, in this case agreements between competitors to share markets, contracts or customers. Most businesses (52 per cent) do not identify collaboration as potentially raising competition law issues. Furthermore, a small minority (17 per cent) say it is illegal, but did not correctly identify it being illegal in some cases. Only 10 per cent of businesses gave the right answer – that it is illegal under certain circumstances. Again, many businesses are confused about whether market sharing is illegal or legal. Indeed, there is most confusion around this practice. A significantly larger proportion of businesses don't know whether this is illegal or not. The majority don't know or have misunderstood the rules, 33 per cent think it is legal, a further 12 per cent think it is illegal under certain circumstances, and 27 per cent don't know. Only 27 per cent correctly identify that it is illegal in all circumstances.



4.10 Knowledge of which practices (collaboration, market sharing, price fixing, bid rigging, undercutting) are illegal under competition law also

varies significantly with size of business. Views about poaching sales staff are similar across size of organisation, sector and region.

4.11 Responses for each business size are shown in Table 3. Correct responses are shown. Incorrect responses including those who said 'don't know' were grouped together. For example, results for businesses who said 'price fixing is illegal' would be classified as correct. Businesses who said anything other than 'price fixing is illegal' (sometimes price fixing is legal - those that meet the criteria for exemptions) would be classified as incorrect. A reminder of which practices are legal or illegal is shown on page 15.

4.12 Micro businesses are less likely to know what competition law states about collaboration, market sharing, price fixing or bid rigging. Aside from the smaller of the micro businesses, knowledge is fairly stable among other business sizes. The only exception is businesses' understanding about undercutting. Those with 50-99 employees are significantly less likely than those with 10-19 employees to know what the rules are regarding undercutting.

**Table 3:**  
**Size of organisation and knowledge about the Act**

Number of employees	COLLABORATION		MARKET SHARING		PRICE FIXING		BID RIGGING		UNDERCUTTING	
	Correct	Incorrect	Correct	Incorrect	Correct	Incorrect	Correct	Incorrect	Correct	Incorrect
Micro (0-4)	8	92	25	75	56	44	74	26	81	19
Micro (5-9)	11	88	28	71	62	37	72	27	84	15
Small (10-19)	11	89	29	71	67	32	77	22	90	10
Medium (20-49)	15	84	30	70	71	29	77	23	87	13
Medium (50-99)	15	85	40	60	80	20	84	16	77	22
Medium (100-249)	17	83	39	61	71	28	90	10	83	16
Large (250+)	18	81	34	65	72	28	84	15	81	19

Source: Q3. Is 'X' illegal under competition law? (refusals not shown). Base: Total 2010 (n=2,009)

4.13 As the OFT publishes a number of press releases of their investigations into consumer and business issues, businesses might have heard or read about enforcement action by the OFT. Encouraging businesses to comply

with competition law through promotion of their investigations is a key goal for the OFT.

- 4.14 Awareness of enforcement action taken by the OFT was gauged through awareness of what had been read or heard in the public domain.<sup>3</sup> Two fifths of businesses claim to have heard of enforcement action by the OFT, 58 per cent have not, and two per cent are not sure.
- 4.15 Awareness of enforcement action is associated with claiming to take action and also organisation size. Businesses that have heard of action are more likely to claim to take action. A higher proportion of businesses that claim to have heard of enforcement action, claim to have taken action compared with businesses that have **not** heard of enforcement action but still claim to take action (82 per cent vs. 74 per cent).
- 4.16 Different sized businesses have different levels of awareness of enforcement action. As shown in Table 4, the bigger the organisation, the more likely they are to claim to have read or seen something about enforcement action by the OFT. There is a marked difference between micro/small and large businesses: the latter are more likely to have read or heard something compared with micro and small businesses. In this case, micro and small businesses hold similar views.

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<sup>3</sup> The question prompted for awareness of action in the construction or supermarket sector.

**Table 4:**  
**Awareness of enforcement action**

Number of employees	% aware	% unaware
Micro (0-4)	38	60
Micro (5-9)	41	57
Small (10-19)	43	54
Medium (20-49)	48	47
Medium (50-99)	55	44
Medium (100-249)	51	48
Large (250+)	65	34

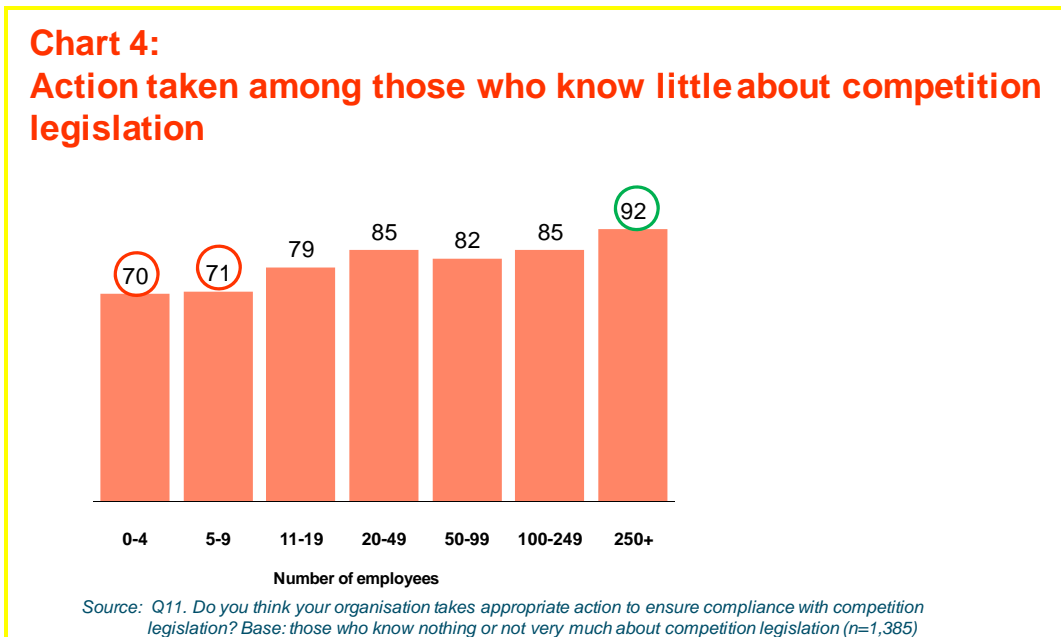
Source: Q18. Have you heard about or read any competition enforcement action by the Office of Fair Trading, for example, in the construction or super market sector, or have you not? (those that are not sure are not shown)  
Base: Total 2010 (n=2,009)

## Compliance and non-compliance

- 4.17 Businesses were asked about action taken within their business to ensure compliance, and also about real actions taken (for example, changing or abandoning plans), to avoid the risk of infringing competition law. They were also queried about whether they suspect other businesses in their sector or local region are breaching competition law, and about their direct experience of any breach.
- 4.18 Most (77 per cent) say that they take appropriate action to ensure compliance with competition law, and a minority either don't take action (10 per cent) or don't know if action has been/is taken (13 per cent). Ignorance about competition law and how it applies are the main reasons why no action is taken. Of those that do **not** take action (10 per cent of the total), most businesses (37 per cent) say competition law doesn't apply to them or they don't know enough about it (26 per cent). Small proportions say they don't need to take action (because they already comply) (eight per cent), or because they are a sole trader (six per cent).
- 4.19 Knowledge about competition law is associated with reported taking action. Businesses who claim to be knowledgeable about competition law are more likely to say that their business takes appropriate action to comply with legislation (90 per cent, of those that know 'a lot' or 'a fair

amount'). Fewer businesses that don't know very much or know nothing about competition law say their business takes appropriate action (72 per cent).

- 4.20 Among those who know little about competition law, micro businesses are even less likely than larger ones to report taking appropriate action to ensure that their business is compliant (Chart 4).



- 4.21 A very small proportion of businesses say they have abandoned or changed arrangements with other firms in the last two years (three per cent) because of the risk of infringing competition law, the vast majority (92 per cent) say they have not and five per cent don't know. Concern about the risk of infringing competition law varies by whether a business claims to have experienced a breach or not. One in ten businesses that claim to have come across a breach (by others) claim to have changed their arrangements, while only one per cent of those who claim to have **not** come across a breach, claim to have changed arrangements.
- 4.22 Table 5 shows the proportion of businesses that **have** changed their arrangements in the last two years. There is evidence that a small proportion of businesses of all sizes have all changed their arrangements because of the risk of infringing competition law. The smaller of the

micro group (including sole traders) are less likely to have changed arrangements.

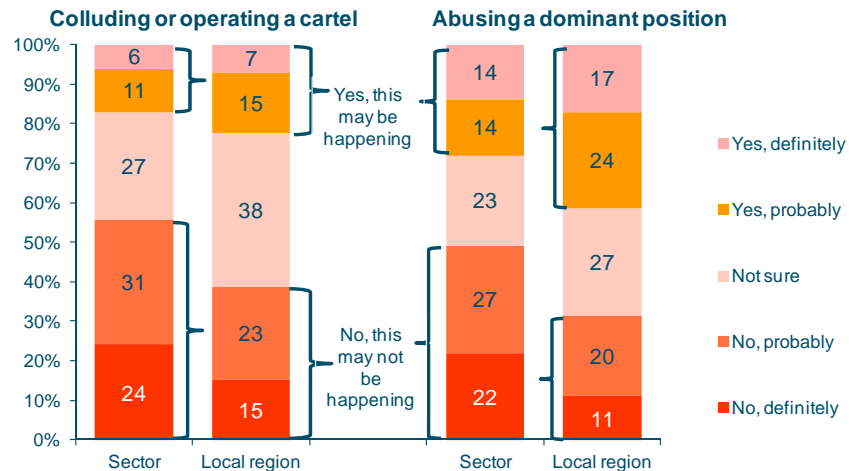
**Table 5:**  
**Steps taken to avoid infringing competition law and size of organisation**

Number of employees	% that changed arrangements
Micro (0-4)	2
Micro (5-9)	3
Small (10-19)	5
Medium (20-49)	7
Medium (50-99)	2
Medium (100-249)	6
Large (250+)	5

Source: Q10. Over the last 2 years, has your company abandoned, or changed arrangements with other firms because of the risk of infringing competition law? Base: Total 2010 (n=2,009)

- 4.23 When asked to think about breaches in the local region or sector, most businesses are unsure or think others are not operating cartels or abusing a dominant position. Chart 5 shows the proportion of businesses that think breaches either in sector or region might be happening, those who think they are not and those who are not sure.
- 4.24 Considering collusion or operating a cartel first, a majority of businesses are unsure or think this is not happening in their sector (82 per cent) or region (77 per cent). Having said this there is greatest uncertainty in the sectors researched around whether businesses in the local region are colluding or operating a cartel (38 per cent are not sure).
- 4.25 When considering views about whether others are abusing a dominant position, again, a majority of businesses are unsure or think this is not happening in their sector (71 per cent). Opinion about this type of breach within region is mixed. Over half (58 per cent) are unsure or think this is not happening in their sector, but a sizable minority claim that businesses in their local region are abusing a dominant position (41 per cent say yes, they think this is happening).

**Chart 5:**  
**Perceived breaches in competition law**



Source: Q6a/b. Do you think that businesses in your **local region** / **Sector** may be breaching competition law by colluding or operating a cartel/abusing a dominant position? (refusals not shown) Base: Total 2010 (n=2,009)

- 4.26 Suspecting whether there is a breach within sector or local region is clearly associated with organisation size and to some extent business sector. Table 6 and 7 show the proportion of businesses that suspect others are breaching competition law and also the proportion thinking they are not.
- 4.27 As size of organisation gets larger fewer businesses indicate thinking a breach may be happening. Large businesses are far less likely to claim that businesses in their sector or region are colluding or operating a cartel.

**Table 6:**  
**Perceived breaches in competition law and size of organisation**

COLLUDING OR OPERATING A CARTEL				
Number of employees	% saying YES, this may be happening in SECTOR	% saying NO this may not be happening in SECTOR	% saying YES, this may be happening in REGION	% saying NO this may not be happening in REGION
Micro (0-4)	18	52	22	37
Micro (5-9)	17	56	25	36
Small (10-19)	17	60	21	42
Medium (20-49)	14	60	21	40
Medium (50-99)	13	65	17	48
Medium (100-249)	10	69	14	57
Large (250+)	7	68	11	55

Source: Q6a/b. Do you think that businesses in your **local region** / **Sector** may be breaching competition law by colluding or operating a cartel? (refusals and not sure not shown) Base: Total 2010 (n=2,009)

4.28 The transport sector stands out against others researched. The view that breaches are happening within sector and local region are more prevalent among businesses working in the transport industry compared with other businesses in the sectors researched.

**Table 7:**  
**Perceived breaches in competition law and industry sector**

COLLUDING OR OPERATING A CARTEL				
Number of employees	% saying YES, this may be happening in SECTOR	% saying NO this may not be happening in SECTOR	% saying YES, this may be happening in REGION	% saying NO this may not be happening in REGION
Manufacturing	18	50	24	37
Wholesale and retail trade, repairs	18	53	20	40
Hotels and restaurants	15	56	19	41
Transport, storage and communications	31	46	39	27
Financial intermediation	16	63	30	35
Real estate, renting and business activities	13	61	22	37

Source: Q6a/b. Do you think that businesses in your **local region / Sector** may be breaching competition law by colluding or operating a cartel? (refusals and not sure not shown) Base: Total 2010 (n=2,009)

- 4.29 As mentioned above, the proportion of businesses claiming to have abandoned or changed arrangements with other firms (three per cent) is very low. Indeed, experiencing a breach (which is identified as being associated with the likelihood of changing arrangements) is low among the businesses researched. The majority (70 per cent) claim they have not had direct experience of a breach by others in competition law (in the last five years), while one in ten (10 per cent) aren't sure whether there has been a breach or not.
- 4.30 Few businesses (20 per cent) claim to have come across breaches in competition law (of any type). Of the total sample, 13 per cent of businesses think they have come across anti-competitive agreements and 16 per cent across companies abusing a dominant position.
- 4.31 While there are no differences in claiming breaches in competition law by others by size of organisation or region, a higher proportion of businesses in the transport sector (32 per cent) have come across breaches (of all types) compared with businesses in manufacturing (19 per cent), hotels (17 per cent), finance (17 per cent), and real estate (17 per cent).

- 4.32 The potential risk for the OFT is that some businesses might infringe competition law because they are not knowledgeable about the law, do not have any direct experience or have no cause to believe that they are infringing competition law. By promoting general information about competition law, businesses may become more knowledgeable and more able to identify illegal practices and take appropriate action to achieve compliance so that action is taken to ensure compliant behaviour irrespective of whether they are at risk or not.

### **Consequences of non-compliance**

- 4.33 When asked about the consequences faced by organisations that breach competition law, businesses are largely uninformed about what would happen. Just under half don't know (43 per cent), which (taken in light of caution that should be exercised in relation to the incomparable sample composition and differences in question ordering between the 2006 and 2010 surveys) is an improvement compared with 2006 (52 per cent). Although a higher proportion in 2010 claim to know what the consequences of a breach are, a sizable minority are still uninformed. This again mirrors the general lack of knowledge about competition law mentioned in Section 4.2.
- 4.34 Most businesses (57 per cent) mentioned a consequence (correct or otherwise) of non-compliance. Only two per cent of businesses surveyed say that a consequence of non-compliance is investigation by the OFT. Unfortunately, because awareness is relatively low, evidence of the extent to which recognition of an investigation could foster compliance is limited. Knowledge of the OFT is linked with taking action, and so a sensible assumption would be that raising awareness of investigations by the OFT and that they will take appropriate action to achieve compliance could encourage more businesses to take appropriate action to achieve compliance.
- 4.35 The consequence mentioned most frequently, by around a half (48 per cent), is a fine. Understanding about how much the fine would be is limited. Most do **not** know how much it would be. Only one per cent

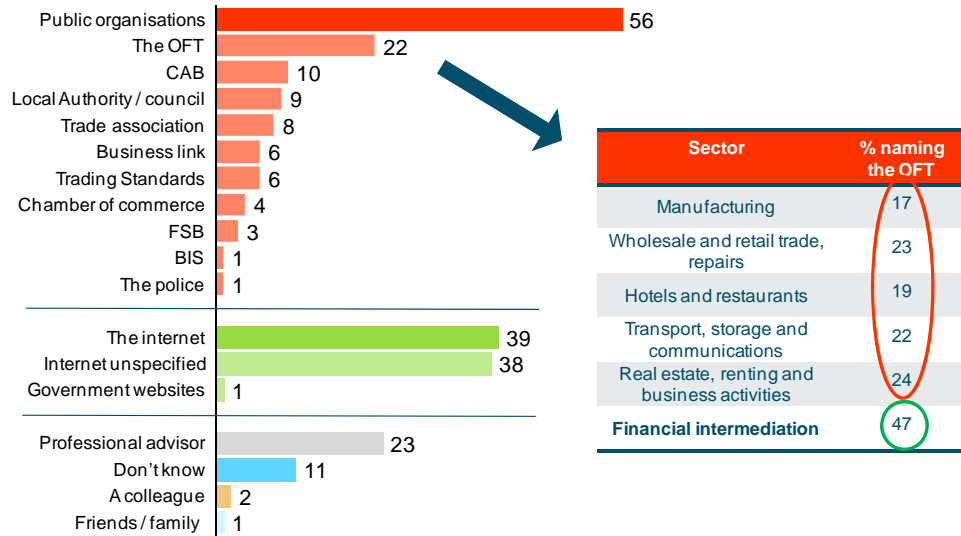
believes it could be up to 10 per cent of their annual turnover. Eight per cent mention that it is another amount.

- 4.36 Many other possible consequences of non-compliance are mentioned by a minority of businesses. Consequences reported include: being aware that there could be a criminal penalty for the individuals responsible (19 per cent), imprisonment for directors (seven per cent), that directors could be disqualified (seven per cent), or be involved in court action (six per cent), the closure of the business (five per cent), or being forced to stop activities (three per cent).

### **Sources of further advice and information about competition legislation**

- 4.37 Businesses were asked where they would go if they needed further information about competition legislation. The majority (89 per cent) had some idea where they would go, only 11 per cent did not. As shown in Chart 6, predominantly businesses would go to some sort of public organisation, the OFT being most mentioned, particularly among the finance sector, where just under a half would now go to the OFT compared with around a fifth of other organisations. The Citizens Advice Bureau, a Local Authority, the Trade Association, Business Link, Trading Standards, and the Chamber of Commerce are options chosen by businesses. Aside from official public bodies, the internet and seeking advice from a professional advisor are both mentioned. A very small proportion of businesses would ask colleagues or family friends.

## Chart 6: Sources of further information



Source: Q16 .If you needed to, where would you go for further information on competition legislation? Anywhere else?  
Total 2010 (n=2,009)

# ANNEXE(S)

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# A QUESTIONNAIRE AND TOPLINE FINDINGS

## OFT COMPETITION AWARENESS SURVEY 2010 FINAL QUESTIONNAIRE

### INTRODUCTION - READ OUT

**SAY** Good Morning/Afternoon, my name is xxx and I am calling from Synovate, an independent market research company. We are conducting a short survey on behalf of the Office of Fair Trading about legislation affecting trading practices. The survey takes no longer than 10 minutes.

The research is being conducted in accordance with the Market Research Society Code of Conduct, which guarantees your anonymity.

It will not be possible to identify your individual response in any published results from the survey. I need to speak to the person in your organisation responsible for legal matters. If you have one, this is likely to be your Company Secretary. In the absence of a Company Secretary, the person I need to speak to is likely to be your Managing Director or the person in overall charge of both purchasing AND sales and marketing activities, such as a Commercial Director.

Could you transfer me to this person?

AT TRANSFER: REPEAT INTRODUCTION, EXCLUDING "COULD YOU TRANSFER ME TO THIS PERSON?" INTERVIEWER: REASSURE RESPONDENT THAT THE SURVEY TAKES NO LONGER THAN 10 MINUTES AND IT WILL NOT BE POSSIBLE TO IDENTIFY INDIVIDUAL RESPONSES IN ANY PUBLISHED RESULTS FROM THE SURVEY.

### ASK ALL

S1 May I ask, are you the Company Secretary, MD, Proprietor, owner manager or other senior partner or director?

Yes	1	Go to S1a
No	2	Go to S2

### ASK CODE 1 AT S1

S1a Would you like to take part in the survey?

Yes	1	Go to S3
No	2	<b>THANK &amp; CLOSE</b>

### ASK CODE 2 AT S1 OTHERS GO TO S3

S2 Is it possible to speak to the Company Secretary, MD, Proprietor, owner manager or other senior partner or director?

Yes – currently available	1	Go to intro/Appointment
No – not currently available	2	Go to intro/Appointment
Refusal	3	<b>THANK &amp; CLOSE</b>

**ASK ALL ELIGIBLE RESPONDENTS AND THOSE WHO AGREE TO TAKE PART**

S3 What is the main business activity of your organisation? (e.g. Retailer of Fruit and Vegetables etc)  
**INTERVIEWER PROBE TO PRECODES**

Manufacturing	1	
Wholesale and retail trade, repairs	2	
Hotels and restaurants	3	
Recreational, cultural and sporting activities	4	<b>CONTINUE</b>
Transport, storage and communications	5	
Financial intermediation	6	
Real estate, renting and business activities	7	
None of the above	7	<b>THANK &amp; CLOSE</b>
(Don't know)	8	

**ASK ALL**

Q1 Overall, how much would you say you know about competition legislation?  
**READ OUT**

A lot	1
A fair amount	2
Not very much	3
Know nothing	4
(Don't know)	5

**ASK ALL**

Q2 What sort of things do you think competition law is designed to prevent?  
**DO NOT READ OUT**  
**MULTICODE ALLOWED**

<b>Anti competitive agreements between companies (collusion or cartels) on:</b>	
Pricing	1
Price fixing	2
Agreeing not to compete against each other	3
Market sharing	4
Fixing retail prices	5
Resale price maintenance	6
Bid rigging	7
<b>Companies abusing a dominant position such as:</b>	
Cutting prices to below cost to force a smaller competitor out of the market	8
Predatory pricing	9
Discriminatory price	10
Excessive prices	11
Exclusionary conduct	12
Other – please specify	
(Don't know)	13

**READ OUT TO ALL**

I am now going to read out a list of **practices** and will ask whether you think they are illegal under competition law.

Please note that you can refuse to answer any of these questions, you can say that it is illegal but only under certain circumstances or if you do not know the answer you can say 'don't know'.

Q3 So do you think that...READ OUT...is illegal under company law?

INTERVIEWER IF NECESSARY:

How about ... is this illegal under competition law?

And how about...

**RANDOMISE ORDER**

- a) Price fixing, for example, agreeing prices with other companies?
- b) Collaboration, for example, agreeing with a competitor to set up a new business activity?
- c) Undercutting, for example, charging a lower price than a local competitor?
- d) Market sharing, for example, agreeing to share a market, contracts or consumers between competitors?
- e) Recruiting sales staff from a rival business?
- f) Bid rigging, for example, agreeing with other contractors not to bid or to fix the amount of the winning bid?

**READ OUT SCALE AFTER FIRST EXAMPLE AND REPEAT AS NECESSARY**

INTERVIEWER IF YES

CHECK WHETHER THIS IS ONLY UNDER CERTAIN CIRCUMSTANCES OR NOT

CODING YES MEANS THAT IT IS ILLEGAL IN ALL CIRCUMSTANCES

Yes	1
Yes, but only under certain circumstances	2
No	3
Don't know	4
Refused	5

**READ TO ALL**

I'd now like to ask you a few questions about whether you think businesses in your local region or sector are breaching competition law.

Just to confirm that your response to the survey will be anonymous – we will not be able to identify you or your company.

**ASK ALL**

Q6. Having anti-competitive agreements on pricing, agreeing not to compete with each other, bid rigging or market sharing is known as colluding or operating a cartel.

1. Do you think that businesses in your **local region** i.e. (CATI INSERT REGION FROM SAMPLE) may be breaching competition law **by colluding or operating a cartel**?
2. And how about businesses **in your sector**?

**PROBE TO PRECODES**

**INTERVIEWER NOTE: IF YES OR NO, PROBE FOR DEFINITELY OR PROBABLY**

Yes, definitely	1
Yes, probably	2
Not sure	3
No, probably	4
No, definitely	5
Refused	6

Q6a Cutting prices to below cost to force a smaller competitor out of the market, or engaging in discriminatory pricing, excessive pricing or exclusionary conduct, is known as abusing a dominant position.

1. Do you think that businesses in your **local region** i.e. (CATI INSERT REGION FROM SAMPLE) may be breaching competition law **by abusing a dominant position**?
2. And how about businesses **in your sector**?

**PROBE TO PRECODES**

**INTERVIEWER NOTE: IF YES OR NO, PROBE FOR DEFINITELY OR PROBABLY**

Yes, definitely	1
Yes, probably	2
Not sure	3
No, probably	4
No, definitely	5
Refused	6

**ASK ALL**

Q7 Do you think you or your business has directly come across breaches of competition law by others, as already described, in the last five years or so?

**INTERVIEWER IF NECESSARY: Examples include bid rigging; anti-competitive agreements to fix prices with other businesses; companies abusing a dominant position**

Yes	1	GO TO Q8
No	2	GO TO READ OUT ABOVE Q10
Don't know	3	GO TO READ OUT ABOVE Q10

**ASK CODE 1 AT Q7**

Q8 What sort of breaches of competition law do you think you or your business have come across? How about...

**READ OUT**

- a) ...anti competitive agreements (collusion or cartels) between companies on pricing / price fixing / companies agreeing prices between them/agreeing not to compete against each other/bid rigging/market sharing/fixing retail prices/resale price maintenance
- b) ...companies abusing a dominant position (e.g. cutting prices to below cost to force a smaller competitor out of the market/predatory pricing/discriminatory prices/excessive prices/exclusionary conduct)

Yes	1
No	2

**ASK ALL**

Q10 Over the last 2 years, has your company abandoned, or changed arrangements with other firms because of the risk of infringing competition law?

Yes	1
No	2
Don't know	3
Refused	4

**ASK ALL**

Q11. Do you think your organisation takes appropriate action to ensure compliance with competition legislation?

Yes	1	GO TO Q13
No	2	GO TO Q12
Don't know	3	GO TO Q13

**ASK CODE 2 AT Q11**

Q12. Are there any particular reasons why not?

**MULTICODE ALLOWED**

**DO NOT READ OUT**

PROBE: Any other reasons?

Act doesn't apply to my organisation	1
Do not need to take action - my organisation complies already	2
Don't know enough about the Act	3
Haven't got round to dealing with this yet	4
Other (SPECIFY)	5
Don't know	6

**ASK ALL**

Q13. You may be aware that organisations that do not comply with competition law could face many consequences. Can you tell me what these are?

**MULTICODE ALLOWED**

**DO NOT READ OUT**

PROBE: Anything else?

**INTERVIEWER: IF FINE MENTIONED, PROBE FOR AMOUNT**

Forced to stop the activities contravening the Act	1
Investigation by OFT	2
Directors can be disqualified	3
Criminal penalties for individuals involved in hard-core cartels	4
Can be taken to court by any injured party or representative consumer body in pursuit of damages	5
<b>Fine – up to 10% of annual UK turnover</b>	6
<b>Fine – other amount/depends/varies</b>	7
<b>Fine – don't know amount</b>	8
Other (SPECIFY)	9
Don't know/can't remember	10

**ASK ALL**

Q16. If you needed to, where would you go for further information on competition legislation?

**MULTICODE ALLOWED  
DO NOT READ OUT  
DO NOT PROMPT**

PROBE: Anywhere else?

The internet	1
Business Link	2
Legal adviser	3
Financial adviser / accountant	4
The Office of Fair Trading (OFT)	5
Trade association	6
Local authority / council	7
Department for Business, Innovation and Skills (BIS)	8
Citizens advice bureau	9
Chamber of Commerce	10
Trading Standards	11
Trade publication	12
Newspaper	13
Television / Radio	14
A colleague	15
Friends / family	16
Other (specify)	17
Don't know/can't remember	18

**ASK ALL**

Q17. The Office of Fair Trading is the government body responsible for enforcing the Competition and Enterprise Acts as well as other legislation affecting organisations. **Before today** were you aware of the Office of Fair Trading?

Yes	1
No	2
Not sure	3

**ASK ALL**

Q18. Have you heard or read about any competition enforcement action by the Office of Fair Trading, for example in the construction or supermarket sector, or have you not?

Yes	1
No	2
Not sure	3

**THANK YOU FOR TAKING THE TIME TO HELP US WITH THIS SURVEY. I WOULD LIKE TO CONFIRM WITH YOU THAT MY NAME IS ... AND I HAVE BEEN CALLING YOU FROM ....., AN INDEPENDENT MARKET RESEARCH AGENCY. IF YOU WOULD LIKE TO VERIFY THIS INFORMATION, YOU CAN DO THIS AT NO CHARGE TO YOURSELF BY CALLING THE MRS FREEPHONE SERVICE ON 0500 39 69 99**

**IF RESPONDENT REQUIRES MORE INFORMATION, THE ENQUIRY LINE IS 08457 22 44 99 OR E-MAIL - [enquiries @oft.gov.uk](mailto:enquiries@oft.gov.uk)**

**THANK YOU FOR YOUR TIME TODAY, GOODBYE.**

**Office of Fair Trading / COI**  
**Competition Law Compliance survey**

This document summarises the findings of the Office of Fair Trading research among businesses in the following sectors:

- Manufacturing
- Wholesale and retail trade, repairs
- Hotels and restaurants (including recreational, cultural and sporting activities)
- Transport, storage and communications
- Financial intermediation
- Real estate, renting and business activities

Interviewing took place between 22<sup>nd</sup> March and 14<sup>th</sup> April 2010.

In total, Synovate conducted 2009 interviews. Corrective weights were applied to the dataset to ensure that views are representative of the target population.

**TOPLINE FINDINGS FROM 2010 SURVEY**

Of the total sample:

- Awareness of the OFT and competition legislation:
  - 5% of the businesses in the sectors researched were not aware of the OFT prior to the interview, while 95% were (NB. OFT was named as sponsor of research in the introduction);
  - 40% of the businesses in the sectors researched have heard about competition enforcement action by the OFT (65% of businesses with 250+ employees), 58% have not and 2% don't know;
  - 73% of the businesses in the sectors researched know little or nothing about competition legislation (46% don't know very much and 27% know nothing); and
  - 37% of the businesses in the sectors researched think that competition law is designed to prevent anti-competitive agreements between companies, and 23% think it is designed to prevent companies abusing a dominant position.
- Awareness of illegal practices:
  - price fixing – 70% are aware that this is illegal under competition law, 18% are not (organisations with 0-4 employees, 21%), and 12% don't know;
  - bid rigging – 81% aware (91% of the finance sector, and 76% in the hotel and restaurant sector), 5% are unaware that this is illegal and 14% don't know;
  - undercutting – 11% of the businesses in the sectors researched say that undercutting is illegal under competition law, 83% say it's not and 6% don't know;
  - collaboration – 27% say that collaboration is illegal, 52% say it's not and 21% don't know;
  - market sharing – 39% say it is illegal, 33% say it is not and 27% don't know;
  - poaching – 22% say that recruiting sales staff from a rival business is illegal under competition law, 63% say it's not and 14% don't know.

- Breaches in competition law
  - Colluding or operating a cartel:
    - 22% say that businesses in their **region** may be colluding or operating a cartel (rising to 39% of businesses in transport, storage and communications), 38% said they're not and a further 38% don't know; and
    - 55% say that businesses in their **sector** are not colluding or operating a cartel, a further 27% are not sure, while 17% think this is happening in their sector (rising to 31% of businesses in transport, storage and communications).
  - Abusing a dominant position:
    - 41% say that businesses in their **region** may be abusing a dominant position (driven by organisations with 10-19 employees), 31% say they're not and a further 27% are not sure; and
    - 27% say that businesses in their **sector** may be abusing a dominant position (37% of businesses in transport, storage and communications), 48% say they're not and a further 23% are not sure.
  - Direct experience:
    - 20% have experienced breaches of competition law in the last five years or so (32% of businesses in transport, storage and communications), 70% have not and 10% don't know.
  - Of those who have come across breaches of competition law (20%):
    - 63% have experienced anti-competitive agreements; and
    - 81% say that companies have abused a dominant position.
- Compliance with competition law:
  - 92% have not abandoned or changed arrangements with other firms because of the risk of infringing competition law (95% of those with 0-4 employees), 3% have changed arrangements, and 5% don't know; and
  - 77% say they take appropriate action to ensure compliance with competition legislation, 10% say they don't and a further 13% don't know.
- Consequences of non-compliance:
  - 48% of the businesses in the sectors researched (65% of the finance sector and 76% of those with 250+ employees) are aware that a fine can be imposed if a business breaches competition law (of those, 39% don't know the amount); and
  - 43% of the businesses in the sectors researched either can't remember or don't know what the consequences are.
- For further information on competition legislation<sup>1</sup>:
  - 39% would use the internet;
  - 22% would go to the OFT;
  - 20% would consult a legal advisor; and
  - 10% would contact the Citizens Advice Bureau.

## KEY COMPARISONS BETWEEN 2006 AND 2010 SURVEYS

NB. These comparisons are based on a side by side comparison of the total sample only. However, the exact sample compositions in 2006 and 2010 are not identical<sup>1</sup>, meaning some differences may be due to differences in sample profile, rather than changes in the market / business awareness and perceptions.

- Awareness of the OFT and competition legislation:
  - Awareness of OFT remains constant: in 2006 and 2010, awareness of the OFT was at 95%.
  - Levels of knowledge of competition legislation have increased: in 2006, 88% claimed to know 'nothing at all' or 'not very much' about competition legislation; in 2010 this figure is 73%.
- Compliance with competition law:
  - Claimed levels of compliance have also increased: in 2006, 42% claimed to be aware of and take appropriate action to ensure compliance with competition legislation; in 2010, 77% of businesses say they take appropriate action.
- Consequences of non-compliance:
  - Awareness of consequences of non-compliance has increase somewhat: in 2006, 52% did not know what penalties were, while 34% said there was a 'fine'; in 2010, 48% are aware that a fine can be imposed if a business breaches competition law, while 43% of the businesses in the sectors researched either can't remember or don't know what the consequences are.

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<sup>1</sup> In 2006, all private sector businesses were available for sampling and could have been represented in the research. In 2010, only businesses in specific private sector business categories were included, covering c.60-70% of all private sector businesses.

## B SAMPLE PROFILE

Sector	Target	No of completes
Manufacturing	300	299
Wholesale and retail trade and repairs	400	<b>403</b>
Hotels and restaurants	325	<b>333</b>
Transport, storage and communications	325	323
Financial intermediation	325	317
Real estate, renting and business activities	325	334

Size of organisation	Target	No of completes
0-4	600	<b>605</b>
5-9	400	<b>405</b>
10-19	200	<b>204</b>
20-49	200	<b>206</b>
50-99	200	<b>204</b>
100-249	200	198
250+	200	187

## C BUSINESSES IN THE SECTORS RESEARCHED

### Manufacturing: Individual Standard Industry code (SIC)

15 - MANUFACTURE OF FOOD PRODUCTS AND BEVERAGES

16 - MANUFACTURE OF TOBACCO PRODUCTS

17 - MANUFACTURE OF TEXTILES

18 - MANUFACTURE OF WEARING APPAREL; DRESSING AND DYEING OF FUR

19 - TANNING AND DRESSING OF LEATHER; MANUFACTURE OF LUGGAGE, HANDBAGS

20 - MANUFACTURE OF WOOD AND PRODUCTS OF WOOD AND CORK, EXCEPT FURNITURE; MANUFACTURE OF ARTICLES OF STRAW AND PLAITING MATERIALS

21 - MANUFACTURE OF PULP, PAPER AND PAPER PRODUCTS

22 - PUBLISHING, PRINTING AND REPRODUCTION OF RECORDED MEDIA

23 - MANUFACTURE OF COKE, REFINED PETROLEUM PRODUCTS AND NUCLEAR FUEL

24 - MANUFACTURE OF CHEMICALS AND CHEMICAL PRODUCTS

25 - MANUFACTURE OF RUBBER AND PLASTIC PRODUCTS

26 - MANUFACTURE OF OTHER NON-METALLIC MINERAL PRODUCTS

27 - MANUFACTURE OF BASIC METALS

28 - MANUFACTURE OF FABRICATED METAL PRODUCTS, EXCEPT MACHINERY AND EQUIPMENT

29 - MANUFACTURE OF MACHINERY AND EQUIPMENT NOT ELSEWHERE CLASSIFIED

30 - MANUFACTURE OF OFFICE MACHINERY AND COMPUTERS

31 - MANUFACTURE OF ELECTRICAL MACHINERY AND APPARATUS NOT ELSEWHERE CLASSIFIED

32 - MANUFACTURE OF RADIO, TELEVISION AND COMMUNICATION EQUIPMENT AND APPARATUS

33 - MANUFACTURE OF MEDICAL, PRECISION AND OPTICAL INSTRUMENTS

34 - MANUFACTURE OF MOTOR VEHICLES, TRAILERS AND SEMI-TRAILERS

35 - MANUFACTURE OF OTHER TRANSPORT EQUIPMENT

36 - MANUFACTURE OF FURNITURE; MANUFACTURING NOT ELSEWHERE CLASSIFIED

## Wholesale and retail trade: Individual Standard Industry code (SIC)

50 - SALE, MAINTENANCE AND REPAIR OF MOTOR VEHICLES AND MOTORCYCLES; RETAIL SALE OF AUTOMOTIVE FUEL

51 - WHOLESALE TRADE AND COMMISSION TRADE, EXCEPT OF MOTOR VEHICLES AND MOTORCYCLES

52 - RETAIL TRADE, EXCEPT OF MOTOR VEHICLES AND MOTORCYCLES; REPAIR OF PERSONAL AND HOUSEHOLD GOODS

## Hotels and restaurants: Individual Standard Industry code (SIC)

55 - HOTELS AND RESTAURANTS

92 - RECREATIONAL, CULTURAL AND SPORTING ACTIVITIES

## Transport, storage and communications: Individual Standard Industry code (SIC)

60 - LAND TRANSPORT; TRANSPORT VIA PIPELINES

61 - WATER TRANSPORT

62 - AIR TRANSPORT

63 - SUPPORTING AND AUXILIARY TRANSPORT ACTIVITIES; ACTIVITIES OF TRAVEL AGENCIES

64 - POST AND TELECOMMUNICATIONS

## Financial intermediation: Individual Standard Industry code (SIC)

65 - FINANCIAL INTERMEDIATION, EXCEPT INSURANCE AND PENSION FUNDING

66 - INSURANCE AND PENSION FUNDING, EXCEPT COMPULSORY SOCIAL SECURITY

67 - ACTIVITIES AUXILIARY TO FINANCIAL INTERMEDIATION

## Real estate, renting and business activities: Individual Standard Industry code (SIC)

70 - REAL ESTATE ACTIVITIES

71 - RENTING OF MACHINERY AND EQUIPMENT WITHOUT OPERATOR AND OF PERSONAL AND HOUSEHOLD GOODS

72 - COMPUTER AND RELATED ACTIVITIES

73 - RESEARCH AND DEVELOPMENT

74 - OTHER BUSINESS ACTIVITIES