

Proposed market study into mobility aids:

Proposed Statement of Scope

19 November 2010

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**Executive Summary**

1. This document accompanies the OFT's press release dated 19 November 2010, announcing the OFT's proposal to conduct a market study into mobility aids. It sets out relevant background information and the OFT's proposed statement of scope of the market study, on which it is now inviting views.
2. Mobility aids are products used to assist those who experience difficulty in moving around freely and independently due to an age related, medical or other condition. They are important products for their users, who include elderly and disabled people, as they can significantly improve the quality of their lives. Mobility aids include products such as wheelchairs, scooters, stair lifts, bath aids, hoists, adjustable beds and specialist seating.
3. In 2008, the UK mobility aids sector was estimated to be worth approximately £500m.<sup>1</sup> A significant proportion of sales are made to the public sector. The mobility aids sector is likely to expand over the coming years, as the number of elderly people rises.<sup>2</sup>
4. This sector has attracted a large number of calls to Consumer Direct<sup>3</sup> by purchasers, and key interested parties have raised concerns that the sector is not working well for consumers.

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<sup>1</sup> *Equipment for the Disabled, Key Note Market Report 2009*, page 14.

<sup>2</sup> *Mobility Aids & Accessories Worldwide - A Market Strategy Report*, Marketstrat Inc, 2006.

<sup>3</sup> Consumer Direct is the government-funded, OFT-managed telephone and online service offering information and advice on consumer issues: [www.consumerdirect.gov.uk](http://www.consumerdirect.gov.uk).

5. The OFT proposes to conduct a market study into mobility aids to examine whether the market(s) in the sector are working well for consumers and, if not, whether there is potential for improving how they function.<sup>4</sup>
6. However, before commencing the market study the OFT wishes to consult interested parties on the proposed scope.

### **What Prompted the OFT to Propose a Market Study into Mobility Aids?**

7. Markets work well when firms compete to win business by, among other matters, achieving the lowest level of cost and prices and developing better products to meet consumers' needs more effectively than their competitors. The competitive process, when it works well, encourages innovation and provides consumers with increased choice. Competition is also enhanced when consumers are empowered to shop around through access to readily available and accurate information about the products they are seeking and the various offers available in the market.
8. In addition, where the public sector is a major buyer in a market, its purchasing decisions can have significant effects on competition, and may have an effect on the number of suppliers, the technologies used, and the range of products available. Private sector buyers without the same level of buyer power may not be able to shape the market in the same way.<sup>5</sup>
9. The mobility aids sector has attracted a large number of calls to Consumer Direct by consumers who requested advice and/or raised complaints about issues with mobility aids purchases. In 2009, nearly 5,000 calls were made by consumers – this represented an increase of approximately 20 per cent over the previous year. Callers primarily complained about the following: defective products, customer service, high-pressure selling and misleading advertising/claims.

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<sup>4</sup> Further details about the OFT's approach to market studies can be found in the OFT's publication *Market Studies: Guidance on the OFT approach* [www.of.gov.uk/shared\\_of/business\\_leaflets/enterprise\\_act/oft519.pdf](http://www.of.gov.uk/shared_of/business_leaflets/enterprise_act/oft519.pdf).

<sup>5</sup> For more information, see *OFT Government in Markets guide*: [www.of.gov.uk/shared\\_of/business\\_leaflets/general/OFT1113.pdf](http://www.of.gov.uk/shared_of/business_leaflets/general/OFT1113.pdf)

10. The OFT's preliminary research into this sector included obtaining information from key interested parties, some of which raised concerns that consumers lacked information to enable them to search for better quality and prices to suit their needs and means.
11. In particular, they highlighted that the sector is characterised by unequal information between buyers and sellers which could lead to poor outcomes for consumers, for example:
  - overcharging, which would result in consumers not obtaining value for money
  - 'undertreatment', which would result in consumers purchasing products that fall short of their needs, and
  - 'overtreatment', which would result in consumers purchasing products that exceed their needs.
12. Certain interested parties raised concerns that competition in the wheelchair sector is not working as well as it should be, leading to higher prices and less choice for consumers. In particular, they indicated that there are distortions of competition and barriers to entry/expansion in the wheelchair sector due to:
  - supplier contracts with retailers containing exclusivity or terms which dampen retailers' incentives to compete on price
  - a fragmented retail market which has a limited ability to counteract suppliers' market power, and
  - public sector bodies' purchasing practices – for example, repeated selection of the same firm(s) in a series of tenders restricting choice of suppliers in the long term.
13. They noted further that consumers are unlikely to make informed decisions about complex issues such as the whole-life costs of operating certain mobility aids.<sup>6</sup> This could lead to poor outcomes for consumers.

### **Proposed Scope of the Market Study**

14. The OFT is now consulting on the scope of its proposed market study.

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<sup>6</sup> Whole-life costing would take into account both the original purchase price and ongoing maintenance and repair costs, which could be substantial.

15. The OFT proposes that the scope of its study include the following products: wheelchairs, scooters, stair lifts, bath aids, hoists, adjustable beds and specialist seating. The geographic scope of the market study would be the whole of the UK.
16. At this stage, the OFT proposes to examine the issues set out in paragraphs 17 to 20 below in relation to those products. In relation to wheelchairs, the OFT proposes to consider in addition the issues set out in paragraph 21 below.
17. What are the '**routes to the consumer**' for mobility aids (both in the private and public sectors)? For example, what is the composition of suppliers/sellers (specialist retailers, generalist mobility aid retailers, online retailers, doorstep traders, direct sales from suppliers) and through which channels (public/private) are the products sold/supplied?
18. Are consumers getting the right **information** to enable them to make informed choices on mobility aids that meet their needs and means? Key issues and questions may include the following:
  - Mobility aids are **complex products**: good information on matters such as functionality/quality/price/whole-life costing is required in order for consumers to understand and assess how the products meet their needs and means.
  - **Do firms provide the right information?** This is also relevant from the perspective of facilitating 'shopping around' by consumers.
  - Do consumers obtain **expert advice** (where this is needed) in order to ensure that they are purchasing a product that suits their needs? A related question is whether sales people are qualified to give such advice or whether the consumer has to reconcile advice from a healthcare professional with sales advice from another person?
  - **What role does the public sector play as an information provider?** It may be that there are information gaps that are not being met by private sector suppliers and which the public sector can fill in.
  - **Where is the information provided?** Is it provided over the internet, the telephone, at retail premises, in the home?

19. Are consumers sufficiently **empowered** to drive vigorous competition amongst firms in order for them to provide better quality, lower prices, and more innovation? Key issues and questions may include the following:
- Do consumers have sufficient **bargaining power** in order to drive competition and/or a better deal? Is their bargaining power weakened, for example, because in addition to any lack of the right information: (i) they may be required to purchase within a **short time** because of specific urgent needs (a 'stress purchase'), (ii) mobility aids are **necessity** products, or (iii) they are being **sold to in the home** (which can be intimidating)?
  - Some consumers have limited mobility and/or lack of other means to search (for example, access to the internet). That limits their **ability to 'shop around'** and drive competition.

20. Are consumers being **treated fairly**, and if not, what can we best do to address unfairness? Key issues and questions may include the following:

- The use of **high pressure sales tactics**, especially in the home.
- The use of **misleading sales tactics** (for example, on quality/functionality/price).
- Whether **terms and conditions** are sufficiently clear and fair, and provided before purchase?
- The role of **industry codes of practice** in this sector in relation to such issues, including the OFT-approved Code of the British Healthcare Trades Association.

Potential **remedies** may be drawn from a wide range of actions, including specific enforcement action, education/awareness and suggestions for legislative change.

21. In relation to the wheelchair sector more specifically, the OFT proposes to examine in addition whether there are other possible sources of **market problems**. Key issues and questions may include the following:

- Are there distortions of competition due to the **structure** of the market(s) in this sector and the number of players?

- Are there distortions of competition due to **firms' behaviour** (for example, due to exclusivity or other terms in supplier contracts)?
- Are there distortions of competition due to **public bodies' behaviour as purchasers and suppliers** of these products?

### **Possible Outcomes of a Market Study**

22. Market studies can lead to a range of outcomes. They may conclude that a market can be given a clean bill of health and that the initial concerns about consumer detriment are not substantiated by the information collected over the course of the study.
23. Where the market is found not to be working well, there are several options the OFT will consider to address the causes. These may include one or more of the following:
- improving the quality and accessibility of information for consumers (including consumer education and consumer guidance)
  - recommendations to business, for example to take voluntary action (including recommending industry codes of practice or changes to existing codes of practice)
  - recommendations to Government
  - investigation and enforcement action against businesses suspected of breaching consumer or competition law or
  - making a market investigation reference to the Competition Commission.
24. The above is merely an illustrative list of possible outcomes. The OFT retains an open mind as to which outcomes, or combination of outcomes, may be appropriate to address any concerns that it may identify during the course of the market study.

### **Invitation to Comment**

25. The OFT would welcome written comments on the proposed scope of the market study from a wide range of interested parties **by 10 January 2011**. In addition to the issues raised in this document, we would welcome comments on:

- whether there are any additional issues which should be addressed in this market study, or
  - whether there are certain issues, products, or geographic areas to which the market study should give more or less attention than others.
26. Interested parties can submit their comments by email to [mobilityaids@oft.gsi.gov.uk](mailto:mobilityaids@oft.gsi.gov.uk), or write to us at:
- Mobility Aids Team  
Goods Group  
Office of Fair Trading  
Fleetbank House  
2-6 Salisbury Square  
London EC4Y 8JX
27. Interested parties would include firms, trade bodies, individuals, consumer groups, charities in this sector, academics with an interest in this sector, other government bodies and Trading Standards Services.
28. At this stage, the OFT is only seeking comments on the proposed scope of the market study. The OFT will seek views on other, more detailed aspects of the study after it has launched the study, most likely in February 2011.
29. The OFT looks forward to receiving comments and to working together with interested parties on this important sector.