

Office of Fair Trading

Annual Plan consultation document 2012–13

OFT1382con

Presented to Parliament pursuant to section 3(3) of the Enterprise Act 2002

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Scope of this consultation

Topic of this consultation	The Office of Fair Trading's Annual Plan 2012–13. The Annual Plan is published pursuant to s.3 of the Enterprise Act 2002
Scope of this consultation	The consultation is intended to give stakeholders the opportunity to provide views and comments on the Office of Fair Trading's (OFT's) proposed Annual Plan for 2012–13, which sets out the organisation's main objectives and priorities for the year
Geographical scope	There is no specific geographical dimension to this consultation
Impact assessment	Not applicable for this consultation

Basic information

To	This consultation is aimed at all those who have an interest in the activities of the OFT. In particular, it may be of interest to business and consumer groups, the Trading Standards community and legal advisors
Duration	14 November 2011 to 3 February 2012
Enquiries	By telephone: Marcia Poletti (020 7211 5879) By email: marcia.poletti@oft.gsi.gov.uk By fax: 020 7211 8966 By post: Marcia Poletti, Deputy Director of Strategy Executive Office, Office of Fair Trading, Fleetbank House, 2-6 Salisbury Square, London EC4Y 8JX
How to respond	Respondents to this consultation are asked to supply a brief summary of the interests or organisations they represent, where appropriate. We ask that any suggested changes or comments on the documents be submitted in writing (by email, or alternatively by letter or fax). Please send responses to Marcia Poletti using the contact details above, by 3 February 2012 at the latest
Additional ways to become involved	We will contact a number of stakeholders to ask for their views

After the consultation We will collate responses to the consultation and publish a formal summary of these, along with a final version of the amended Annual Plan 2012–13 in March 2012

Compliance with the *Code of Practice on Consultation* This consultation is compliant with the Code of Practice on Consultation. A list of the Code's criteria can be found at Annexe G

Feedback about this consultation

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:

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A copy of the key criteria from the HM Government's *Code of Practice on Consultation* can be found in Annexe G.

Data use statement for responses

Personal data received in the course of this consultation will be processed in accordance with the Data Protection Act 1998. Our use of all information received (including personal data) is subject to Part 9 of the Enterprise Act 2002. We may wish to refer to comments received in response to this consultation in future publications. In deciding whether to do so, we will have regard to the need for excluding from publication, as far as that is practicable, any information relating to the private affairs of an individual or any commercial information relating to a business which, if published, would or might, in our opinion, significantly harm the individual's interests, or, as the case may be, the legitimate business interests of that business. If you consider that your response contains such information, that information should be marked 'confidential information' and an explanation given as to why you consider it is confidential.

Please note that information provided in response to this consultation, including personal information, may be the subject of requests from the public for information under the Freedom of Information Act 2000. In considering such requests for information we will take full account of any reasons provided by respondents in support of confidentiality, the Data Protection Act 1998 and our obligations under Part 9 of the Enterprise Act 2002.

If you are replying by email, these provisions override any standard confidentiality disclaimer that is generated by your organisation's IT system.

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1 WHY WE ARE CONSULTING?

Informing our work

- 1.1 It is essential that our forthcoming priorities are informed by the views and perspectives of those with an interest in the Office of Fair Trading's (OFT's) work to ensure we focus on those issues that really matter to consumers and the economy.
- 1.2 As with all Government departments, our Spending Review settlement means that over the next three years we will need to make some very difficult choices around our priorities. In addition, the OFT has a role in supporting the UK economy, and driving competition and productivity growth during a period of continuing challenges.
- 1.3 We are interested to hear your views, not only on our priorities for the forthcoming year and the areas on which we should focus to support the economy, but also on work we might deprioritise as we make decisions around how best to deploy our resources over 2012–13.

Transparency

- 1.4 Over the Spending Review period we will increase our efforts to involve citizens in our prioritisation through more substantial consultation about our annual priorities, and our future pipeline of work. We will also publish more information about our work, both to promote compliance and engagement, and to allow people to judge how well we are meeting our objectives. A major part of this is increasing our internal and external accountability, and ensuring we provide measures that enable others to take informed decisions.
- 1.5 As a first stage we are aiming to improve the way in which we consult on our priorities for next year by:
 - Providing more information around our recent and current work within this document

- Being more open around priority areas for future work
- Providing people with the opportunity to discuss the OFT's priorities with senior staff

1.6 During the consultation period we will be holding a number of meetings to discuss our priorities with:

- Business and business interest groups
- Local Government, including local authority Trading Standards Services (TSS)
- Citizen and consumer organisations
- Third sector organisations and voluntary groups, particularly those focussed on supporting vulnerable consumers
- Central Government, the devolved administrations, the Competition Commission and national regulators
- Other interested parties

1.7 We also welcome your views by post or email.

Enterprise Act 2002

1.8 Section 3 of the Enterprise Act 2002 places a statutory obligation on the OFT to publish proposals for its Annual Plan at least two months before publishing its Annual Plan containing a statement of its main objectives and priorities for any year. This document is intended to meet that statutory obligation.

2 OFT MISSION

- 2.1 Our mission is to make markets work well for consumers. We achieve our mission through enforcement and advocacy, based on strong analysis and intelligence-led investigation. Our job is not merely to find and describe problems in markets, but rather to tackle the problems that we find as effectively as possible—where we have the powers and expertise to do so.
- 2.2 We support economic growth through ensuring vigorous competition between firms and a clear framework for consumers who wish to buy products and services.

Supporting economic growth

- 2.3 Competitive, well functioning markets have a vital role to play in supporting economic growth. Competitive markets select the most efficient firms, and market discipline ultimately makes companies more competitive and more productive, driving efficiency across the economy. Competitive markets also benefit consumers by providing product innovation and lower prices.
- 2.4 The OFT supports economic growth by ensuring markets are competitive. As an integrated competition and consumer agency, we are able to address problems on both the demand and the supply side of markets, and tackle public and private restrictions to competition. We do this by taking strong enforcement action to eliminate market distortions—reducing harm to consumers and shaping markets. We focus on using our range of tools to make it easier for businesses to comply, and support consumers and Government through advocacy and education.
- 2.5 Recent work has focused on UK sectors that are strategically important for growth, addressing issues such as the ownership of UK infrastructure, competition in the off-grid energy sector and consumer trust in the internet as a commercial channel.

Empowering consumers

- 2.6 Good consumer outcomes rely on competitive markets to provide choice and value, while vibrant competition relies on consumers being able to shop around with confidence. Our role as an integrated competition and consumer agency allows us to work with businesses and consumers to clarify the legislative framework through guidance and enforcement. This in turn provides the certainty that businesses need to innovate and consumers need to buy.
- 2.7 When consumers shop around, they increase incentives for businesses to offer higher standards and drive down production costs. When consumers are able to learn about new goods and services, and are confident enough to try them out, this should provide signals to firms encouraging innovation and the development of better products. By behaving in this manner, active consumers can drive economic growth and reduce the need for regulatory interventions in markets.
- 2.8 Empowered consumers are those who can and do purchase what is right for them, and know where to go to seek redress when problems arise. The OFT supports empowered consumers by enforcing consumer rights within a strong legal framework, by promoting access to trustworthy information on which to base decisions, by promoting competition to create choice, by fostering redress mechanisms (through self regulatory and industry associations) and by promoting awareness of consumers' rights.

3 CONTEXT FOR 2012–13

- 3.1 As with last year, our work over the forthcoming year is set against the context of three key external factors: a challenging economic climate and pressures on consumers and businesses, proposed changes to the competition and consumer regimes and our 2010 Spending Review (SR10) settlement.

Economic climate

- 3.2 Prospects for the UK economy are challenging. Growth in the world economy, including in the UK's core trading partners in Europe and the US, has slowed. Concerns about the fiscal positions of some countries, particularly within the Euro area, have intensified.
- 3.3 In the UK, the outlook for living standards is equally challenging and in real terms, household incomes are falling, driven by inflationary pressure and changes to the tax system. The Office for Budget Responsibility reported a significant fall in the real wage earned by workers¹ in 2010, as growth of wages and salaries remained low relative to changes in the price of consumption. The Government has announced a fiscal consolidation aimed at repairing the public finances, with tax rises and cuts to welfare spending and public services totalling six per cent of national income.
- 3.4 Consumers are under increased pressure. The Chartered Institute of Personnel and Development (CIPD) Employment Outlook survey shows that only a minority of employees (38 per cent) are keeping up with bills and other financial commitments without any difficulties. Almost a fifth (18 per cent) of employees say they run out of money before the end of the week or month, a further 22 per cent say this is the case

¹ From Office for Budget Responsibility, *Economic and fiscal outlook*, page 75
http://budgetresponsibility.independent.gov.uk/wordpress/docs/economic_and_fiscal_outlook_23032011.pdf

sometimes.² The incidence of households experiencing financial difficulties therefore remains high, creating the conditions for specific problems in the consumer credit sector.

- 3.5 Weak demand and rising commodity prices place many firms under pressure, potentially increasing incentives to develop cartel behaviour or otherwise exploit customers to protect profits.

Consumer protection, consumer credit and competition regimes

- 3.6 Ministers have stated that they are minded to make changes to the consumer, competition and consumer credit regimes.

- 3.7 On 21 December 2010, the Financial Secretary to the Treasury, Mark Hoban, and the Minister for Employment Relations, Consumer and Postal Affairs, Edward Davey, launched a consultation on transferring the regulation of consumer credit from the OFT to the new Financial Conduct Authority (FCA). Following a separate consultation process, the Government published a White Paper in June 2011 setting out its vision for the FCA and the UK's wider financial regulatory architecture.³ The Government has indicated that it expects to make an announcement on the future regulation of consumer credit later this year.

- 3.8 'A Competition Regime for Growth: a consultation on options for reform' was launched on 16 March 2011 and sets out proposals to create a single Competition and Markets Authority by merging the competition functions of the OFT with the Competition Commission (CC). A decision on the future of the regime is likely to be announced by ministers before the end of the year.

² Chartered Institute of Personnel and Development, Summer 2011, Employee Outlook. www.cipd.co.uk/binaries/5607%20Employee%20Outlook%20summer%202011.pdf

³ 'A new approach to financial regulation: the blueprint for reform'. HM Treasury, June 2011.

- 3.9 The Government launched its proposals to reform the current landscape of consumer protection on 21 June 2011. The consultation 'Empowering and Protecting Consumers' sets out Government proposals to simplify the provision of consumer protection to ensure that consumer advice, representation and enforcement are delivered effectively and efficiently. It is likely that the Government will be in a position to announce its decision on changes to the consumer landscape by early 2012.
- 3.10 The OFT has provided the Government with its views on the consumer protection, consumer credit and the competition landscape in its responses to the three consultations. We will continue to help to inform the debate, and work to appropriate transition structures once there is clarity about the direction of the landscape changes.

OFT SR10 budget settlement

- 3.11 Our budget has been reduced by 25 per cent in real terms phased over the four years to 2014–15 (see Annexe D, OFT Budget Settlements and Profile). Our administration budget has been reduced by a third in real terms. Administrative spending levels set for SR10 includes not only back office functions, such as finance and human resources, but also aspects of communications, policy and strategy functions.
- 3.12 The OFT's settlement from HM Treasury is net of any income we raise from fees for credit licences, and from anti-money laundering registration; this is revenue that we can and do use as part of our funding. In 2011–12 we expect that fees from income will exceed £11m. Over the SR10 period the impact of our work will be assessed through impact indicators agreed with HM Treasury (see Annexe F).
- 3.13 Over the previous Spending Review period (CSR07, from 2008–09 to 2010–11), the OFT's budget was reduced by five per cent per annum in real terms. In 2010–11, it was reduced by an additional three per cent. The outcome of consultations on institutional change will have an impact on how this reduction will be implemented over SR10. Further information on the OFT's budget can be found at Annexe D.

4 OUR STRATEGIC OBJECTIVES: WHAT WE PROPOSE TO DO

4.1 We propose three strategic objectives for 2012–13: High Impact Enforcement, Influencing, Organisational delivery and capability:

High Impact Enforcement	Influencing	Organisational delivery and capability
Changing behaviour in firms through our enforcement work—doing so faster and achieving greater impact, and taking greater risks where potential outcomes justify doing so	Changing behaviour in markets through advocacy and guidance, and taking action using non-enforcement tools	Driving forward improvements to the consumer, competition and credit regimes—while not being distracted from our focus of delivering improvements in markets today; ensuring the OFT is in shape to meet tighter financial constraints in future years



These themes are underpinned by an integrated approach to consumer and competition tools

5 STRATEGIC OBJECTIVES: HIGH IMPACT ENFORCEMENT

- 5.1 We will focus much of our resource on creating strong deterrence through competition, consumer and consumer credit enforcement action. We will orientate our resources towards activities that produce direct market outcomes and achieve maximum behavioural change across the economy. We will work with partners such as the Competition Commission, sectoral regulators, the EU Directorate General for Competition (DG Comp) and TSS.

Competition enforcement including merger review

- 5.2 We will maintain a focus on criminal and civil cartel activity, and both anti-competitive agreements and abuse of dominance cases, maximising the impact of individual and corporate sanctions, including applying for Director Disqualification Orders where appropriate. Merger review, which is demand-led, will remain a priority.

Consumer enforcement

- 5.3 We will address the most serious national consumer problems, maximising the deterrent effect of our actions and taking precedent setting cases in order to clarify the rapidly evolving area of consumer protection law. We will provide a lead and point of coordination for enforcement partners, particularly TSS.

Consumer credit enforcement

- 5.4 We will continue to make targeted use of our credit enforcement tools, focussing enforcement on high risk activities and conduct that particularly affects vulnerable consumers, including taking any action arising from at least one in-depth compliance review of a specific sector. We will maintain a strong gateway, so that people who are not fit to hold a licence are not allowed to enter the market.

Market studies

- 5.5 Market studies allow a market-wide consideration and report on both competition and consumer issues. During 2012–13 we will aim to undertake quicker studies with a more defined scope. Given budget constraints, we will focus market studies on markets which appear to have endemic or widespread competition or consumer problems where there is a high likelihood of enforcement action, either by us or TSS.

6 STRATEGIC OBJECTIVES: INFLUENCING

- 6.1 In addition to our enforcement work, which results in both firm-level change and wider deterrence across markets, we can make markets work well in a proportionate and cost-effective way through other means. We may do this through engagement, advocacy, the development of guidance and information, and other non-enforcement tools which change the behaviour of businesses, consumers and Government to both head off problems and address market distortions.
- 6.2 **Advocacy:** The OFT's competition advocacy team works to raise awareness of competition issues and advises policy makers where wider Government policies affect competition and markets. It also provides advice on competition assessments of new Government policies, to ensure emerging policy does not have an adverse impact on competition or consumer protection. We will work with the Department for Business, Innovation and Skills (BIS), Cabinet Office, the Department of Energy and Climate Change, the Department of Health and other departments on a range of issues relating to the public sector reform agenda (and the Open Public Services white paper), the Government's Growth Review and more widely to ensure that Government interventions maintain competitive markets.
- 6.3 **Encouraging a culture of compliance:** We will build on earlier work on the drivers of compliance with both competition and consumer law. This is likely to include information and awareness campaigns on both competition and consumer issues, developing guidance and tools, and other advocacy. In credit, we will build upon progress this year towards the establishment of a clear and comprehensive suite of both sectoral and cross-cutting guidance, continuing to work with consumer credit firms and their representatives to ensure that licence holders understand the standards we expect of them.
- 6.4 **Taking action using non-enforcement tools:** We will make use of non-enforcement action such as warning letters, short form opinions, campaigns linked to enforcement action and dialogue with companies on

specific compliance issues, with the aim of changing market behaviour and avoiding the need for unnecessary future enforcement work. Where appropriate, we will use our market studies tool to investigate market problems and develop solutions. These may include working with industry associations and key industry players to negotiate outcomes that help to shape markets, developing guidance or awareness campaigns, and making recommendations to Government (see Annexe C for more examples).

7 STRATEGIC OBJECTIVES: ORGANISATIONAL DELIVERY & CAPABILITY

- 7.1 We will drive forward improvements to the consumer, competition and credit regimes while not being distracted from our focus of delivering improvements in markets today, and we will work to ensure the OFT is in good shape to meet tighter financial constraints in future years.

Consumer, competition and credit licensing regimes

- 7.2 The Government has put forward proposals for institutional change and reform around the competition, consumer protection and consumer credit regimes. We welcome the opportunities that these proposals bring to strengthen these regimes at a time when their contribution to consumers and growth in the UK economy is so necessary. We have engaged with the Government to help develop these proposals through the benefit of our practical experience. As clarity increases over the eventual shape of the competition, consumer protection and consumer credit regimes, we will work with the Government and directly affected parties to develop effective transition plans where necessary.
- 7.3 In addition to the wider reforms proposed by Government, we are continuously working to improve the efficiency of the regimes overall, where we can do so without legislative change. Competition enforcement is now more streamlined, and innovative approaches—such as early resolution and short-form opinions—are allowing us to achieve quicker outcomes. In March 2011, we published 'A guide to the OFT's investigation procedures in competition cases' and we also introduced, on a trial basis, the role of Procedural Adjudicator to resolve disputes on procedural issues. In order to enhance the effectiveness of the OFT's enforcement action with respect to cartels, we are revising and clarifying our guidance on leniency applications. In light of the OFT's greater experience in setting penalties for competition infringements since its guidance on penalties was last updated in 2004, we are reviewing our policy on penalties. In this review, we have also taken account of a number of recent judgments of the CAT.

- 7.4 These steps are being taken as part of an ongoing drive to improve the transparency of our procedures and to increase the speed and efficiency of Competition Act investigations. We have published a range of guidance across all three regimes, with the aim of ensuring companies have appropriate information to enable them to comply with the law.
- 7.5 In addition, we have continued to reduce the time taken to carry out market studies, which are now taking, on average, nine and a half months to complete, and are delivering considerable savings to consumers.
- 7.6 In 2012–13, together with BIS, TSS and other key partners we will continue to drive forward improvements to our procedures across all our tools.

Internal efficiency

- 7.7 The OFT has done much to ensure it remains within its reducing budget. We have achieved significant budget savings, while simultaneously taking advantage of revenue raising activities (such as sub-letting excess space in our premises), thus ensuring we do not compromise the quality of our work. We will continue to extract significant savings through an overhaul of our back office functions.
- 7.8 In the coming year, we will develop more robust internal key performance measures and use them to drive further improvements and support our performance.

8 CROSS-CUTTING THEMES

- 8.1 In deciding where to focus our attention in 2012–13, we will concentrate action in markets where there are high levels of consumer detriment, where we can support economic growth or where we can shape emerging business models.
- 8.2 Furthermore, we propose to prioritise work that relates to the following broad cross-cutting themes:

Vulnerable consumers and consumers challenged by the adverse economic climate

- 8.3 We plan to respond robustly across the full remit of our activities to challenges facing consumers where there are market problems as a result of either the current adverse economic climate, or their personal circumstances. In the consumer credit market we will continue to prioritise strong enforcement action and maintain high standards for obtaining a consumer credit licence. Other areas of work could include markets affected by rising commodity or energy prices, isolated consumers (for example, people in remote areas, people who are housebound) or features of markets that disproportionately affect vulnerable consumers. In doing this, we will work closely with our enforcement partners including TSS, and with consumer groups, to identify priority issues.

Pricing used as a barrier to fair choice

- 8.4 Markets work best when there is choice and consumers know what they will get when they enter into a contract or make a purchase. However we are concerned that some businesses are creating unnecessarily complex pricing structures or reducing the clarity of the product offering. In these circumstances consumers find it difficult to compare prices and packages, and are sometimes led to make purchases they would not otherwise make. The economy also suffers more widely when firms put their focus into extracting more income from consumers through

increasing the complexity of pricing rather than reducing costs or increasing quality and innovation.

- 8.5 The OFT proposes to focus on business behaviours that seek to reduce competition, create complexity, or construct offers in a way that consumers would not expect, all of which limit consumers' ability to assess the deals on offer. The sorts of behaviours we may look into include obscure terms that mask nasty surprises, bait pricing (having only a small proportion of stock available at the advertised offer price), reference pricing (such as 'was £100, now £60') and misleading promotions. We may also look further at after-markets—some business models rely entirely on profits from after-market merchandise in a way that is often not understood by customers when they make their initial purchase.
- 8.6 Following on from our earlier work in the personal current account market, where we found costs that were not transparent, real and perceived difficulties over switching accounts and difficulties over the way in which unarranged overdrafts functioned, we will report back on the impact of initiatives and developments in retail banking during 2012.

Improving trust in online markets

- 8.7 We propose that we continue our work in online markets, which remains a significant area of both economic growth and consumer detriment. We will focus on action that promotes awareness of consumers' rights, reinforces the integrity of online choice tools, or shapes emerging or significant online business models. In addition, we will take enforcement action where there is a specific threat to online consumer confidence. Our focus will be on empowering consumers and promoting compliance amongst businesses.

Intellectual property and high innovation markets

- 8.8 Competition and consumer protection issues can occur in rapidly evolving, high innovation markets where consumers are not aware of expected standards and where business norms of transparency, fairness

and general behaviour are not yet set. We will look to take action where market developments could result in consumer detriment. This may include work on low carbon markets, given the Government's Green Deal. Other areas of focus may include the changing boundaries between products and services online, or markets where there is a high degree of technical complexity or rapid technological change.

- 8.9 Another further area of focus relates to intellectual property rights (IPRs), which, by safeguarding product/service differentiation and driving innovation, are an essential part of ensuring strong competition and economic growth. Competition and consumer policy can be an important complement to IPRs in driving innovation, by preventing the abuse or unwarranted extension of such rights, so ensuring they do not restrict competition unduly. During 2012–13 the OFT will consider the impact, particularly on growth, of behaviour which seeks to reduce competition through the strategic use of IPRs, and will take enforcement action where appropriate. We will also look to establish a dialogue with industry participants and public and private practitioners regarding issues relating to IPRs and competition and consumer policy, and will consider solutions either through enforcement or through advocacy and engagement.

Public markets

- 8.10 The delivery of public services is changing. Users are being handed more choice, and private and voluntary organisations are being encouraged to participate, bringing new, more innovative, ways of delivering services to users. As well as supply issues, such as minimising excessive market power and ensuring competitive neutrality between the public and private sector, attention is increasingly focused on demand side issues and consumer choice, including in markets such as healthcare and education. We plan to work constructively with other government departments and bodies, helping them frame and deliver services that work well for users and taxpayers. In addition to advocacy and influencing, we will consider using the full range of tools at our disposal where circumstances merit.

9 CONSULTATION QUESTIONS

9.1 By focusing further on core competition, credit and consumer enforcement functions, we aim to divert the maximum amount of resources towards activities that produce direct market outcomes. We have a number of pieces of work that will continue into 2012–13, but we expect to have around 20 per cent of our front line resources (excluding our teams in mergers, consumer credit and anti-money laundering) available to take on new work at the start of 2012–13.

9.2 We have a large number of statutory functions in addition to our core functions, not all of which deliver the same level of impact to consumers. The OFT is sometimes under a specific duty to take action, but generally targets its interventions on the basis of priority. We would be happy to hear about which you consider should be deprioritised. Annexes A, B and C outline some of our recent work.

Reduced resources require that we get even better at prioritising our cases, making sure we focus on areas that matter most to consumers and the economy.



QUESTION 1: Do you agree with the priority themes and objectives we have identified in Chapters 5–8?



QUESTION 2: Are there any other areas that you think we should look at over 2012–13?

Focusing on the core means we will have to deprioritise certain activities. For example:

- We plan to spend less resource on market studies where there is little likelihood of follow-on enforcement action, either by the OFT or TSS.
- We continue to assess the resource we expend on intellectual leadership for international competition and consumer agencies



QUESTION 3: Are there any activities or functions which you consider we should deprioritise or cease, to ensure the best return on our resources?

ANNEXES

A EXAMPLES OF RECENT/ONGOING WORK

- A.1 The following pages provide a selection of OFT's on-going or recently completed work across selected sectors (construction and property; consumer credit; financial and professional services; pharmaceuticals and health; retail and wholesale; transport; public markets, electricity, gas and water; and online work). It is not intended to be a comprehensive list of all the OFT's work. The list only includes work in the public domain.
- A.2 In addition, Annexe B shows OFT's non-enforcement toolkit in more detail, and provides some examples of this work. Annexe C shows a range of interventions across the economy during 2010–2011.

Construction and property

Investigations

- Retirement Homes investigation into exit fees
- Completed investigation into an alleged collective boycott and alleged price fixing by certain recruitment agencies
- Completed investigation into bid-rigging in breach of the Chapter I prohibition of the Competition Act 1998 involving over 100 construction businesses

Market studies and markets-related work

- Market study into Aggregates sector. In August 2011, as a result of the study, OFT proposed to make a Market Investigation Reference (MIR) to the Competition Commission on the aggregates, cement and ready-mix concrete markets
- A stock-take of infrastructure ownership and control was published in December 2010

Mergers

- Referred a proposed joint venture in the UK construction materials market to the Competition Commission

Guidance

- In March 2011, the OFT published its guideline on the application of competition law following the revocation of the Land Agreements Exclusion Order

Consumer credit

Investigations

- Action to revoke the consumer credit licence of debt collection agency for misleading and placing undue pressure on consumers. The First Tier Tribunal upheld the OFT's decision at appeal
- Removal of consumer credit licence for use of high pressure and aggressive sales techniques
- Imposed requirements on second charge lender for irresponsible lending and collections practices
- Investigated unlicensed lead generation websites targeting vulnerable consumers
- Action to revoke the consumer credit licence of a business whose lending is secured by Bills of Sale for misleading and unfair treatment of consumers. The First Tier Tribunal dismissed the loan business's appeal

Guidance

- Published new guidance for businesses when they are considering granting credit to people who might not have the mental capacity to make informed borrowing decisions
- Updated OFT debt management guidance following the compliance review of the sector in 2010
- Updating OFT's guidance for debt collection activities
- New guidance on credit brokerage (issued for consultation June 2011)
- New guidance on the OFT's approach to misleading or otherwise undesirable business names (issued for consultation October 2011)

Financial and professional services

Investigations

- Currently investigating suspected anti-competitive information exchange of broker pricing information in personal motor insurance
- Currently considering a super-complaint from Consumer Focus on the allegedly confusing structure and presentation of charges on the use of credit/debit cards abroad. Other concerns relate to the purchase of foreign currency in the UK
- Completed investigation into the provision of loan products to professional services firms

Market Studies and market related work

- Currently reviewing the market for extended warranties for domestic electrical goods such as televisions, washing machines and computers
- Referred the audit market to the Competition Commission

Advocacy

- Follow-up to personal current accounts market study to ensure that initiatives on transparency, switching and unarranged overdraft charges have been introduced
- Advocacy project to raise awareness of competition issues around availability of data in the over-the-counter derivatives markets

Mergers

- Cleared the merger of two businesses providing transaction reporting services

Pharmaceuticals and health

Investigations

- Two current consumer protection investigations arising from the market study into mobility aids: one in relation to suspected unfair business practices and the other over its terms and conditions and service delivery
- Currently investigating other behaviour in the mobility aids sector which may result in further consumer protection actions which could lead to the removal of the credit licences from a number of sellers of mobility aids. TSS are also actively engaged in enforcement action into similar unfair sales practices in this sector

Mergers

- Currently considering accepting undertakings from two companies in the dentistry sector to resolve local competition concerns arising from their merger

Market studies and markets-related work

- Market Study into mobility aids market. The OFT has identified remedies to help consumers and healthcare organisations get better deals for mobility aids products. National campaign to warn consumers of unfair doorstep selling practices launched off back of the study
- Current study into the private healthcare market looking at concentration concerns, barriers to entry and limits on consultants to practice, and constraints on consumers
- Completed evaluation of OFT's 2001 abuse of dominance case against a Pharmaceuticals firm – the report found increased competition in the sustained release morphine (SRM) market over the past decade
- Study to examine competition and consumer aspects of the market for NHS and private dentistry

Retail and wholesale

Investigations

- Current investigation into whether arrangements that certain publishers have put in place with some retailers for the sale of e-books may breach competition rules
- Completed investigations into the purchase of gold from consumers by post
- Completed investigation concerning certain large supermarkets and dairy processors for breach of Chapter I Competition Act 1998

Mergers

- Accepted undertakings offered by a supermarket chain to resolve local competition concerns arising on its acquisition of another grocery retailer

Market studies and markets-related work

- Published a market study into the outdoor advertising sector to consider whether there are any distortions of competition or barriers to entry within the sector
- Published a market study to examine when, how and why contracts may cause difficulties for consumers
- Published two separate market studies looking at issues on advertising and pricing: advertising of prices, and online targeting of advertising and prices
- Evaluation of the 2004 doorstep selling market study

Guidance

- Distance selling hub, jointly developed with businesses
- SOGA (Sale of Goods Act) hub
- Updated FAQ for Farmers on Competition Law
- The OFT and the Competition Commission published a joint commentary on retail mergers

Transport

Investigations

- Ongoing Competition Act 1998/Chapter II case into bunker fuel cards
- Ongoing investigation into suspected cartel activity in the automotive sector
- Ongoing investigation into suspected cartel in relation to air passenger services on the London to Hong Kong route
- Secured consumer enforcement action against a used car purchaser
- Ongoing investigation into suspected cartel activity in relation to the passenger fuel surcharge

Market studies and markets-related work

- Call for evidence into private motor insurance launched

Mergers

- Merger under consideration relating to petrol forecourts

Public markets, electricity, gas and water

Market studies and markets-related work

- Ongoing dentistry market study examining competition and consumer aspects of the market for NHS and private dentistry (also referred to in Health and Pharmaceuticals work)
- Published a market study of competition and consumer issues in the domestic supply of energy to consumers who are not connected to the mains gas grid. Also took consumer enforcement action against heating oil businesses and price comparison websites
- Conducted a market study, working closely with Ofwat (The Water Services Regulation Authority), looking at the market for treatment of organic waste

Advocacy

- Published guidance and case studies 'Choice and Competition in Public Services – A Guide for Policy Makers'
- Published a report on competition in mixed markets: ensuring competitive neutrality
- Published a report into commissioning and competition in the public sector

Online

Investigations

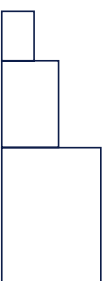
- Consumer enforcement action taken against group buying website and parent company, after it heavily promoted a sale of Apple iPhone 4s when it only had eight handsets available
- Ongoing investigation into a number of websites that charge people for Government services that are available directly from Government either at no cost or for a lower fee
- Taken action against three debt management businesses as part of ongoing enforcement work in the sector
- On-going Competition Act 1998 investigation into hotel online booking sector

Mergers

- Cleared the acquisition by the major online book retailer of a small competitor

DISTRIBUTION OF KEY SECTOR-SPECIFIC OFT WORK IN PREVIOUS FINANCIAL YEAR (2010–11) ACROSS THE ECONOMY

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



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

Transport, storage and communication <ul style="list-style-type: none"> • Airline passenger fares • Handpicked Media • Long-haul passenger flights 	Arts, entertainment, hotels & restaurants, recreation, other service activities <ul style="list-style-type: none"> • Modelling & entertainment agencies • Football tickets • Misleading prize promotions • Holiday clubs • Gym membership • Hotel online booking 	Agriculture, forestry, fishing, mining & quarrying <ul style="list-style-type: none"> • No public domain work in 2010–2011 	Electricity, gas and water <ul style="list-style-type: none"> • Heating Oil • Off-grid energy 	
Construction <ul style="list-style-type: none"> • Aggregates • Home repairs & improvements 	Financial intermediaries <ul style="list-style-type: none"> • Personal current accounts • Anti-money laundering supervision • Credit licensing and enforcement 	<ul style="list-style-type: none"> • Loans: professional services • Equity underwriting • Corporate insolvency • Cash ISAs • Motor insurers • Credit & debit card surcharges • Cold calling & charging practices 	Health and social work <ul style="list-style-type: none"> • Mobility aids • Private healthcare • EHC cards • Veterinary diagnostics 	
Wholesale and retail trade <ul style="list-style-type: none"> • We Buy Any Car Ltd • Dairy product retail pricing • Tobacco retail pricing • Supply of beer in pubs • Markco Media Ltd 	<ul style="list-style-type: none"> • Arora Tech Ltd • Second-hand cars • Bunker fuel • Postal Gold • Advertising of prices and online targeting of advertising and prices 	<ul style="list-style-type: none"> • e-books • Sports goods • Penny auctions 	Public administration and defence <ul style="list-style-type: none"> • Public services procurement • Choice in public services 	Education <ul style="list-style-type: none"> • No public domain work in 2010–2011
Letting of dwellings <ul style="list-style-type: none"> • No public domain work in 2010–2011 	Other real estate activities, renting of machinery and goods, business activities <ul style="list-style-type: none"> • Street furniture contracts • Outdoor advertising • Estate agency regulation • Retirement home exit fees • Audit market • Pyramid schemes 			

* Electricity and gas markets are regulated by Ofgem (Office of the Gas and Electricity Markets). The supply of water is regulated by Ofwat (The Water Services Regulation Authority).

B DISTRIBUTION OF KEY SECTOR-SPECIFIC WORK

OFT NON-ENFORCEMENT TOOLKIT

We undertake a broad range of activities in addition to our core activities, including direct regulatory responsibilities such as anti-money laundering supervision. Recent examples of such work are illustrated here:

Anti-money laundering supervision under the Money Laundering Regulations 2001

Evaluation

- Annual estimation of direct benefits to consumers from our activities & benefit to cost ratio (e.g. Evaluation of OFT Competition Advocacy)
- Wider benefits, such as deterrent effect

Markets policy & remedies

- Revised markets studies guidance
- Monitoring, enforcing & updating orders and undertakings put in place in the context of an MIR

Consumer Policy

- Drivers of compliance, Policy on criminal enforcement of the CPRs, Civil Sanctions pilot scheme with BIS & LBRO

Competition policy

- CA98 investigation procedures, Competition compliance guidance, Director Disqualification Orders

Input to EU policy

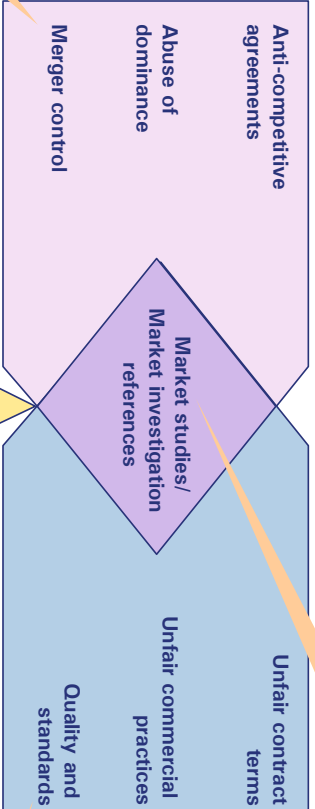
- Consultation on collective redress

Guidelines on Exceptions to the duty to refer, & good practice in design of consumer survey evidence (with CC)

Advocacy

- Government in markets, Choice in public services, Competition in mixed markets – ensuring competitive neutrality

COMPETITION ENFORCEMENT



SOFTER NON-ENFORCEMENT TOOLS



Distance Selling Hub, Sale of Goods Act Hub

International & EU
• ICN, OECD, ECN

Consumer Codes Approval Scheme

Consumer Direct

- Information & advice to consumers
- Campaigns
- Doorstep Selling, Know your consumer rights, Skilled to go

CONSUMER ENFORCEMENT

Input to EU & domestic policy

Consumer Credit licensing

Consumer Credit

- Debt management guidance, Irresponsible lending guidance, Mental capacity guidance

C OFT NON-ENFORCEMENT TOOLKIT

D OFT BUDGET SETTLEMENTS AND PROFILE

OFT budget settlements

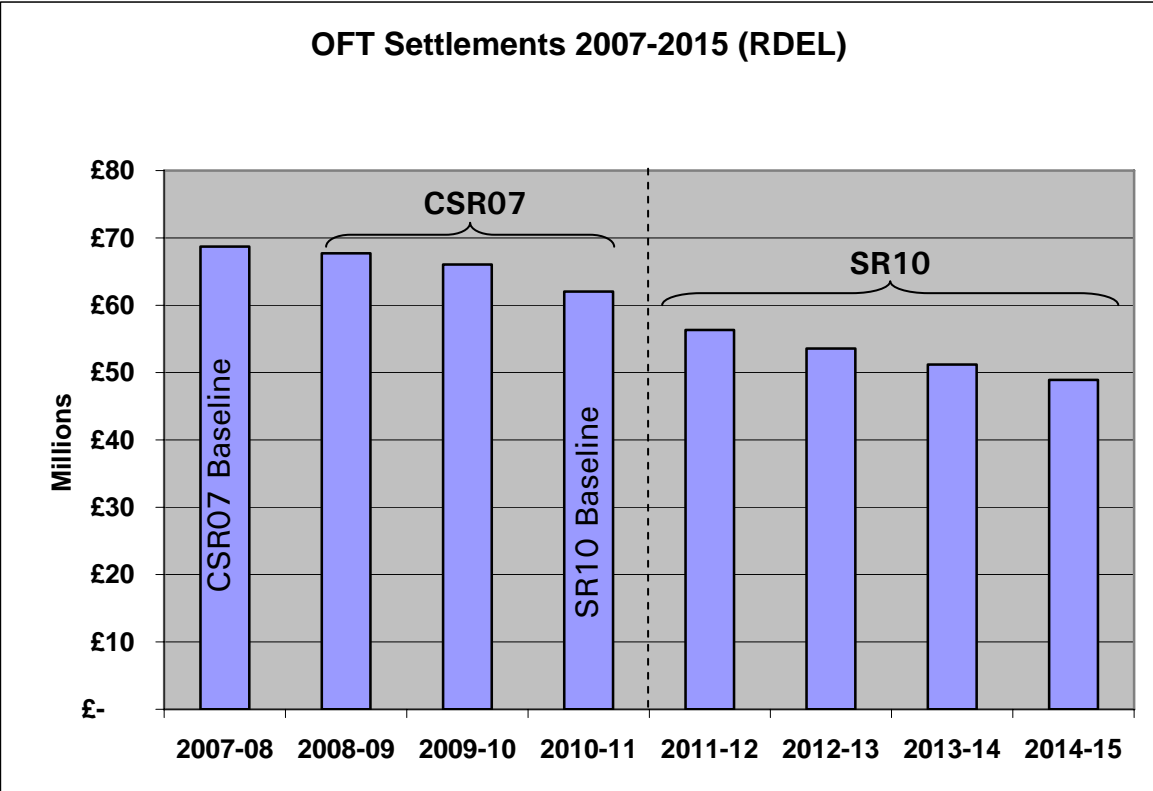
£m* (nominal)	2007–08	2008–09	2009–10	2010–11	2011–12	2012–13	2013–14	2014–15
Total departmental expenditure allocation	68.71	67.70	66.07	61.45	58.48	55.84	53.58	51.43
Administration budget	n/a	n/a	n/a	n/a	16.66	15.50	14.34	13.04
Programme budget	n/a	n/a	n/a	n/a	39.66	38.09	36.85	35.86
Capital budget	1.40	1.36	1.33	1.30	0.66	0.67	0.60	0.76
Income from self funding regimes* *		9.0	11.5	10.4	11.0 ^e	n/a	n/a	n/a

*These figures include depreciation and other non-cash costs. A breakdown of budget into Admin and Programme is not provided for years prior to 2011–12 as the data series is not directly comparable, given the reclassification in expenditure as part of SR10

**Anti-money laundering work (AML) became part of the self-funding regime in 2009–10. Prior to 2008–09, all fees collected for consumer credit licences were surrendered to the Government

e – Estimated fees from income in 2011–12

OFT Budget profile



E PRIORITISING OUR WORK

E.1 The OFT is a non-ministerial department. We are primarily a delivery agency, responsible for enforcing competition and consumer law in an independent way. We prioritise individual cases according to their impact and strategic significance for UK consumers and the economy.

Prioritisation principles

E.2 Our Prioritisation Principles describe the factors we consider and balance when we take decisions on our priorities. They are:

- **Impact** – what would be the likely direct and indirect effect on consumer welfare, and what would be the expected economic impact on efficiency/productivity?
- **Strategic significance** – does the work fit with OFT's strategy and objectives, is the OFT best placed to act and what would be the impact of the new work on the balance of OFT's current portfolio of work?
- **Risks** – what is the likelihood of a successful outcome?
- **Resources** – what are the resource implications of doing the work, including are the resource requirements proportionate to the benefits and are any savings created for the OFT by enabling us to meet our objectives more efficiently?

Protecting market sensitive and other information

E.3 Whilst we are committed to transparency in our work, given the nature of some of our work there may be reasons why we will not disclose information about all the work we are doing, or planning to do—for example, because it may prejudice an investigation or it may be market sensitive.

You should also note that:

- E.4 Inclusion of any sector or market should not be taken as an indication that there is any wrongdoing in that sector or market. We may also prioritise for action issues that arise in relation to markets and areas that are **not** set out in this document.

- E.5 We review our portfolio on a rolling basis throughout the year, maintaining flexibility to respond to changing events.

F IMPACT INDICATORS

F.1 As part of our Spending Review settlement and our wider commitment to transparency, we have agreed that we will report on our impact in accordance with the Impact Indicators set out below.

F.2 Our Business Plan for 2011–15, as agreed with HM Treasury, can be found on the OFT's website:

www.offt.gov.uk/shared_offt/annual_report/2010/OFT_Business_Plan_10_Dec.pdf

Impact Indicator	How often will it be published?
<ul style="list-style-type: none"> • Estimation of direct savings to consumers from the Office of Fair Trading's activities (Positive Impact report) and associated benefit to cost ratio (for example, 5:1 ratio) 	Annually
<ul style="list-style-type: none"> • At least one independently-audited in-depth ex post evaluation on an intervention 	Annually
<ul style="list-style-type: none"> • Customer service key performance indicators for: Consumer Credit Licensing, Consumer Direct, Mergers and Anti-Money Laundering supervision 	Quarterly
<ul style="list-style-type: none"> • Statistics and information on the Office of Fair Trading's enforcement and non-enforcement activities, including results on appeal 	Annually
<ul style="list-style-type: none"> • Participation in international comparison assessments (for example, the Global Competition Review or others) 	Annually
<ul style="list-style-type: none"> • Publication of statistics of direct settlement, third party interventions and Undertakings in Lieu 	Annually

G CONSULTATION CRITERIA

Public bodies are required to perform consultations in accordance with the following criteria wherever possible:

- G.1 **When to consult** – formal consultation should take place at a stage when there is scope to influence the policy outcome.
- G.2 **Duration of consultation exercises** – consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
- G.3 **Clarity of scope and impact** – consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
- G.4 **Accessibility of consultation exercises** – consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
- G.5 **The burden of consultation** – keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
- G.6 **Responsiveness of consultation exercises** – consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
- G.7 **Capacity to consult** – officials running consultations should seek guidance in how to run effective consultation exercises and share what they have learned from the experience.
- G.8 The full *Code of Practice on Consultation* can be found on the website of the Department for Business, Innovation and Skills:
www.bis.gov.uk/files/file47158.pdf