

Positive impact 08/09

Consumer benefits from the OFT's work

July 2009

OFT 1102

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1 EXECUTIVE SUMMARY

Introduction

- 1.1 The OFT has a performance target agreed with HM Treasury of delivering direct financial benefits to consumers of at least five times its cost to the taxpayer. This document describes the OFT's impact estimation work that measures the OFT's performance towards the 5:1 target.
- 1.2 We estimate that the OFT has saved consumers at least £409m per year on average over the period April 2006 to March 2009. Table 1.1 compares the estimated consumer savings to the average annual OFT spend of £53m¹, giving us a benefit to cost ratio of around 8 to 1, putting us ahead of the 5:1 target.

Table 1.1: Estimated consumer savings and OFT costs for 2006-09

	Estimated average annual consumer savings 2006-09 ²
Consumer protection	£68m
Mergers	£131m
Competition enforcement	£78m
Market studies	£132m

¹ The cost figure excludes - Consumer Direct that is not included within the 5:1 target, Anti Money Laundering and Consumer Credit Licensing that are self funded activities.

² Consumer savings are estimated as an annual average over 2006-09 except for: (i) consumer protection where estimates reported are for 2008/9 as this is a new area included this year, (ii) market studies and abandoned mergers averaged over two years as these have only been included since 2007/8, (iii) ex post impact estimates from Extended Warranties and Payments Systems Task Force for the relevant period in 2006-09 when benefits were realised.

Total benefits	£409m
Total OFT costs (averaged over 2007-09)	£53m³
Partial OFT costs (averaged over 2007-09)	£36m ⁴
Benefit/ Total OFT costs	8
Benefit / Partial costs	11

- 1.3 The above consumer savings estimate includes the direct impact of our work in the following areas: consumer protection (scams and non-scams work), merger control, enforcement of competition law, and market studies, reviews and market investigation references (MIRs). This does not comprise the full extent of the OFT's work and the total estimate of consumer savings is therefore conservative.
- 1.4 In addition, many of the beneficial outcomes of the OFT's work are not quantifiable and are not included in the total benefits shown in Table 1.1. For example, any psychological detriment averted by our actions, deterrence effect of our competition enforcement work, and impact of increased competition on productivity.
- 1.5 The estimated consumer savings in this report are ex-ante except for the estimates of the Payments Systems Taskforce and Extended Warranties market study which are ex-post.⁵ The ex-ante estimates are

³ This is total OFT costs minus costs of Consumer Direct, Anti Money Laundering and Consumer Credit Licensing. We use a two year moving average for costs as cost data for 2006/7 was not available in a format easily comparable to costs in 2007/8 and 2008/9.

⁴ This includes costs of areas included in this report for which we estimate impact.

⁵ See section on market studies and reviews for more information.

based on the best information available at the time of estimation.⁶ Where evidence is weak, the assumptions underlying the estimates are conservative.

- 1.6 The OFT and the Competition Commission (CC) together operate the merger and market investigations regimes. We therefore consider estimates of consumer savings as a whole for these areas as well as the share that may be attributed to the OFT.
- 1.7 Consumer savings from OFT's work in competition enforcement are estimated for those Chapter I and Chapter II cases where: an infringement decision has been issued against the undertakings concerned, one or more individuals have been convicted of the cartel offence, or where all the parties in a case have admitted their involvement in the infringement. In the latter case, only a portion of the total benefit is imputed and the rest will be imputed once the infringement decision has been issued or, where there is an ongoing parallel criminal investigation, once all investigations have been completed.

Results

- 1.8 The total consumer savings from the merger regime is estimated at around £313m per year on average for the period 2006 to 2009. £131m of this may be attributed to the OFT which includes an 80 per cent share of consumer savings from undertakings in lieu⁷ (UILs) and abandoned mergers and 20 per cent from mergers blocked or amended by the CC following a reference.

⁶ The estimates are ex-ante to the extent that the full impact of the completed projects is not observable.

⁷ Undertakings in lieu or UILs are cases where the OFT accepts binding undertakings from the merging parties as an alternative to referring the merger to the CC. The undertakings must be aimed at preventing or remedying the adverse competition effects identified.

- 1.9 We estimate that consumers directly saved £78m per year on average over the period 2006 to 2009 from the OFT's work on enforcement of competition law, that is, investigating cartels and other commercial agreements, and abuses of dominant position in markets.
- 1.10 The total impact of our consumer protection enforcement work has been estimated at £68m. Of this, £11m per year on average over the period 2006 to 2009 was from the OFT actions to stop illegal scams. The non-scams consumer work, included for the first time this year, accounted for £57m for the year 2008/9.
- 1.11 We estimate that consumers directly saved £358m per year as a whole from the market investigations regime. This includes market investigation references carried out by the CC, and market studies and reviews of undertakings and orders done by the OFT. We include market studies where the OFT's recommendations were implemented (rather than market studies published) over the period 2007 to 2009. The estimate of consumer savings attributed to the OFT in this area is £132m per year.

Differences from Positive Impact 07/08

- 1.12 Positive Impact 08/09 builds upon the methodologies and assumptions set out in previous Positive Impact notes.⁸ For example we continue to take as given that all market interventions conducted by the OFT, and not overturned on appeal, are warranted, we implicitly assume that the institutional structure is sufficient to ensure that any incorrect decisions or planned decisions are identified and corrected.
- 1.13 This year we include for the first time the impact estimates from our non-scams consumer protection interventions and report a total impact

⁸ Previous Positive Impact notes can be found on the evaluation page of the OFT website. www.offt.gov.uk/advice_and_resources/resource_base/evaluation/publications

estimate for the consumer protection enforcement work covering scams and non-scams.

- 1.14 Of the mergers referred to the CC by the OFT, the CC, after further investigation, will decide whether to clear, amend or block the merger. Impact estimates of abandoned mergers and UILs have been scaled down to account for the uncertainty of the outcome of a CC reference. That is, we factor in the probability of UILS and abandoned mergers resulting in consumer detriment.
- 1.15 We adopt the rolling average approach used in estimating benefits to report OFT costs. This smoothes out the impact of year on year fluctuations in OFT costs on the benefit to cost ratio.
- 1.16 We present findings from our work on wider benefits and the approach used to estimate impact of Consumer Direct⁹. These are, however, not part of our 5:1 HMT target.
- 1.17 This year, we worked with the CC to make our methodologies and estimates more consistent. The CC now reports average annual net present value (NPV) estimates of consumer savings.¹⁰ We report CC estimates for the period 2006-09 calculated using this new CC approach.

Conservatism of our results

- 1.18 The impact estimates presented in this document are conservative because:

⁹ Consumer Direct is a national consumer advice service. The Consumer Direct central database collects and consolidates data relating to all calls made to Consumer Direct contact centres.

¹⁰This has meant revising the CC figures for 2006-08 to make them consistent with 2008-09. In the past, the CC used a simple approach to estimate total benefits over time and multiplied its annual benefits by three.

- We do not cover the impact of - consumer education, competition advocacy, consumer codes approval scheme, or the support we provide to Trading Standards services across the country.¹¹
- We only include the direct financial impact of our interventions.¹² We do not estimate the impact of any psychological detriment averted by our actions.
- We cannot generally quantify the dynamic effects of increased competition on innovation, and efficiency/productivity.

Structure of document

1.19 Section 2 describes the broad methodology that applies to all the estimates of consumer savings presented in this report. Consumer savings resulting from the work of consumer protection enforcement, merger control, competition law enforcement, and market studies and MIRs are presented in sections 3 to 6 respectively. In section 7, we discuss some of the wider benefits in the form of increase in consumer confidence and deterrent effect resulting from our work. Section 8 explains how we estimate the costs incurred by the OFT. Section 9 compares estimated consumer savings with costs incurred by the OFT. Annex A presents the impact estimation approach of Consumer Direct.

¹¹ See the OFT evaluation website for previous evaluations that have looked at some of those areas, for example, the Consumer Codes Approval Scheme, OFT 870, support for Trading Standards in using Part 8 of the Enterprise Act, December 2006, OFT 549, and the use of the Consumer Direct database by Trading Standards services, February 2007, OFT871. More recently we published a report on - Trading Standards Impact – an evaluation of the impact of the fair trading work of local authority Trading Standards Services in the UK, June 2009, OFT1085 that estimated that TSS fair trading work saves UK consumers at least £347 million a year. We do not claim any proportion of this impact for the 5:1.

¹² While we do not include it in our aggregate estimate of consumer savings, we provide a guide of the scale of our deterrent effect in section 7. For further details see: 'The deterrent effect of competition enforcement by the OFT', November 2007, OFT963.

2 METHODOLOGY

Introduction

- 2.1 We have continued to widen the scope of our impact estimation work in Positive Impact 08/09 and for the first time we have included impact estimates of our non-scams consumer protection enforcement work. We present the work in progress method used to estimate impact in this area in Section 3.

Figure 2.1: Areas of OFT's work covered by Impact estimation (2005 to 2009)

	Positive Impact 2005/6	Positive Impact 2006/7	Positive Impact 2007/8	Positive Impact 2008/9	
OFT projects and programmes	Mergers	✓	✓	✓	✓
	Enforcement of competition law	✓	✓	✓	✓
	Scambusters	✗	✓	✓	✓
	Market studies and Market Investigation References	✗	✗	✓	✓
	Consumer education	✗	✗	✗	✗
	Non-scam consumer protection enforcement	✗	✗	✗	✓
	Competition Advocacy	✗	✗	✗	✗
	Consumer Codes Approval Scheme	✗	✗	✗	✗
	Partnership work	✗	✗	✗	✗

- 2.2 In estimating impact, we have been conservative in our assumptions and have based our estimates on the best information available at the time. We will revise the estimates upwards or downwards if necessary

as we gather more data while monitoring impact or carrying out ex-post evaluations.¹³

- 2.3 We view our current methodology as a work in progress and will continue to develop it. We are open to changes to the methodology that could improve the way we estimate impact in the coming years, as long as these are based on robust evidence or sound research.
- 2.4 For example, the consumer protection methodology as well as the monitoring of completed market studies have been reviewed by an academic expert. In addition, feedback on impact estimation methods is actively sought by presenting at conferences in the UK and abroad¹⁴.

Baseline assumptions

- 2.5 In general, we have followed the approach set out in previous Positive Impact notes as we believe it to be fit for purpose, making minor changes where appropriate.
- 2.6 The OFT's goal is to 'make markets work well for consumers'. For this reason, and in line with other competition authorities around the world, we estimate the benefit to consumers of the OFT's actions. We do not estimate the potential loss to business of the OFT's decisions.¹⁵
- 2.7 We focus solely on estimating the impact of market interventions undertaken by the OFT. We take as given that all interventions not

¹³ For further details please see 'Approach to calculating direct benefits to consumers', March 2008, OFT 955.

¹⁴ For example, the OFT presented its work on developing consumer protection enforcement impact estimation methodologies at the International Consumer Protection and Enforcement Network (ICPEN) conference in April 2009.

¹⁵ We intend to gain a better understanding of regulatory costs while carrying out ex-post evaluations wherever possible but we do not plan to incorporate estimates of regulatory costs within our impact estimation work presented in Positive Impact notes such as this one.

overturned on appeal are warranted. We assume that the institutional structure is sufficient to ensure that poor decisions, or planned decisions, are identified and corrected.

- 2.8 Where possible, we base our estimates on information obtained during our investigations. This information has already gone through a rigorous process of internal peer-review and the threat, and at times the actual procedure of external review by the Competition Appeals Tribunal (CAT). Where the relevant information is not clearly contained in the case documents, we have made assumptions based on international best practice, academic research, and case officer expertise.
- 2.9 All of our general and case-specific assumptions are conservative. We do not claim that estimates of our impact exactly capture consumer savings. Rather, by using conservative assumptions that are supported by the available evidence, we ensure that it is unlikely that less than our estimate has been saved.
- 2.10 We use the Consumer Price Index to take account of inflation. All figures are in March 2009 prices and are rounded to the nearest one million pounds.
- 2.11 We discount future consumer savings at the Social Discount Rate of 3.5 per cent.¹⁶
- 2.12 We have agreed an 80-20 rule to split impact estimates with the Competition Commission for the merger regime and market investigations. The majority of impact would go to the 'main actor' body. In the merger regime for example, the OFT would be the 'main'

¹⁶ Treasury Green Book 'Appraisal and Evaluation in Central Government', Chapter 5.
www.hm-treasury.gov.uk/data_greenbook_index.htm

body where undertakings are accepted in lieu of reference, whereas the CC would be the 'main' body if the merger was referred. The CC would be the main body for market investigation references while the OFT would be for market studies that could get referred to the CC and reviews of orders and undertakings.

3 CONSUMER PROTECTION ENFORCEMENT

Introduction

- 3.1 This section presents the estimated impact of the OFT's consumer protection work covering both our scambusting activities and other non-scams consumer protection interventions. For the period 2006 to 2009, the total consumer benefits from consumer protection enforcement as a whole has been estimated at £68m per year on average.

Consumer protection interventions (non-scams)

- 3.2 The OFT's consumer protection team seeks to change trader behaviour that contravenes consumer protection legislation using a range of interventions such as issuing informal warnings, accepting undertakings under the Enterprise Act, or obtaining Court Orders.¹⁷
- 3.3 All interventions are aimed at protecting consumers, particularly vulnerable consumers, from rogue trading, unfair commercial practices and other breaches of consumer protection legislation.
- 3.4 We estimate that the work done by the consumer protection team delivered direct savings to consumers of at least £57m in 2008/9. An explanation of the approach used to derive the impact estimate is detailed below.¹⁸

¹⁷ Trading Standards are also responsible for consumer protection enforcement and tackling unfair trading practices. This section only considers the consumer savings resulting from OFT enforcement action. An evaluation of the impact of the fair trading work of local authority Trading Standards Services in the UK, June 2009, OFT1085 can be found at: www.offt.gov.uk/shared_offt/about_offt/offt1085.pdf

¹⁸ The OFT has commissioned an external economics consultancy to look in detail at six previous OFT consumer protection enforcement interventions. This will not only provide evidence of the consumer savings achieved in those cases but will help identify possible improvements we could make to the current impact estimation method.

Methodology

3.5 The consumer savings arising from a consumer protection enforcement action can be split into four categories:

- **Category one:** Future consumer detriment prevented by the improved trading practices of the trader targeted.
- **Category two:** Future consumer detriment prevented by the improved trading practices of traders not subject to the OFT action but engaged in similar harmful consumer practices as the targeted trader.
- **Category three:** Future consumer detriment prevented by the improved future practices of businesses not subject to the OFT action and not engaged in harmful consumer behaviour, but who absent the OFT intervention would likely adopt harmful practices similar to the targeted business in the future.¹⁹
- **Category four:** Other wider benefits such as improvements in consumer confidence.

3.6 The methodology only estimates the consumer savings made in categories one and two. That is, it only considers the benefits to consumers arising from improvements in the future business practices of the targeted trader and other traders in the same sector engaged in similar harmful practices as the targeted trader.

3.7 It does not attempt to estimate the deterrent effect described in category three. These deterrent effects could be quite significant if for example, the absence of enforcement action against a well known

¹⁹ For example, if a business adopts a particular trading practice that is harmful to consumers, failure to act by the OFT may lead to other firms in the industry adopting similar practices. This would be particularly true if the harmful practice gives the firm an unfair advantage. Therefore, OFT action can be seen as 'nipping in the bud' harmful practices before they become the norm across the industry.

market leader for breach of consumer protection legislation led to the harmful practices in question becoming the norm across the industry.

- 3.8 In addition, the methodology does not include estimates of the deterrent effects of the OFT's action on businesses not in the same sector as the targeted trader.
- 3.9 The estimates of consumer savings only include financial impacts of our consumer protection work. Consumer protection work can often deliver significant non-financial benefits, for example by preventing or reducing psychological detriment, including the stress and loss of confidence that can accompany consumer problems. Such non-financial benefits are not included in this assessment.
- 3.10 Moreover, the estimates do not include the prevention of unrevealed consumer detriment. That is detriment that may be suffered by consumers without their being aware of it.
- 3.11 Finally, we have not attempted to identify or estimate any extra costs that businesses may have passed on to consumers following consumer protection interventions.
- 3.12 Overall, it is likely the approach used gives a conservative estimate of the consumer savings resulting from our consumer protection enforcement work.
- 3.13 The methodology for estimating the reduction in consumer detriment following an OFT intervention has been divided into two stages based on the consumer savings identified in categories one and two above.

Stage 1

Reduction in complaints

- 3.14 We obtained details of the consumer protection interventions completed in the financial year 2008/09. For each intervention, we

identified using the Consumer Direct²⁰ database, the **number of relevant complaints**²¹ made against the targeted trader during the 12 month period **before the intervention (Cb)**.

3.15 In the same way, we identified the **number of relevant complaints** made against the targeted trader during a 12 month period **after the trader intervention (Ca)**. However, as we are concerned with interventions completed during the financial year 2008/9, for most cases we did not have complete data on the number of relevant complaints against the trader for a full 12 month period post intervention. Therefore an estimate for the 12 months period post intervention has been made based on the number of relevant complaints received to date.²²

3.16 The estimate would be monitored in the future and any difference between the actual number of post intervention relevant complaints and the estimate will be adjusted for in next year's Positive Impact note²³.

²⁰ Consumer Direct is a national consumer advice service. The Consumer Direct central database collects and consolidates data relating to all calls made to Consumer Direct contact centres.

²¹ Relevant complaints are those complaints that could be reasonably said to be addressed by the consumer protection intervention.

²² So, if the intervention was completed on 4 October 2008, the number of complaints in the 12 months post intervention was estimated based on complaint data for the period 4 October 2008 to 4 March 2009.

²³ In the future, we will leave a gap of three months after the intervention before monitoring post intervention complaints to allow time for the intervention to start taking effect. There are two reasons in particular for allowing a three month period between the trader intervention and the beginning of the search period: firstly, to allow for a likely time lag between consumers first encountering a problem and reporting it to Consumer Direct, and, secondly, so as not to include any possible spike in complaints immediately after the intervention that may be caused by an increase in consumer awareness following any publicity surrounding the intervention.

- 3.17 Before making a comparison of relevant complaints before and after the intervention, we need to make an adjustment to compensate for the general increase in the number of relevant complaints that are reported to Consumer Direct over the time period concerned²⁴. Therefore, the number of relevant complaints made against the trader during the 12 months before the trader intervention (*C_b*) is multiplied by an adjustment factor (*A*) to produce a counterfactual. This is an estimate for the number of relevant complaints that could reasonably be expected to have been made against the trader, during the following 12 months, had the OFT not made the intervention.
- 3.18 Where there is a reduction in relevant complaint numbers after the trader intervention relative to the counterfactual, the reduction in the number of relevant complaints is multiplied by each of the following:
- An estimate of the **average consumer detriment (*D*)** suffered by consumers who experience a problem with the trader.
 - A **multiplier (*M*)** which reflects the fact that most consumers who experience a problem with a trader do not complain to Consumer Direct.
 - A **multiplier (*T*)** to reflect an estimate of the number of years that the unfair trading practice could be expected to continue absent the intervention.

Average consumer detriment

- 3.19 The average detriment (*D*) suffered by consumers who experienced a problem with the trader is estimated by first ascertaining the average payment values recorded against the relevant complaints on Consumer Direct. A formula is then applied to this average payment value to

²⁴ Since coming online in 2004, there has been an annual increase in the total number of complaints received by Consumer Direct as coverage of Consumer Direct across the UK rose and awareness of the online and telephone service amongst consumers increased. However, in the future it is likely the total number of complaints to Consumer Direct will begin to plateau and we will take this into account when estimating impact.

obtain an estimate for the average detriment (D) suffered by consumers who experience a problem.

- 3.20 The formula was derived from survey data collected as part of the OFT's consumer detriment research²⁵ and provided evidence of a linear log log relationship²⁶ between payment values associated with complaints and the average detriment suffered. The formula is detailed below and reflects the fact that the payment values recorded on Consumer Direct do not typically equate to the actual detriment suffered by the consumers who reported the complaints. For example, an average payment value of £5,000 may be recorded against complaints about a seller of second-hand cars. However, the average amount of detriment suffered by the consumers making the complaints is likely to be lower than this figure. Using the formula, an average payment value of £5,000 would result in an estimate for average detriment (D) of £479.

$$\log_{10}(D) = 0.3354 + 0.6340\log_{10}(P)$$

Where D is the average detriment, P is the average payment value associated with each complaint.

Sector multiplier

- 3.21 The multiplier (M) reflects the fact that, in general, only a small proportion of consumers who experience a problem make a complaint

²⁵ Consumer Detriment – Assessing the frequency and impact of consumer problems with goods and services, April 2008, OFT992.

www.offt.gov.uk/shared_offt/reports/consumer_protection/oft992.pdf

²⁶ This is the linear relationship between the logarithmic transform of detriment and the logarithmic transform of payment value.

to Consumer Direct. The OFT's Consumer Detriment Research indicates that the likelihood that a consumer will complain about a particular problem is sector specific. That is, the ratio of problems to complaints varies according to the sector that the trader operates in. For example, a consumer who experiences a problem with a trader in the house fittings and appliances sector is more likely to make a complaint to Consumer Direct than a consumer who experiences a problem with a trader in the professional and financial services sector. The value of the multiplier (M) that we used for each trader intervention therefore depends on the sector in which the trader in question operates. A list of sectors and their associated multipliers is given below.

Sector	Multiplier (M)
(A) House Fittings and appliances	22.8
(B) Other household requirements	56.9
(C) Personal goods and services	24.7
(D) Professional and financial services	59.3
(E) Transport	14.0
(F) Leisure	32.0

Duration

3.22 Finally, we make a conservative assumption that, on average, had the OFT not intervened, the unfair trading practice would have continued to cause consumer detriment for another two years at the same rate as

during the 12 month period prior to the intervention²⁷. We therefore used a figure of two for the multiplier (*T*).

3.23 To sum up, the stage 1 methodology multiplies the reduction in complaints post intervention (adjusted to take account of any increased awareness of Consumer Direct) by an estimate of the average detriment suffered by consumers to get the annual detriment prevented for those consumers who complain. Using the ratio of problems to complaints for the specific sector, it is then possible to get the annual average detriment suffered by all consumers experiencing a problem with the trader. It is then doubled using the assumption the detriment has been prevented for 2 years to provide a conservative estimate of future consumer detriment prevented. It can be set out mathematically as follows:

$$B_1 = (C_b A - C_a).(D).(M).(T)$$

- B*₁ : Future consumer detriment prevented by improving the targeted trader's business practices.
- C*_b : Number of relevant complaints* against the targeted trader in the 12 month period before the intervention.
- A* : Adjustment coefficient reflecting the general rise in complaint numbers.
- C*_a : Estimate of the number of relevant complaints against the targeted trader in the 12 months after the intervention.

²⁷ This assumption is based on the outcomes of discussions with the Consumer Markets Group and relevant case officers.

D: Average detriment related to the complaints. This is calculated from the average payment value (P) associated with the complaints using the formula:

$$\log_{10}(D) = 0.3354 + 0.6340\log_{10}(P)$$

M: Sector specific multiplier taking account of the fact only a proportion of consumers suffering detriment will complain to Consumer Direct.

T: Number of years for which the targeted traders practice would be expected to continue in the absence of the consumer protection intervention.

*** Relevant complaints are those complaints that could reasonably be said to be addressed by the consumer protection intervention.**

Stage 2

3.24 In stage 2, the same methodology detailed above is applied. However, it is applied to other traders operating in the same sector as the targeted trader rather than the targeted trader. In this way, we are able to estimate the future consumer detriment prevented as a result of traders not targeted by the OFT action engaged in similar harmful consumer practices as the targeted trader improving their behaviour.

3.25 Where there is more than one consumer protection intervention in a particular sector completed during the financial year 2008/9, only one stage 2 assessment of relevant complaints is done for that sector, to avoid the possibility of double counting any sector wide benefits arising to consumers from similar consumer protection actions taken.

3.26 The stage 2 methodology is summarised below and can be given mathematically by:

$$B_2 = (C_b A - C_a) \cdot (D) \cdot (M) \cdot (T)$$

- B_2 : Future consumer detriment prevented by improving the business practices of traders not subject to the OFT action.
- C_b : Number of relevant complaints in the same sector as the targeted trader but not subject to OFT action in the 12 month period before the intervention.
- A: Adjustment coefficient reflecting the general rise in complaint numbers.
- C_a : Estimate of the number of relevant complaints in the same sector as the targeted trader but not subject to OFT action in the 12 months after the intervention.
- D: Average detriment associated with the complaint. This is calculated from the average payment value (P) associated with the complaints using the formula:
- $$\log_{10}(D) = 0.3354 + 0.6340 \log_{10}(P)$$
- M : Sector specific multiplier taking account of the fact only a proportion of consumers suffering detriment will complain to Consumer Direct.
- T : Number of years for which the practice would be expected to continue in the absence of the OFT intervention.

Results

- 3.27 By summing together the total benefits arising in stage 1 and stage 2 ($B_1 + B_2$), we estimated our consumer protection interventions saved consumers at least £57m in 2008/9.

Scams

- 3.28 The OFT's Scambusters team was established in June 2005 to reduce consumer detriment caused by mass marketed scams. It does this by:

Aim 1: Targeting scams through direct action

Aim 2: Empowering consumers through greater awareness

Aim 3: Working with key service providers to disrupt scammers' route-to-market.

3.29 In this section, we estimate the consumer savings that have resulted from the direct interventions of the Scambusters team (aim 1).²⁸ We estimate that as a result of the OFT's direct intervention against mass marketed scams, consumers have saved approximately £32m over the three year period 2006-09, which equates to £11m per year.

3.30 Reliable evidence of detriment is not always available for all scams successfully targeted by the Scambusters team as overall pool of knowledge about mass marketed scams and scammers is small given the inherent difficulties in identifying the perpetrators. There is significant under-reporting by victims and scams often originate from overseas. Where evidence is not available, we use conservative assumptions based on case officer's judgment to estimate impact.

3.31 The total consumer savings estimate for scams is very likely to be a conservative one since:

- We only estimate the impact of one aspect of Scambusters' work. We do not estimate the consumer savings that have come from Scambusters' awareness campaigns (aim 2) or its disruption work (aim 3).
- We exclude from our calculations those cases for which we cannot give a reliable estimate of historic detriment arising from a particular case. Of those cases where the OFT obtained assurances, formal undertakings or a court injunction, where there was some uncertainty, we adopt a conservative estimate.

²⁸ For a full explanation of the methodology see Positive Impact 06-07, OFT 928.

Results

3.32 Table 3.1 contains a yearly breakdown of total consumer savings for the three year period 2006 to 2009 and table 3.2 presents a case by case breakdown of how consumer savings from direct OFT interventions were calculated for 2008/9²⁹. The names of the scams have been anonymised for operational and legal reasons.

Table 3.1: Breakdown of yearly consumer savings due to OFT action for 2006-09

Financial Year	Estimated annual consumer savings
2006/7	£10 m
2007/8	£15m
2008/9	£7m
Total	£32m

²⁹ For a case by case breakdown for previous years please refer to Positive Impact 07/08, OFT 1007.

Table 3.2: Scam-by-scam breakdown of consumer savings from OFT action for 2008/09

Scam name	Flow of Historic financial detriment (£k) per episode	Detriment estimated per	Expected duration without OFT intervention	Adjustment factor (per cent)	Estimated Consumer savings
Case 1	19	promotion	3	20	£0.05m
Case 2	5	month	24	20	£0.01m
Case 3	170	promotion	2	40	£0.2m
Case 4	2300	month	36	20	£5.49m
Case 5	380	promotion	12	30	£1.05m
Case 6	150	promotion	2	20	£0.24m
Case 7	74	promotion	3	50	£0.11m
Case 8	74	month	36	40	£0.26m
Total consumer savings for 2008/9					£7m
Total consumer savings for the period 2006-09					£32m
Estimated average annual consumer savings for the period 2006-09					£11m

4 MERGERS

Introduction

- 4.1 We estimate the impact of our decisions to intervene in mergers by using an economic model to simulate how prices, demand, and market share might have changed were the merger to have gone ahead. Positive Impact 06/07 sets out in detail the methodology based on merger simulation to estimate the consumer benefit from merger control. We have followed that simulation methodology here. The estimates of consumer benefit resulting from this methodology represent 'conservative point-estimates'.³⁰
- 4.2 As in Positive Impact 07/08, this year we have estimated consumer savings from proposed mergers amended by the OFT through UILs, from proposed mergers amended or prohibited by the CC, and from proposed mergers that are abandoned on referral to the CC.
- 4.3 During the past three financial years (2006 to 2009) the OFT and CC merger regime has saved consumers £313m per year on average, of which £131m per year is apportioned to the OFT.

Methodology

Apportioning benefits between the OFT and CC regime

- 4.4 The OFT is the first stage in a two stage merger control regime. Subject to certain limited exceptions, the OFT has a duty to refer a merger to the CC for further investigation if it believes that a relevant merger situation has been created and that it is, or may be, the case that the merger has resulted, or will result, in a substantial lessening of competition (SLC). If certain conditions are satisfied, the OFT may also

³⁰ The 'conservative point estimate' of consumer savings from a merger intervention is our best estimate using the merger simulation methodology, where any assumptions made to run the model are conservative.

accept binding undertakings from the merging parties as an alternative to making a reference to the CC (undertakings in lieu, or UILs). For mergers that are referred, the CC, after further investigation, will decide whether to clear, amend or block the merger.

- 4.5 Allocating the consumer savings between the OFT's first stage and the CC's second stage is necessarily arbitrary. As a matter of procedure, we have agreed with the CC that the OFT is responsible for estimating consumer savings from (i) UILs and (ii) mergers abandoned after referral to the CC, and that the CC is responsible for estimating consumer savings from mergers which it amends or prohibits. This way the body closest to the final decision is responsible for estimating the decision's impact.
- 4.6 We have then agreed to apportion the benefits of merger policy according to an 80-20 rule. The body closest to the final decision is allocated 80 per cent of the estimated consumer savings while the other is allocated the remainder. As such, the OFT is allocated 80 per cent of the consumer savings resulting from UILs and abandoned mergers, and 20 per cent of the consumer savings resulting from any CC intervention.

UILs and Abandoned mergers

- 4.7 Impact estimates of abandoned mergers and UILs have been scaled down to account for the uncertainty of the outcome of a CC reference.
- 4.8 We have assumed that there is a 65 per cent probability that mergers not referred because the OFT accepted UILs and mergers abandoned after referral to the CC would have resulted in consumer detriment. That is, we have assumed that there is a 65 per cent probability that the CC would have made an SLC finding in these cases. This percentage corresponds to the proportion of mergers actually examined by the CC in the last two years (the most recent data at our disposal) in which it found an SLC. In the absence of evidence to the contrary, we see no reason to assume that the proportion of SLCs among UILs and abandoned mergers would be different to this. Consequently, we

estimate the consumer savings resulting from all UILs and abandoned mergers using the merger simulation methodology, then scale the final estimates down by 35 per cent.

Scope of merger simulation

- 4.9 Our merger simulation methodology is currently best suited to estimating the unilateral effects of horizontal mergers. It is not currently well suited to modelling non-horizontal mergers, coordinated effects or horizontal mergers where firms compete on factors other than price, such as R&D.
- 4.10 This year all cases were simulated but there was one merger which resulted in a UIL in 2007/8 for which the simulation was not appropriate. We estimate consumer savings for the cases that we do not simulate by the following method:
- Calculating the weighted average of the percentage of market turnover accounted for by our 'low' estimates³¹ of consumer detriment
 - Applying this average to the turnover of the relevant markets that we have not modelled.

³¹ We calculate low, medium and high estimates to account for the uncertainty of the industry elasticity, which is an input in the model.

Mathematically:

$$CS_j = T_j \times \frac{\sum_{i=1}^N \frac{CS_i}{T_i}}{N} \quad (1)$$

Where:

CS_j = Consumer savings from unsimulated undertaking j

T_j = Turnover in relevant market in unsimulated undertaking j

N = Number of simulated undertakings

CS_i = Consumer savings from simulated undertaking i

T_i = Turnover in relevant market in simulated undertaking i

Merger simulation

4.11 The simulation methodology involves using economic models to simulate how prices, demand, and market share might have changed were the merger to have gone ahead.

4.12 Simulating the effect of a merger is a three step process of comparative statics:

Step 1: Calibrate the models to describe as accurately as possible the pre-merger state of the market

Step 2: Use the calibrated models to predict what effect a change in market structure would have on price and demand. Compare the

pre- and post-merger price and demand estimates to assess the likely impact of the merger

Step 3: Multiply this by an estimate of the amount of time it might take for entry and other market changes to correct for any anti-competitive effects of the merger (usually two years).

- 4.13 Steps 1 and 2 predict the effect of the merger on price and demand which can be used to estimate annual consumer savings. In order to estimate the total consumer savings arising from merger control we also need to estimate how long these effects would last. Step 3 converts our estimate of annual consumer savings into total consumer savings. Off model adjustments may also be necessary during step 3 to accommodate any properties of the merger or market not picked up by the models.
- 4.14 A more detailed description of the models and process can be found in the document 'Consumer savings from Merger control'.³²

Results

- 4.15 Table 4.1 presents the yearly average estimate of consumer savings from undertakings taken by the OFT in lieu of a reference to the CC and from mergers abandoned on referral to the CC for the years 2006 to 2009.

³² See 'Consumer Savings from Merger control: Merger simulation for Impact estimation' April 2007, OFT 917.

Table 4.1: Average annual consumer savings from undertakings in lieu and abandoned mergers over the period 2006-09.

	Estimated consumer savings before adjustment	Estimated consumer savings scaled down by 35%
Abandoned 2007-09 ³³	£16m	£10m
UILs 2006-09	£159m	£104m
Average annual consumer savings	£175m	£114m

CC Decisions

- 4.16 The CC publishes an estimate of the impact of their merger decisions in their Annual Report. For 06/07 and 07/08 cases, the CC estimated total benefits over time by multiplying its annual estimates by three.³⁴ However, in their latest annual report the CC have changed their approach which is now consistent with ours. The CC has this year calculated total estimates over 2 years, discounting it by 3.5 per cent per year. Therefore, estimates of consumer savings resulting from the OFT's and CC's mergers work are now comparable.
- 4.17 Table 4.3 presents estimates of consumer savings from OFT and CC decisions and the total benefit apportioned to the OFT arising from merger control for the financial years 2006 to 2009 (£131m).

³³ Estimates for abandoned mergers have been averaged for the two year period 2007-09 as we started to include these in the 5:1 only in 2007/8.

³⁴ Competition Commission, Annual Report and Accounts 2007/2008 Review, page 7.

Table 4.3: Consumer savings from merger control 2006-09

	Estimated average annual consumer savings
UILs and abandoned mergers	£114m
CC decisions	£199m
Total	£313m
Consumer savings apportioned to the OFT	£131m

5 ENFORCEMENT OF COMPETITION LAW

Introduction

- 5.1 The OFT engages in a range of activities to promote compliance with the Competition Act (CA98), including formally investigating and taking enforcement action against anti-competitive practices and giving informal advice.
- 5.2 Under the Enterprise Act 2002 (EA02) we can also investigate and prosecute individuals who have been involved in dishonest cartel activity.
- 5.3 We estimate the direct financial benefit to consumers from competition enforcement at £78m per year on average for the period 2006-09.³⁵ We do not include in this estimate the benefits arising from deterrence, precedent setting, or informal advice.

Methodology

- 5.4 We have broadly followed the methodology set out in Positive Impact 2006/07 for estimating the impact of competition enforcement for the period 2006-09.
- 5.5 Consumer savings are estimated for those Chapter I and Chapter II cases where - an infringement decision has been issued against the undertakings concerned, one or more individuals have been convicted of the cartel offence, or where all the parties in a case have admitted their involvement in the infringement. In the latter case, only a portion

³⁵ We rely on a combination of academic research and international best practice to estimate the likely impact of our interventions in all cases, irrespective of whether our infringement decision included a finding of effect. For the avoidance of doubt, the inclusion in these figures of consumer savings estimates for those cases where the decision was based solely on the anti-competitive object of the parties' conduct should not be treated as constituting or implying a formal finding as to the effect of the infringement.

of the total benefit is imputed and the rest will be imputed once the infringement decision has been issued or, where there is an ongoing parallel criminal investigation, once all investigations have been completed.

5.6 This approach does not impact on the total benefits estimated for a particular case but just on how we allocate them across years of the Comprehensive Spending Review (CSR) period (2008-2011).³⁶

5.7 In what follows we use cartels as an example to show how we estimate consumer benefits in this area:

- First, we estimate the annual impact (a) on consumers of price-fixing by multiplying the turnover (t) of the affected goods and services by the price increase (p) caused by agreement. Mathematically:

$$a = t \cdot p \quad (2)$$

- Second, we estimate future consumer savings (f) by multiplying the annual impact by the number of years (c) we believe the cartel may have remained operational, but for the OFT's intervention, and adjusting to take account of the social discount rate (ρ). Mathematically:

$$f = \sum_{s=1}^c a / (1 + \rho)^s \quad (3)$$

5.8 Below is an overview of our methodology.³⁷

³⁶ This is the period covered by OFT's Comprehensive Spending review 2007 settlement agreed with HMTreasury.

³⁷ For a fuller exposition refer to 'Positive Impact 2006/07' July 2007, OFT 928.

Turnover

- 5.9 In Chapter I cases, we use the turnover of parties' involved in the infringement in the relevant market for the affected goods and service to estimate consumer benefits. In Chapter II cases, we use the total turnover of the relevant market for the affected goods and service. However, this may be revised if the case officers believe it to be inappropriate.

Price rise

- 5.10 Ideally, the price rise caused by the anti-competitive practice has been identified during the investigation. Where this information has not been identified, case officers may be able to estimate a likely price effect, perhaps from price analysis. At other times we apply rules of thumb that are consistent with international best practice, and recent academic research.
- 5.11 Where hard core anti-competitive practices involve for example, price-fixing, market sharing or bid-rigging and case specific information is not available, we adopt the estimated price rise of 10 per cent. Where the immediate customers in the relevant market are not themselves consumers, we assume that higher prices are passed through to final consumers.
- 5.12 Practices that restrict competition but do not consist of price-fixing, market sharing or bid-rigging agreements also lead to consumer harm, for example – predatory conduct. There is uncertainty as to the likely impact of such practices and, in the interest of presenting a conservative estimate of impact, we adopt a lower default price increase of five per cent.

Time

- 5.13 To estimate the additional duration of a cartel but for the OFT's intervention we use a method that defines expected future duration as a function of the historic duration of a cartel.

5.14 Specifically, using data from Connor and Zimmerman (2005)³⁸ we find that if the duration of the cartel was seven years or less so far, it can be expected to last an additional six years.³⁹ If the duration of the cartel was more than seven years, it can be expected to last 1.4 times the time it has already lasted minus three and a half years. However, this assumption is modified to be more conservative where case officer's judgment suggests otherwise. For anti-competitive practices other than price-fixing, market sharing or bid-rigging agreements, we rely on case officer's knowledge and make a conservative assumption regarding how long the anti-competitive behaviour might have continued, absent OFT intervention.

Recent academic literature on cartels overcharges

5.15 We carried out a literature review to gather recent academic evidence (2006 – 2008) on cartels overcharges. We examined four academic papers that empirically analysed cartel overcharges⁴⁰. One of them, by Connor and Lande (2007) analysed cartels overcharges using historical data from various secondary sources to determine optimal fine levels in the US. It recommended that the US Sentencing Commission increase the 10 per cent overcharge presumption used in setting fines to at least 15 per cent for domestic and 25 per cent for international or 20 per cent overall. In a previous paper published (2006) by the same

³⁸ 'Determinants of Cartel Duration: a Cross-Sectional Study of Modern Private international Cartels' Jeffery E. Zimmerman and John M. Connor. *Purdue University Working Paper*, April 2005.

³⁹ Also see Levenstein and Suslow, Determinants of International Cartel Duration and the role of Cartel Organization. The authors compare the durations found in a few studies of international and US cartel duration. They find that the average durations are similar across all the studies, at about 7.5 years.

⁴⁰ Bolotova, Connor, Miller, 2008, 'Factors influencing the magnitude of Cartel Overcharges: An Empirical Analysis of the US market', *Journal of Competition Law and Economics*, Connor, Lande, 2007, 'Cartel Overcharges and Optimal Cartel fines', Connor Lande, 2006, 'The size of Cartel Overcharges: Implications for US and EU fining policies', *Antitrust Bulletin*, Winter 2006, and Bolotova 2006, 'Cartel Overcharges: An Empirical Analysis', *Journal of Economic Literature*.

authors, EU wide cartels overcharge rate was found to be 28-54 per cent on average and for single EU country cartels the average rate was 16-48 per cent.

- 5.16 While the literature reviewed indicates that the rule of thumb we use (10 per cent) is conservative, we found that most of the papers relied primarily on the same data set. Desk research on cartels evaluation by other authorities indicated that our rule of thumb is still consistent with international practice. We do not, therefore, propose to change it unless we find strong evidence to support a different overcharge rate.

Results

- 5.17 The OFT's interventions saved consumers £233m on aggregate between the financial years 2006 and 2009. This works out as an annual average consumer saving of £78m on a discounted basis.

6 MARKET STUDIES AND MARKET INVESTIGATION REFERENCES

Introduction

- 6.1 In this section, we explain how we estimate the impact of market studies⁴¹, MIRs, and review of orders and undertakings. Given the wide variety of projects that are covered under this heading, the exact method used to estimate impact will differ from case to case. However, we outline a broad approach that ensures that assumptions are consistent and that the inclusion of projects is based on objective criteria.
- 6.2 In estimating consumer savings, we consider the impact of the market investigations regime as a whole and include a proportion of impact of market investigation references carried out by the CC.

⁴¹ This year we have also included impact estimates from the work of the OFT-chaired Payment Systems Task Force. A review of the Task Force's work, Review of the Operations of the Payments Council, was published by the OFT in March 2009. The report estimated that net total benefits to consumers resulting from the implementation of the Task Force's most significant recommendation – the Faster Payments service, was between £470m - £1.5bn over 10 years. Of this, we have claimed £14m benefits for the period, May 2008 (launch of the service) to March 2009 as directly attributable to the OFT. This takes account of the following facts - (i) the service has not yet been rolled out across the industry, and (ii) the Task Force also involved retail, consumer, other government and industry bodies. The Payment Systems Task Force was not a market study, the Task Force was set up by the Chancellor of the Exchequer following his pre-Budget report of November 2003.

6.3 Overall annual consumer savings from market studies, market investigation references, and reviews of undertakings and orders are estimated at £358m for the three year period 2006 to 2009.⁴² Of this, £132m has been apportioned to the OFT. This includes a proportion of consumer benefits from CC's intervention apportioned to the OFT based on a 80:20 split that we have agreed with the CC.⁴³

Approach

6.4 The estimated consumer savings for OFT market studies and reviews are typically based on the best information available at the time of estimation – which is when the recommendations have been implemented but the full impact from it is not observable. We report NPV estimates of total consumer savings from these projects in the year in which the recommendations are implemented.

6.5 This year we have also included ex-post impact estimates from the Payments Systems Taskforce and Extended Warranties study. We call the estimates from the above two projects *ex-post* (as opposed to *ex-ante*) as they are based on information gathered on the impact of recommendations after they have been implemented. As they are based on evidence, they are more robust than *ex-ante* estimates and

⁴² In principle we want to capture relevant projects over the last three financial years (2006 to 2009) but given that this area was included for the first time last year, the ex ante estimates we present are for the projects where recommendations were implemented over the last two financial years. CC estimates are presented as an annual average over 2006-09 and include those MIRs where the CC published findings/ recommendations over the period. The OFT and CC figures for estimated consumer savings from market studies are not directly comparable. This is because the OFT estimates also include estimates of impact from projects where the 80:20 split does not apply as well as ex post impact estimates.

⁴³ For market investigation references carried out by the CC, 20 per cent of impact is apportioned to the OFT and 80 per cent to the CC. For the OFT market studies and reviews of undertakings and orders that involve or could involve the CC, 80 per cent is apportioned to the OFT and 20 per cent to the CC. For market studies where referral to the CC is not considered as a possible option, the OFT is attributed with 100 per cent of the impact.

do not need to be monitored. We report *ex-post* estimates from these projects for the relevant period within 2006-09 during which the benefits were realised⁴⁴.

- 6.6 The value for money ratio for CSR however cannot rely only on such *ex-post* estimates, but also has to involve impact estimation and monitoring of market developments. This is because *ex-post* estimates are only available for a small subset of projects. For example, every year the OFT evaluates *ex-post* at least one market study but these evaluations are sometimes conducted three years after recommendations have been implemented and in such cases do not feature in our estimates of impact for the purposes of the 5:1. We therefore rely more on estimating impact *ex-ante*, using information obtained through monitoring the market both during the project and after its completion.
- 6.7 There is no common method of estimating impact of market studies and reviews as they are quite varied. *Ex-ante* estimates in this area that are included in the 5:1 target are reviewed by an academic and subject to monitoring⁴⁵. Where evidence is weak, the assumptions used to estimate benefits are conservative. As more information becomes available through monitoring key indicators at agreed milestones, the assumptions may be revised and the estimates updated accordingly.

⁴⁴ This year for the first time we have claimed a proportion of the *ex post* impact estimates that were calculated as part of the in-depth evaluation of the Extended Warranties market published in October 2008. We report estimates from this project for the relevant period within 2006-09 and apply an arbitrary split between the OFT and the CC. This is a work in progress approach and might be refined in the future. For Payments Systems Review we report *ex-post* impact estimates of a faster payments scheme that was launched in May 2008 and claim benefits for the period May 2008 to March 2009.

⁴⁵ For more details on the impact estimation of projects included this year, Extended Warranties and Payment Systems Task Force, see the following reports on the OFT website - 'Evaluating the impact of the supply of extended warranties on domestic electrical goods', October 2008, OFT1024 and 'Review of the operations of the Payments Council', March 2009, OFT1071.

- 6.8 When we include impact estimates of reviews of orders and undertakings and ex post estimates calculated as part of an evaluation of a market study, we make sure that we do not re-claim benefits from the original investigation to avoid any double-counting.

Monitoring

- 6.9 In 2008/9, we monitored the SME Banking and Internet Shopping markets. The two market studies were included in Positive Impact 07/08. The SME banking monitoring is ongoing and will continue over 2009/10.
- 6.10 To monitor the Internet Shopping market, we carried out omnibus surveys (online and telephone) and a web sweep exercise. These broadly replicated the omnibus surveys and web sweep carried out as part of the Internet Shopping study. The monitoring exercise was completed this year. Results from the omnibus surveys broadly indicate that the key indicators of success are moving in the right direction, in particular – consumer awareness and confidence are increasing though the levels are much lower than we would like. The results from the surveys and web sweep will be collated and further analysed and presented in a forthcoming publication later in 2009.

Results

- 6.11 The table below sets out consumer savings from the OFT and CC interventions.

Table 6.1: Consumer savings from market studies, reviews and MIRs⁴⁶

	Estimated average annual consumer savings
OFT studies	£88m
SME banking review	£25m
Internet shopping study	£24m
Payments System Task Force	£14m
Extended Warranties	£25m
CC studies	£270m
Total	£358m
Consumer savings apportioned to the OFT	£132m

⁴⁶ Estimates of consumer savings from OFT studies are given for the financial years 2007/8 to 2008/9. CC estimates are presented as an average over the period 2006-09. For details on CC's estimates see CC Annual Report and Accounts 2007-2009. The OFT and CC figures for estimated consumer savings from market studies are not directly comparable. This is because the OFT estimates also include estimates of impact from projects where the 80:20 split does not apply as well as ex post impact estimates.

7 WIDER BENEFITS

Introduction

- 7.1 While the focus in annual Positive Impact notes is on estimating direct benefits to assess whether we are meeting the 5:1 target agreed with the Treasury, another high level target is to demonstrate the wider benefits of the OFT's work, such as deterring future anti-competitive behaviour and increasing consumer and business confidence in markets.
- 7.2 This section explores these wider benefits, focusing particularly on examples⁴⁷ that illustrate the OFT's impact on consumer confidence.

Deterrent effect

- 7.3 In Positive Impact 2007/8, we included key findings from our research into the deterrent effect of competition enforcement.⁴⁸ The research suggests that the wider impact of our competition enforcement work could be several times the direct benefits. To provide a guide of the scale of the deterrent effect – the direct effect of competition enforcement and merger control over the years 2006 to 2009 was estimated to be around £200m annually on average, indirect benefits

⁴⁷ Full findings from a number of these OFT examples will be published later in the year.

⁴⁸ See 'Deterrent effect of competition enforcement by the OFT', November 2007, OFT 962

to consumers through deterrence could be five times as much - a further £1000m per year⁴⁹.

Consumer Confidence

7.4 Consumer confidence may be defined as the effect on consumer behaviour resulting from an increase in awareness and knowledge of consumer and/or competition regulation and enforcement. While it is not possible to quantify impact in this area, the high level indicators considered below may give a flavour of how the UK is performing in this area. Many factors affect these indicators over and beyond OFT work and we cannot assume any positive findings are due solely to OFT actions. However, we present a few examples taken from OFT projects that might have led to a positive impact on consumer confidence in particular areas.

Consumer Rights

7.5 A review of the evidence suggests consumer rights in the UK are viewed as comparable to the best, giving consumers confidence to participate in markets in the knowledge that their rights are protected.⁵⁰ Whilst the UK compares favourably against other

⁴⁹ Indirect benefits to consumers through deterrence have been estimated as roughly five times the direct effect using the ratios from the legal surveys carried out as part of the Deterrence research. The findings are empirical rather than of a relationship between direct impact and deterrence. We also do not know whether the initiatives/mergers abandoned or modified are larger or smaller than the ones undergoing an investigation. This figure should therefore be viewed as an approximation that provides a guide of the scale of the deterrence effect rather than an absolute value. It is based on the average deterrence effect of our competition enforcement between 2000 and 2006, and thus may be different from the marginal deterrent effect of our current competition enforcement.

⁵⁰ BIS (formerly BERR) (2008) Benchmarking the Performance of the UK Framework Supporting Consumer Empowerment Through Comparison Against Relevant International Comparator Countries, prepared by the ESRC Centre for Competition Policy, University of East Anglia.

international counterparts in terms of consumers' perceptions of their rights,⁵¹ there remains some diversity within markets.⁵²

Skilled to Go is an OFT consumer education initiative designed to build confidence through increasing consumer's knowledge of their rights whilst simultaneously developing skill levels.⁵³ Recent evaluation of the pilot phase found the Skilled to Go toolkit effective in improving consumer's confidence and knowledge of their rights. After participating in the programme, 64 per cent of learners felt confident in knowing their consumer rights (compares with 20 per cent at start of course). When tested, learners demonstrated a 13 per cent increase in their knowledge levels.

Complaints and redress mechanisms

- 7.6 There is mixed evidence on the UK's performance in relation to complaints and redress mechanisms. The EC Scoreboard ranks the UK in the top four out of the 25 member states considered in terms of ease of resolving disputes with sellers through arbitration, mediation or conciliation and through the courts. But it found that 22 per cent of UK respondents had made a complaint in the previous 12 months (ranking the UK 3rd). It is difficult, however, to assess complaint numbers as

⁵¹ European Commission (2008) The Consumer Markets Scoreboard: Monitoring Consumer Outcomes in the Single Market.

⁵² BIS (formally BERR) (2008) Consumer Conditions Survey, prepared by Ipsos MORI.

⁵³The toolkit comprises of 3 modules, which aim to develop participants' consumer skills, knowledge and confidence, together with related literacy language and numeracy skills. For more information on Skilled to go see www.oft.gov.uk/oft_at_work/partnership_working/consumer-alliance/resources/toolkitfront/

whilst a high number may indicate confidence in seeking redress, a low number does not necessarily mean that consumers are not confident, it may just be a result of high consumer satisfaction in a market.

OFT's **Consumer Codes Approval Scheme (CCAS)** aims to promote and protect consumers' interest and build confidence in markets by helping them identify businesses with higher standards of customer care. CCAS is designed to offer a structured and developed approach to customer service and satisfaction, including speedy redress procedures for handling consumer complaints.

Emerging evaluation findings into the impact of CCAS on consumers in the carpet market suggests that consumers buying from code members had greater confidence and satisfaction with their purchasing experience.

Consumers buying from code members were significantly more likely to say that their carpet purchase lived up to their expectations (scoring CCAS members 8.3 on a 1-10 scale, versus 7.8 for non members)

Those using member businesses also had greater confidence that they had been treated fairly by their supplier (8.6 for members versus 7.9 for those who had purchased from non-members).

The vast majority of consumers agreed that the carpet they purchased represented good value for money, but member business customers were more likely to strongly agree and also recommend their supplier to others.

Information provision

- 7.7 The provision of information in the UK is on a par with the best, with Citizen's Advice and Consumer Direct recognised as offering sound information and advice to consumers, enabling them to feel confident and make informed decisions.⁵⁴ However there is recognition in the literature that consumers have different information needs across markets, especially vulnerable groups. There are also concerns that too

⁵⁴ BIS (formerly BERR) (2008) Benchmarking the Performance of the UK Framework Supporting Consumer Empowerment Through Comparison Against Relevant International Comparator Countries, prepared by the ESRC Centre for Competition Policy, University of East Anglia.

much information could potentially undermine confidence and even harm decision making.⁵⁵

Save Xmas is an example of an OFT campaign that has raised consumer knowledge of and confidence in their savings options. The campaign was launched in response to the Farepak collapse, with OFT working closely with CAB to deliver face-to-face training sessions to explain the pros and cons of different Christmas saving options, as well as wider issues around personal saving.

Evaluation findings highlight Save Xmas has had a major impact on people's confidence in their options and savings behaviour. 9 in 10 people found the training useful and knew more about their savings options by the end of the session. Benefits from the training were found to be sustained over the longer term too. When contacted over one year later, 9 in 10 respondents felt confident that they were now making the right decisions when it came to saving for Christmas, while 43 per cent reported making changes in how they saved since the training.

⁵⁵ See BIS (2007) Warning: Too Much Information Can Harm, Prepared by the Better Regulation Executive.

In 2009, the OFT monitored the **Internet Shopping market** to follow up on work done by the OFT in 2007-08 to improve information provision regarding online consumer rights in the UK. The monitoring involved carrying out consumer omnibus surveys and a web sweep to assess business compliance. The findings indicate that consumer confidence is gradually improving though the levels are still low and consumers are becoming more confident that their rights are protected. In particular –

- 24 per cent of online shoppers felt more confident now than they were 12 months previously that their consumer rights were protected when shopping online (and 70 per cent felt as confident).
- an increase in the proportion of online shoppers who felt shopping online was as safe as shopping in a store, increasing from 26 per cent in 2006 to 54 per cent in 2009.
- 71 per cent of online shoppers who use price comparison sites use more than one, this has increased from 63 per cent in 2006.
- proportion of sites that imposed unreasonable restrictions on refund rights fell from 38 per cent in 2006 to 26 per cent in 2009.

8 COSTS

Introduction

8.1 In this section we present the total costs of the OFT excluding Consumer Direct, Consumer Credit Licensing, and Anti Money Laundering⁵⁶ that are not included in the 5:1 HMT target. We also present the partial costs covering the areas for which we have been able to estimate consumer savings.

Averaging annual costs

- 8.2 Cost figures may fluctuate from year to year and as such will impact on the benefit to cost ratios reported in the Positive Impact reports. To smooth out any such fluctuations, we intend to use a three year moving average for total and partial costs⁵⁷.
- 8.3 The table below presents the benefit to cost ratio obtained when we compare estimated benefits to annual OFT costs in 2008/9 as well as the ratio of benefits to average annual OFT costs over 2007-09.

⁵⁶ Consumer Direct is assessed separately under a separate target agreed with HMT of 3.5 to 1. See annexe A for more detail. Credit Consumer Licensing and Anti Money Laundering are excluded from the 5:1 assessment as they are self funding activities.

⁵⁷ However, the relevant partial cost data for 2006/7 was not available in a format easily comparable to costs in 2007/8 and 2008/9. Therefore we use a two year moving average (2007/8 and 2008/9) in this note with the view to reporting a three year moving average cost figure in future Positive Impact notes.

Table 8.1: Benefit Cost ratios for 2008-09 obtained using annual costs and average annual costs.

	Using annual OFT cost in 2008/9	Using Average annual OFT costs (2007-09) *
Estimated average annual consumer benefits 2006-09	£409m	£409m
OFT costs	£46m	£53m
Benefit:Cost ratio	9	8

* We use a two year moving average over 2007-09 as cost data for 2006/7 was not available in a format easily comparable to costs in 2007/8 and 2008/9.

- 8.4 The average annual OFT costs over 2007-09 (including running costs, litigation costs and capital) minus direct operating costs attributable to self funded activities is £53m.
- 8.5 We have used a top-down approach to calculate partial costs covering areas for which we have estimated consumer savings: consumer protection (scams and non-scams), mergers, competition enforcement and market studies. The average annual partial costs over 2007-09 is £36m. These include direct salary costs of project teams, other costs such as consultancy costs, as well as share of overhead and management costs in proportion to employee headcount.

9 CONCLUSIONS

9.1 Table 9.1 presents estimates of consumer savings and OFT costs.

Table 9.1: Estimated consumer savings and OFT costs for 2006-09

	Estimated average annual consumer savings 2006-09 ⁵⁸
Consumer protection	£68m
Mergers	£131m
Competition enforcement	£78m
Market studies	£132m
Total benefits	£409m
Total OFT costs (averaged over 2007-09)	£53m⁵⁹
Partial OFT costs (averaged over 2007-09)	£36m ⁶⁰
Benefit/ Total OFT costs	8
Benefit / Partial costs	11

⁵⁸ Consumer savings are estimated as an annual average over 2006-09 except for: (i) consumer protection where estimates reported are for 2008/9 as this is a new area included this year, (ii) market studies and abandoned mergers averaged over two years as these have only been included since 2007/8, (iii) ex post impact estimates from Extended Warranties and Payments Systems Taskforce for the relevant period in 2006-09 when benefits were realised.

⁵⁹ This is total OFT costs minus costs of Consumer Direct, Anti Money Laundering and Consumer Credit Licensing. We use a two year moving average for costs as cost data for 2006/7 was not available in a format easily comparable to costs in 2007/8 and 2008/9.

⁶⁰ This includes costs of areas included in this report for which we estimate impact.

Annexe A: Impact of Consumer Direct

Introduction

1. Consumer Direct is the government-funded telephone and online service offering information and advice on consumer issues. This annexe sets out details of our impact estimation of the provision of advice to consumers by Consumer Direct.
2. The consumer savings resulting from the advice of Consumer Direct are not assessed as part of the OFT's 5:1 target and are assessed separately against a target of delivering direct financial benefits to consumers of at least 3.5 times its cost to the taxpayer. This target was agreed with HM Treasury during the Comprehensive Spending Review 2007.
3. As part of this separate assessment, the OFT has estimated that Consumer Direct saved consumers at least £127m over 2008/9. Given its cost base of £14m, this represents a benefit to cost ratio of 9:1. The method used to estimate these consumer savings is detailed below.

Method

4. The method looks only at the benefits to consumer who have directly contacted Consumer Direct. Any estimate is therefore likely to be conservative as it does not include the impact on those consumers who do not contact Consumer Direct but nevertheless may benefit from work undertaken by Consumer Direct to inform and educate consumers more generally about their rights. This would include for example the benefits to consumers from the information and advice generally available on the Consumer Direct website.
5. The estimate also does not measure the extent to which consumers, having received advice from Consumer Direct regarding a current problem, may be more likely to resolve future consumer problems without assistance.

6. Using the Consumer Direct database we first identified the number of unique contacts made to Consumer Direct, excluding those referred to Trading Standards, for the financial year 2008/9.⁶¹
7. Not all consumers who receive advice from Consumer Direct succeeded in fully resolving their problem, so an adjustment factor was applied representing the percentage of contacts that had their problem fully resolved as a result of contacting Consumer Direct.⁶²
8. A further adjustment factor was then applied to reflect the proportion of consumers who having had their problem resolved said that without Consumer Direct assistance it is unlikely they would have resolved the problem. In this way we are able to identify the proportion of contacts that have benefited directly from Consumer Direct advice (*R*).⁶³
9. We then multiplied that figure by the estimated average benefit consumers receive from having a consumer problem resolved (*X*)⁶⁴. This

⁶¹ This section only considers the consumer savings resulting from Consumer Direct advice. An impact estimation of the fair trading work of Trading Standards can be found at:

www.offt.gov.uk/shared_offt/about_offt/oft1085.pdf

⁶² Consumer Direct quarterly publish a satisfaction survey detailing consumers experience of Consumer Direct. The adjustment factor is based on data from the most recent Consumer Direct satisfaction survey.

⁶³ The percentage of respondents that said their issue was fully resolved as a result of contacting CD was 50 per cent. Out of this 50 per cent, 47 per cent said it was unlikely they would have resolved the issue without CD help giving an estimate of the percentage of consumers who have benefited directly from Consumer Direct advice of 24 per cent ($0.5 \times 0.47 = 0.24$).

⁶⁴ Recent Consumer Direct Satisfaction Surveys provided evidence that the average benefit consumers receive from having their problem resolved is approximately £584.

produced an estimate for the total consumer savings delivered by the provision of advice and assistance to consumers by Consumer Direct.

10. The methodology can be set out mathematically as follows:

$$CS = N \times R \times X$$

Where:

CS = Consumer savings

N = Number of unique consumers advised and assisted excluding those referred to Trading Standards (908,966).

R = Multiplier representing the estimated percentage of advice cases where contact with Consumer Direct led to the consumer benefiting directly from the advice (24 per cent).

X = Average consumer benefit from having a consumer problem resolved (£584).

11. Applying the method above gives estimated consumer savings of £127m for 2008/9.