

# fairtrading



## Young Consumers Final

## From the Editor



This edition of *fairtrading* is a snapshot of work in progress.

If there is a unifying theme, it is the importance of partnership in delivering the OFT's objectives: with Trading Standards, the Financial Services Authority and other stakeholders. Sharing ideas and information is also vital if we are to succeed in transforming outcomes for consumers.

There are so many exciting developments afoot. I do hope that *fairtrading* gives a flavour of the creativity and hard work behind this developing agenda.

As ever, I welcome any comments and suggestions you might have.

Regards  
**David Garner**

### Late news

*OFT annual report 2005-06* published. The OFT *annual report* was published on 11 July. It is available from TSO, PO Box 29, Norwich NR3 1GN, Tel 0870 600 5522 price £16.15. It can also be downloaded from the annual report section of the OFT website.

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If you wish to comment on anything in the magazine or receive a personal copy, contact;

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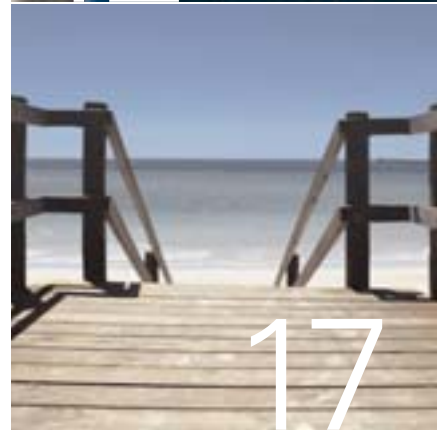
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**Cover photo** Up for the cup: the College of Fellows Trophy awarded to winners of the Young Consumers of the Year competition.

# Fatal attraction

## Misleading magnetic therapy advertising claims stopped

Magna Jewellery Limited, a company which sells jewellery and other products containing magnets that are marketed as a form of pain relief, has agreed to change its advertising following action by the OFT.

The OFT considers that a number of the company's advertising claims were misleading under the Control of Misleading Advertisements Regulations. Magna Jewellery Ltd and its officers, Jeffrey Frankel and Laura Neal, have given binding undertakings to the OFT that they will not make advertising claims stating or giving the impression that:

- magnetic products have a therapeutic effect caused by a specified physiological mechanism, such as an increase in circulation.
- the therapeutic effect of magnetic products is established or proven by scientific trials.
- products have a therapeutic effect due to their magnets (or magnetic



Shop therapy – but advertisers must not make misleading health claims

fields) and/or will in all cases produce a therapeutic effect for those who wear them.

- The undertakings also restrict the publication of advertisements using customer testimonials

which repeat any of the above claims.

Magna Jewellery Limited, Mr Frankel and Ms Neal have not admitted that their advertising claims are misleading.

## Double glazing components distributors fined for involvement in cartel

Fines totalling over £1.38 million have been imposed on double glazing industry firms EWS (Manufacturing) Limited, Thermoseal Group Limited, Double Quick Supplyline Limited and Ulmke Metals Limited.

This follows an investigation into price fixing and market sharing in the aluminium spacer bar market. Aluminium spacer bars are used in the manufacture of double glazing units.

The Office of Fair Trading has concluded that these companies participated in a cartel, in which they agreed to fix prices and share the market for aluminium double

glazing spacer bars, in breach of the Chapter I prohibition of the Competition Act 1998. The infringement occurred during the last part of 2002 and was brought to an early end as a result of the OFT's intervention.

In line with the OFT's leniency policy, Ulmke Metals Limited has been granted 100 per cent leniency in recognition of its cooperation with the OFT's investigation. In addition, Thermoseal Group Limited has been granted a 40 per cent reduction of its penalty, also under the leniency policy. The total fines imposed are therefore reduced to around £900,000 by leniency.

## Consumers warned against lottery **fake cheque** scam

The OFT is warning consumers not to respond to a new type of lottery scam targeting the UK which uses counterfeit cheques to try and convince recipients that their promised win is genuine.

The mailing from the 'Australian Lottery Corporation' states that the recipient has won \$750,000, but must first pay for taxes and insurance. Recipients are advised to call an agent for more information.

A \$4,880 cheque personally made out to the recipient, and allegedly drawn on a reputable American bank, is also attached to the mailing as part of the alleged winnings to cover the 'necessary payments' the consumer needs to make. The cheque

is in fact counterfeit, but can take up to six weeks to work through the banking system. The consumer could be liable for any funds they spend while waiting for the cheque to clear.

Experience from similar scams suggests that victims could lose thousands of pounds if they send off money to claim their 'winnings'.

Christine Wade, OFT Director of Consumer Regulation Enforcement said:

'Lottery scams have been around for a number of years but the use of a counterfeit cheque is a worrying development. Scams are becoming increasingly more sophisticated and everyone needs to be on their guard.' (See also page five).

## Wholesale benefits?

### Competition concerns about newspaper and magazine **distribution agreements**



Current arrangements for distributing both newspapers and magazines that award local monopolies to wholesalers may harm consumers and be difficult to justify in terms of competition law, said John Fingleton, OFT Chief Executive, at the publication of the OFT's draft opinion on newspaper and magazine

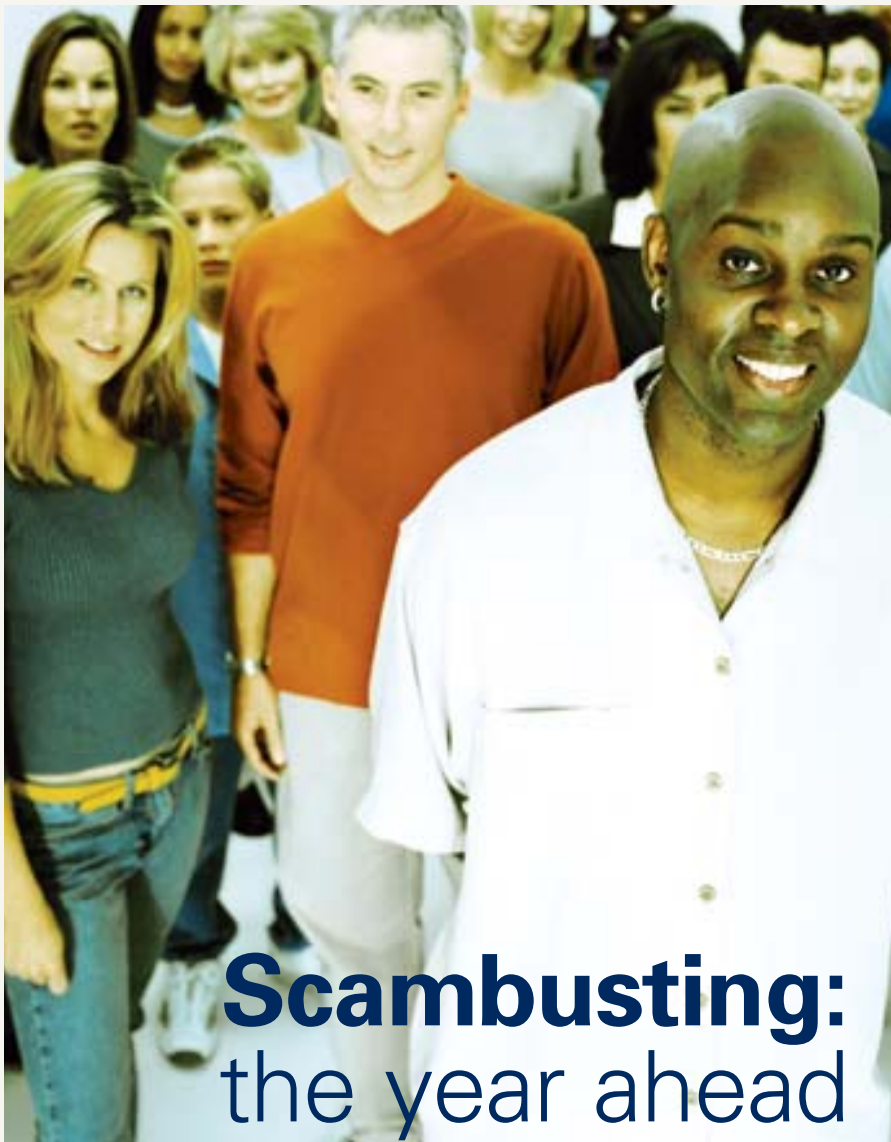
distribution agreements.

The draft opinion sets out a framework for assessing whether newspaper and magazine agreements comply with competition law. When finalised following consultation, the opinion will provide guidance to help publishers and distributors assess their specific agreements.

Many current agreements involve each publisher awarding wholesalers an exclusive territory in which to distribute their titles to retailers. The wholesaler is prevented from selling to retailers located outside of its exclusive territory.

This means that retailers cannot seek a better deal from rival wholesalers and the wholesaler is protected from competition. Restrictions on competition of this kind may be illegal, if they do not have offsetting benefits, such as cost savings, that could be passed on to consumers – for example, in the form of product innovation or lower cover prices.

The draft opinion is available on the OFT's website and the consultation period closes on 1 September 2006.



# Scambusting: the year ahead

Mass marketing scams are a growing source of consumer detriment. Fairtrading focuses on plans designed to stop the scammers and talks to team leader Mike Haley.

The sting may take many forms – it might be a letter from a so-called psychic, an email announcing you have won something exciting in a sweepstake, or a classified advertisement promising work from home riches. What links these schemes is their underlying deceptive intention: to con you out of your cash and make a quick killing.

Scams and scammers are a menace to consumers and legitimate businesses too.

It is estimated that 20 million people in Britain have been targeted by scams and nearly one in ten of the biggest target group – 35 to 54 year olds – has fallen victim. But the authorities are hitting back.

## Targeting, investigating, educating

The OFT's scambusters team is working closely with its UK partners and worldwide contacts to crack down on the con men. The team's

work programme for the next 12 months is underpinned by a challenging project mission:

'To substantially reduce the consumer detriment suffered by UK residents from marketing scams over the next three years, by targeting OFT resources at investigating the most prevalent scams, disrupting routes to market and educating consumers so that they can arm themselves against scams.'

This multi-pronged approach is designed to make best use of scarce resources, generating activity in problem areas where there is the prospect of making a lasting difference. Developing partnerships is key to achieving these objectives.

## Phonebusting

For example, overseas the OFT has been liaising with Phonebusters, Canada's national call centre for fraud reporting. This organisation tracks identity theft, West African fraud letters (so called 419s) and the notorious Canadian lottery fraudsters.

Collaboration centres on a number of mailings that have appeared or are appearing in the UK. The most recent of these is from an operation calling itself 'The Australian Lottery Corporation'.

This mailing is being sent to UK consumers stating they have won \$750,000.00 in the Australian Lottery (see panel on page 4). Although it says Australian Lottery it has a Canadian phone number – this is of course a new variation on a long standing fraud.

## Scambusting continued...

### Enforcement action

#### Plans include:

- Implementing an intelligence led enforcement approach both within the team and with regional Trading Standards analysts, based on the National Intelligence Model (see article on page 10)
- Assisting in the setting up of viable and complementary TSS Regional Scambusters teams
- Taking effective enforcement action under the Enterprise Act against the five most prevalent types of mass marketing scams
- Seeking a market transformation in the holiday club sector through targeted interventions and enforcement activity (see article on page 17).

### International

#### Plans include:

- Initiating at least one cross-border EU court action against the initiators of deceptive mail order prize draw advertisements
- Assisting overseas enforcement partners in taking action against scams targeting UK residents; in particular with Canadian, US and Swiss authorities
- Coordinating annual UK participation in ICPEN internet sweep, February 2007
- Signing up as members of the Toronto and Vancouver Strategic Partnerships on telemarketing fraud, attending meetings and providing assistance with investigations.

### Information and education

#### Plans include:

- Coordinating annual UK participation in Scams Awareness Month, February 2007
- Press releases linked to specific enforcement outcomes
- Planning of a number of consumer alerts on generic scam issues (particularly emerging problems) where consumer education can assist in preventing detriment, for example UK lottery scams
- Implementing policy of 'naming and shaming' particular scams where appropriate.

# Partnership is key

Scambuster Mike Haley talks to *fairtrading* about **the way ahead**



Mike Haley

## Ground breaking

In the first 12 months of the Scambuster team we initiated ground breaking research to gauge the scale of consumer detriment from scams, put together an expert team and instigated the Scams Enforcement Group.

There was a lot of spade work done. The Scambuster team is still quite new, so we need to build on existing skills and consolidate the experience gained through previous enforcement activity. We are concentrating on those areas where we have identified maximum detriment – areas such as lottery and sweepstake scams.

Our biggest challenge is to identify emerging scams quickly and to bring all the relevant legislation to bear on the perpetrators.

## Partnership

Partnership is key to all this – it is vital that we bring together all the law enforcement agencies in a way that maximises our combined effectiveness. We cannot wait for complaints to pile up – one complaint might indicate the beginnings of a major new scam that needs addressing.

Recently, a major investigation was launched, with the OFT working alongside Bristol Trading Standards, the Metropolitan Police and the Serious and Organised Crime Agency. We are learning how they approach scams. In the next year, the aim is to become smarter in the way we operate, targeting the leading villains behind the major scams.

Internationally, we will be signing concordats with the Toronto Strategic Partnership and the Vancouver Strategic Alliance. Signing up to these cross border partnerships is an expression of solidarity with fellow enforcers and a tangible commitment to action.

It opens up communication channels – scams are international in their organisation and reach and need to be tackled through coordinated action. That involves,

for example, providing evidence in cases and tracking down scammers when they are in the UK.

## Innovation

Our plan stresses the importance of using innovative methods to prevent scams hitting the market. That means working closely with international mail companies and other agencies so that information is rapidly disseminated. Or contacting newspapers in advance, so that we know when scam adverts are being placed.

## Successes

There have been some notable successes over the last 12 months, such as the court injunction against Gurdeep Singh, promoter of the OMI Club. Internationally, we won in the Court of Appeal in Belgium against the TV Direct mass marketing prize scam and stopped the harmful Morgan T clairvoyant scam that operated out of Switzerland. The team also tackled a number of premium rate telephone scams including Purple Rock and GR8 Games.

Scams Awareness Month made a big contribution to raising consumer consciousness, with its strap line: 'there's a scam out there for everyone'. Millions got that campaign message through the media and by accessing the OFT website.

## Credibility

The cumulative effect of all this enforcement and marketing activity is that we are taken seriously by other agencies, viewed as the UK's leading experts in combating mass marketing scams. That gives us the credibility to drive things forward in the future.

Of course the work has only just started, because we are just one year into a three year plan. Years two and three are about delivery. We've had good headlines, good results, but you haven't really seen anything yet from the scams team.

# A joint enterprise

OFT and the FSA commit to closer working for the benefit of consumers and businesses



Ray Watson

The OFT and the Financial Services Authority are strengthening their partnership to deliver better regulatory outcomes in the multi-billion pound market for financial services.

Under a joint action plan unveiled by the two regulators in April 2006, the OFT and the FSA have committed to closer collaboration in areas where they both have regulatory responsibilities.

The plan sets out actions they will take to lighten the administrative burden for jointly regulated businesses (around 19,000 financial services firms are regulated by both bodies), enhance communication with business and consumers, and provide more joined up regulation.

'We've been cooperating with the FSA for some time on regulatory matters of common interest, for example under unfair contract terms legislation, and on broader policy issues,' says Ray Watson, a director in the OFT's Consumer Regulation Enforcement Division.

'The action plan builds on this by committing us to closer collaboration. We want to ensure we both regulate effectively to make financial services markets work well and protect consumers while avoiding placing unnecessary burdens on businesses.'

## Action plan

The move towards greater collaboration follows the Government's decision not to transfer the OFT's consumer credit functions to the FSA – an option that had been mooted in the 2005 Hampton report on regulatory inspections and enforcement.

Following consultation, and in view of major regulatory changes

including the start of FSA mortgage regulation, the reform of the Consumer Credit Act and proposals for a new European consumer credit directive, the Government decided against further reform.

The changes outlined in the action plan are designed to:

- allow firms to fulfil the requirements of both organisations with minimal duplication of effort
- ensure policy and rules in areas of joint responsibility are consistent and complementary
- give consumers consistent messages about financial services markets
- enable more effective sharing of knowledge and expertise between both organisations.

To achieve its goals, the plan proposes a wide range of improvements (see panel). In some, the OFT and FSA have committed to making changes right away. In others, there will be feasibility studies to determine whether changes are necessary and, if so, whether they can be made cost effectively.

## Progress

Some progress has been made already. In May, the OFT and FSA published consolidated guidance on the rules governing financial services advertising. This brings together separate guidance published by both regulators. The new document, available via

both organisations' websites, helps firms identify when advertising will be jointly regulated and explains how to create a compliant advert.

A month previously, a consultation exercise began on removing the requirement in advertising to publish two different risk warnings – one under consumer credit advertising regulations and another under the FSA's financial promotion rules. Both warnings serve the same purpose of putting consumers on notice that they may lose their home if they default on the credit agreement.

### Stakeholder groups

In addition, stakeholder groups have been set up. The first is made up of business organisations including the Council of Mortgage Lenders, the Association of British Insurers and the Finance and Leasing Association. The other comprises consumer groups and representatives of the Trading Standards Service.

'We're discussing our proposals with the stakeholder groups and getting their feedback so we can be sure what we're doing delivers real benefits,' says Ray Watson.

All the proposed feasibility studies are under way and most will be complete by October. The findings from these, and progress on other commitments in the plan, will be published in November in an update report.

*Delivering better regulatory outcomes, the OFT and FSA action plan* can be downloaded from the OFT website – follow the link from the 22 March press release.

Comments and suggestions can be e-mailed to [actionplan@oft.gsi.gov.uk](mailto:actionplan@oft.gsi.gov.uk)



**Partners for improvement: the OFT and FSA will work together to deliver tangible benefits**

## Key commitments of the OFT and FSA plan

### Working closely on matters of joint regulatory interest

- Formalise cooperation arrangements under unfair contract terms legislation
- Consider scope for coordinated strategy for regulating payment protection insurance and related products
- Consider scope for more sharing of information about firms (within the legal framework governing disclosure of confidential information).

### Collaborating on policy

- Produce a single guidance document for firms whose advertising is jointly regulated
- Consult on rule change to allow firms to use just one risk warning in credit advertising.

### Reducing the administrative burden

- Feasibility studies into: aligning authorisation and licensing processes
- Simplifying process of updating standing data
- Rationalising invoicing and fee collection
- Identifying ways to issue combined communications to firms.

### Communicating with stakeholders

- Improve coordination of consumer communications, including through websites
- Feasibility study into better alignment of the Consumer Direct advice service and FSA contact centre
- Link both organisations' public registers of regulated firms and carry out feasibility study into integration of the registers.

# Intelligent design

## How regional intelligence hubs will refine and focus enforcement work

Consumer protection across the UK has received a major boost from new funding announced by the Department for Trade and Industry (DTI).

£1.8 million has been given to Trading Standards to set up a network of eleven regional intelligence units. The team members of each unit will work alongside local Trading Standards professionals and with the Office of Fair Trading. Together, they will ensure that consumer protection can gain the benefits of intelligence-led working enjoyed by other law enforcement organisations, such as the police, customs and immigration services.

The new teams will be in place by September this year and will be a vital link between the work being done on the ground by Trading Standards and the OFT's own role in consumer protection and coordinating and championing the work of Trading Standards.

### Countrywide network

When the network is fully up and running, there will be analysts in each of the nine English regions and in Scotland and Wales. Each analyst will be employed by a lead authority and will be tasked with identifying cross-authority issues that affect trading standards. They will then work on how best to resolve these issues in a coordinated and joined up way. Problems identified that are of national significance will be fed into the '12th hub' - at the OFT.



Des Fitzpatrick

**'It's a business-planning process that will ensure that we use our resources to the best possible effect'** Des Fitzpatrick

### Intelligence-led

At the heart of what the new units will deliver is intelligence-led consumer protection. Pooling intelligence is one more way that we can have a bigger impact in the work we do. And as the OFT's Des Fitzpatrick says:

'It's not just about amassing information – it's a business-planning process that will ensure that we use our resources to the best possible effect'.

The work of the intelligence analysts will help us bring together

a bigger picture of what is happening around the country, and help us focus on tackling the most widespread harm to consumers.

Building upon the success of Consumer Direct, the hubs represent a further step along the path of using market data and intelligence to target the most prevalent scams and rogue traders. The hubs therefore complement the three pilot scambuster teams that are being set up in central England, the north east and jointly between the south east, east of England and London regions.

### Wider support

Several authorities around the country have already benefited from adopting an intelligence-led approach – including Birmingham, Oldham and Kent. But the introduction of these hubs will function as trailblazers, leading the way to the embedding of intelligence-led enforcement at both a local and national level.

To meet the challenge of introducing a radical new business planning model, the Office of Fair Trading will benefit from the experience of CENTREX – the Central Police Training and Development Authority – the organisation charged with developing policing by identifying good practice and sharing that knowledge nationally and internationally. They have agreed to assist the OFT and TSS in implementing the National Intelligence Model.



Intelligence is key to demolishing the most destructive scams

The work within the OFT to set up and make the best use of the networks is being led by Mike Haley, supported by Des Fitzpatrick. Des has a great deal of experience in this area, gained in particular from his work with the National Criminal Intelligence Service (NCIS) now part of the new Serious Organised Crime Agency (SOCA).

### Learning from experience

It was NCIS that developed the framework that became the National Intelligence Model that has been so successful in the enforcement community. And importantly, we can learn from their experience of implementing the framework, meaning we can avoid the pitfalls of the 'early-adopters'.

And the thinking that led to the creation of SOCA as it joined up

the work of the organisations whose functions it took over – to bring a sophisticated and integrated approach to law enforcement – is at the heart of the mission for the regional intelligence hubs.

### Intelligence and scams

One clear example of the results that intelligence-led working can bring to our counter-scams work is the uncovering of a large-scale and organised mailing scam. What initially seemed to be a large number of disparate mail fraud scams were discovered to be linked to the same group of people. Through the application of an analytical approach, we identified a network of businesses involved in a multi-million pound rip-off. The intelligence-led approach will assist us to identify and take high-

impact cases, and go after the king pins that run the most destructive scams. It will be consumers and customer-focused businesses that will be the beneficiaries.

### The Future

The OFT has been given a central role in supporting and organising the new network, but the regional intelligence hubs will need to become part and parcel of the daily work of every Trading Standards department in order to be most effective. The current funding from the DTI lasts for two years. By the end of this time, we expect that they will have contributed to a step change in our ability to have a real impact in our enforcement work.

# Past and present

Non-executive director Richard Whish talks to *fairtrading* about his career

People ask me how I was drawn to law and came to specialise in competition law – it's a curious story.

## Tinged with socialism

When I was asked by my school for my A level preferences I told them that I wanted to study economics. This was the late 1960's and Clifton College was a very traditional, conservative school. They regarded economics as highly suspect, a subject that was tinged with socialism, so were disapproving.

I buckled under the pressure when they said that I would be very good at law. As a result of that

decision, I gained a place at Oxford University to study the subject and can remember at the start that I detested it!

## Post graduate

Years later, I took a post graduate degree – the Bachelor of Civil Law (BCL) – and came across competition law. Suddenly here was something that I found attractive and which suited me. It's a fascinating irony that competition law is about applied economics. So in some curious way, those

instincts I had as a schoolboy eventually came to fruition.

## Academic

In 1978, immediately after completing my post graduate studies, I became an academic at Bristol University. There were a number of factors behind my opting for this career.

After my first degree I qualified as a lawyer, becoming a solicitor in 1977. But I had been told by Oxford University that if I wanted to go back and be certain of getting

**Richard Whish** has been Professor of Law at King's College London since January 1991; prior to that he taught at the University of Bristol. He is also a Professor at the College of Europe (Bruges).

He is a qualified solicitor and was a partner at Watson, Farley and Williams from 1989 to 1998. He acts as a consultant to a variety of companies and regulatory agencies, and is a non-executive director of the Office of Fair Trading; he is also a member of the Board of the Singaporean Energy Market Authority.

He is the author of or contributor to various books on competition law, including *Competition Law*, 5th edition (2003); Volume 47 of *Halsbury's Laws of England* (with Ian Smith); the competition law chapter in *Chitty on Contracts*; the competition law chapter in the *Stair Memorial Encyclopædia of the Laws of Scotland* (with Ian Flint); *The Competition Act 1998* (with Peter Freeman); *Merger Cases in the Real World: A Study of Merger Control Procedures* (with Diane Wood). He is co-editor with Peter Freeman of *Butterworths Competition Law*.



a scholarship, then I would have to do so before I was 25 years old.

So while qualifying as a solicitor, I knew there was a possibility that I would go back and do the BCL. During the course I realised that an academic career was attractive. When the job came up at Bristol I applied and got it.

### Teacher

Very soon after my arrival, I was told that the authorities wanted to establish a master's degree in commercial law. They were looking for course options and for people to teach them. As I had just studied competition law at Oxford, I was asked to teach a master's option. By 1980, I was teaching the course in competition law.

### Author

Then I offered a publisher – Butterworths – the completed manuscript of a book. This was accepted and the first edition of *Competition Law* published in 1985. The book – in its successive editions – has been part of my life ever since.

### Partner

During this period, many London law firms realised there was a need to increase their knowledge of EU law in general and competition law in particular.

I found myself travelling regularly between Bristol and London talking to law firms, lecturing and advising.

A firm of solicitors – Watson, Farley and Williams (WFL) – approached me and said that they would like to formalise our relationship and take me into the partnership. I explained that I didn't want to give up my academic career, so became a part-time partner. It was very courageous of them!

**'It is so important to get everyone at the OFT thinking holistically about the organisation'**  
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### King's College London

I went to WFL in 1989. Then in 1990 King's College London (KCL) asked me to join them. I became a part time professor in 1991. So now my career was London based and competition law based, split 50/50 between two employers.

### Workload

It was terrific. I was teaching, writing, advising clients, and doing various bits of consultancy for non-governmental organisations too. All very fulfilling, but eventually the workload grew greater and greater. By 1997 something was going to have to give. I was effectively doing two full time jobs.

### Great struggle

I didn't want to give up the practice or my professorship at KCL. It was a great struggle. What made my mind up was the fact that the 4th edition of *Competition Law* was due and I hadn't written a single word.

In 1998, I realised that if I was to complete another edition, then I would have to go to King's full time. It was the night that England lost to Argentina in the quarter final of the World Cup – where Beckham kicked Simeone and was sent off. I had a vision of the future and resigned from WFL that night. Thus I became a full time academic once again.

### Advising, assisting, teaching

Since then I have gone on with my teaching, writing and consultancy. So many countries are now developing their own competition

law and policy. It is terrifically exciting. I provide these with input: advising, assisting and teaching.

### Non-executive director

I became a non-executive director at the OFT in 2003, having served on its then advisory panel for two years.

The OFT has undergone the most radical transformation in its governance over a number of years. In principle, the formation of a board containing non-executive directors is an extremely good one.

Our function is to set the strategic direction of the OFT, to ensure that there are proper management systems in place, but also to keep the executive accountable. Our role is to challenge the way the place operates.

We are also there to provide support and encouragement and to check that what people are doing is right. Non-executive directors need to provide positive, inspirational direction too. My expertise is in the field of competition law, so I have been most active in that area.

It is so important to get everyone at the OFT thinking holistically about the organisation – the full range of functions that it contains. As a Board member, I try to think horizontally and not to be found guilty of ignoring cross-office issues.

### Young people

As a teacher, the thing that gives me most satisfaction is trying to enthuse young people who possess ability. Hopefully, they become interested and develop those skills and aptitudes that enable them to go on to successful careers. There are perhaps 50 countries in the world where I can find former students working in competition law. Mine is an extraordinarily rewarding job.

# Fit for purpose

## An OFT/TSS partnership will benefit consumers and business

An ambitious blueprint for the delivery of consumer regulatory services at a local and regional level forms part of a new strategic partnership between the OFT and local authority Trading Standards Services (TSS).

The joint action plan is the product of detailed discussions involving senior OFT personnel and TSS chiefs from across the UK. The plan sets out first steps in a strategy to deliver first-rate outcomes for consumers while reducing the burden of red tape on business.

It stems from new responsibilities given to the OFT in the Chancellor's pre-Budget report last December. These require the OFT to provide regulatory leadership to local enforcers – for example by sharing information, supplying expert advice and coordinating action in certain areas. And to ensure that the achievements of the TSS get the recognition they deserve both nationally and locally.

### Greater consistency and coordination

The OFT will also be working with other national regulators and with a proposed new body, the Local Better Regulation Office (LBRO). Operating in concert, these will set priorities for local authority regulatory services - specifically Trading Standards and environmental health - and develop a framework for measuring and managing their performance.

Underpinning the new partnership is a desire for greater consistency and coordination of



Mike Coates

**'It's about raising the profile of Trading Standards in central government and helping them to champion their cause at a local level'**

regulatory activity. The 2005 *Hampton Review* recommended a smarter risk-based approach to enforcement, with authorities spending less time on routine inspection and more on targeting the worst traders and helping businesses to comply with their regulatory requirements.

Mike Coates, deputy Director of the OFT Plus programme team and the person charged with taking forward the action plan, comments:

'It's about raising the profile of Trading Standards in central government and helping them to champion their cause at a local level. It is also about securing a sustainable future for Trading Standards in line with the Hampton agenda. That means establishing a clear picture of the services we all want to see and developing a strategy for how, using our complementary skills and expertise, we can achieve this.'

### A varied remit

Between February and April, workshops chaired by the Chairman or Chief Executive of the OFT were held in Scotland, Wales and nine English regions to consult TSS heads on the main themes of the action plan. High level talks also took place with the TSS in Northern Ireland, which, unlike its mainland counterparts, is a function of national government.

There are 203 local authorities in Great Britain, and 199 heads of TSS. The remit and priorities of TSS staff vary according to geographic location (whether the local authority is in a rural or urban area, for example) and internal organisation (where the service sits within

the local authority structure).

As Mike notes,

'While most TSSs carry out the same core functions, no two are identical. Nevertheless, we were struck by the consistency of the feedback we received. Many TSSs are facing common problems and issues – although the best way of addressing these may differ from region to region.'

### Sustainability and visibility

The consultation exercise highlighted several areas of concern and opportunity.

The first, and perhaps most immediate issue, related to the wellbeing and visibility of the service itself. Mike explains:

'Questions were raised about the sustainability of individual TSSs, both in terms of funding and their ability to recruit, train and retain staff.'

There are concerns too that the true value of the service is not being recognised, even within local authorities themselves.

'The feeling is that more could be done to highlight the important work that Trading Standards does beyond tackling rogue traders, such as in promoting economic development and building safer communities.'

### Research

Bearing this in mind, the OFT will commission research to assess current resource and service provision and gauge awareness of the work of Trading Standards among council members and chief executives. Armed with the findings, the programme team will explore and seek agreement on the scope and remit of core TSS functions and how they can best be delivered in conjunction with other regulatory services. The team will

also look at ways of improving contact with local authority decision makers and publicising the impact of the TSS more widely.

Building up a picture of the experience and qualifications of Trading Standards staff is also important. The action plan will seek to identify an optimum training model for the various TSS roles and open up new avenues for personal development and promotion.

### Knowledge management, intelligence sharing

Intelligence and knowledge management is another area earmarked for action.

A project will be launched to determine how market data from a range of sources can be used to better inform local, regional and national enforcement activity. This will build on the success of Consumer Direct, the national consumer advice service now managed by the OFT, and the work of DTI funded regional intelligence hubs (see page 10). A key objective is to determine how existing databases can be rationalised and how intelligence-sharing with other agencies, such as the Police and HM Revenue and Customs, can be facilitated.

A risk-based approach to inspection and enforcement hinges on the supply of good quality advice to consumers and business. A priority of the action plan is to develop a baseline picture of current provision and implement a programme for identifying and spreading best practice across the country.

From the consumer's perspective, this will mean ensuring that 'second tier' advice relating to specific complaints (which cannot be provided by Consumer Direct) is delivered consistently nationwide.

It also means guaranteeing that vulnerable or hard to reach groups have ready access to tailored support.

For businesses, the emphasis will be on developing new methods of engagement and greater understanding of what local traders find most helpful in terms of guidance.

### Stronger links

Embedding best practice also implies a greater focus on collaborative working, both across TSS and between TSS and other regulators. The OFT Plus workshops highlighted the need for stronger links between the OFT and TSS regions. That includes OFT involvement in regional planning and more secondment opportunities for OFT and TSS staff. By March 2007, measures to bring this about should be in place.

### Funding

The final element of the action plan looks at how the financing of Trading Standards can be placed on a more secure footing. TSS budgets have been shrinking across the UK for some time, and some local authorities have responded to the Hampton report and the launch of Consumer Direct by making even deeper cuts.

To obtain funding for specific consumer protection activities, TSSs often have to lobby several different government departments or national regulators. Even where such money is available, it tends to be for a limited duration.

The OFT Plus programme will develop proposals for securing more sustainable and coherent resourcing for TSS.

Given the collaborative approach, the programme of joint action will be overseen by a programme board.

# Scottish school scoops **first win**

*Fairtrading* reports from the Young Consumers of the Year final

Pupils from Boroughmuir High School in Edinburgh (pictured right) secured the winning prize at this year's Young Consumers of the Year competition, the first Scottish school to win.

Louise Anton, Sandy Nutall, Imogen Peacock, and Kara Wiltshire consistently won each round of the UK final. They bettered St Aloysius' College, Glasgow in the final round to clutch, by a hair's breadth, the winning title – 56 points to 55. A fantastic result from the first final to also have two Scottish teams competing.

Allerton High School, Leeds and The King's School, Grantham also competed fiercely and snatched third and fourth places, respectively.

The four schools faced eight tough rounds of questions in the UK final held at the TSI Conference, at the ExCeL centre, London Docklands on Wednesday 21 June. Each team displayed impressive knowledge of credit, consumer affairs, fakes, frauds and scams, food and drink, money and finance - and of social responsibility and the environment.

The competition is run by the Trading Standards Institute (TSI), with main sponsorship from the Office of Fair Trading, and is open to pupils between the ages of 14 and 18. This year, 360 schools across the UK competed in a series of heats which culminated in a UK final in London. This was the 20th anniversary of the competition.

The competition is designed to educate young people to be aware



Cup that cheers: Boroughmuir High School team with Lynn Faulds Wood (left) and Nigel Strick, Chairman TSI (centre)

**'It was a very intense competition, especially the final round. I was sitting on the edge of my seat throughout!'**

of their responsibilities as well as their rights, giving them the skills to make informed decisions when purchasing items on a day-to-day basis. It also helps prepare them for life after school.

Graham Sutherland, Boroughmuir's Modern Studies teacher, who entered the school

in the competition said, 'We're absolutely delighted!'

He added: 'It was a very intense competition, especially the final round. I was sitting on the edge of my seat throughout!'

# Perfect summitry?

Holiday club bosses and OFT officials work towards a better deal for consumers

OFT officials met with bosses from four of the five main holiday club operators on 14 June. Their aim was to secure market reforms that offer better protection for holiday club consumers.

**Top of the agenda is a binding code of practice that guarantees:**

- Truthful marketing practices and control over the activities of aggressive marketing companies
- A contractual cooling off period along the lines enjoyed by timeshare customers
- Fair complaint handling and redress.

'We are at a crossroads. If these companies do not prove supportive then the OFT will take enforcement action, making full use of all our injunctive powers.'

– Mike Haley

It was a fruitful meeting with strong support from business leaders. They agreed to work together to introduce consumer friendly marketing practices and fairer, more transparent contracts.

**Holiday clubs big five:**

- Club Class Holidays
- Design Vacation
- Full Circle Holidays
- Elite Holidays
- Timelinx (DWVC) – not present.

Over the next few months, the OFT will draw up a code of practice. The object is to secure signed agreements by the autumn. Then the companies will work with the OFT to ensure their marketing companies obey the rules.

This new code of practice will be supported and publicised by the OFT. Its introduction will help consumers differentiate between bogus traders and legitimate operators.

For years, the selling of holiday club products - in places like the Canary Islands and the Costa Del Sol – has caused problems for consumers and enforcement agencies.

Problems centre on high pressure selling, misrepresentation, unfair contract terms and the lack of a contractual cooling off period. These have damaged the industry's credibility.

The OFT has engaged with the industry. It has concluded that there are some genuine businesses models, often based on the supply of surplus timeshare accommodation.

Comments OFT team leader Mike Haley: 'We want to improve trading standards and protect consumers. But we recognise the need for efficient, competitive markets that allow new entrants and product innovation.'



OFT holiday clubs advertising, My Travel in-flight magazine summer 2006

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